

## Opinion No. 43-4370

August 19, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** James R. Scott, M. D., Director, Department of Public Health, Santa Fe, New Mexico

I have your letter of August 17, 1943, wherein you request an official opinion concerning what action should be taken by the Department of Public Health in connection with the violation of certain sanitation regulations adopted by the State Board of Public Health by certain vegetable growers in the State of New Mexico.

Under the regulations governing the sanitation of construction camps, Section 1 defines a construction camp to mean:

"Any camp or similar place of temporary abode \* \* \* established for the housing and accommodation of working forces engaged \* \* \* in preparing land for agricultural uses or planting or harvesting crops."

Under the fact situation which you set out, it would appear that the specific camp which you have in mind is engaged in harvesting certain agricultural crops. Therefore, these specific regulations definitely pertain to the situation that you have called to the attention of this office. It is further clear from the matter that you set out in your letter that these regulations are definitely not being complied with.

Section 71-117 of the New Mexico 1941 Compilation provides:

"Any person, firm, or corporation violating any order, rule or regulation of the state board of public health adopted pursuant to the provisions of this act (Sections 71-113 -- 71-117) shall be punished by a fine of not to exceed one hundred dollars (\$ 100.00), or imprisonment in the county jail for not to exceed ninety (90) days, or both such fine and imprisonment, in the discretion of the court. **The state board of public health may also enforce any of its lawful rules and orders by any appropriate** civil action. (Laws 1939, ch. 167, sec. 5, p. 378.)"

Section 71-104 of the New Mexico 1941 Compilation provides:

"The State Department shall be responsible for the administration of the public health activities of the state as hereinafter provided, and in that respect shall: \* \* \*

(7) Abate nuisances endangering the public health."

Your letter specifically states:

"In our opinion some of the vegetable growers have neglected the sanitation of the labor camps and are thus menacing the health of their employees as well as the health of persons who buy these vegetables."

Assuming the truth of this statement, a public nuisance of necessity exists which it becomes the duty of the Department of Public Health to abate. Further assuming the accuracy of the statements in your letter, this should be done immediately by bringing an appropriate court action.

Hoping that the above is of some benefit to you, I remain,

By HARRY L. BIGBEE,

Assistant Attorney General