{In Archive} Fw: EPA call
Dana Foster
to:
Alyse Stoy
08/15/2008 12:11 PM
Hide Details
From: "Dana Foster" <dana.foster@dnr.mo.gov>

To: Alyse Stoy/R7/USEPA/US@EPA

History: This message has been forwarded.
Archive: This message is being viewed in an archive.

1 Attachment

NOV letter to Wal-Mart.doc

Dana Foster
Assistant to the General Counsel
MO Department of Natural Resources
Office of the Director
Telephone: (573) 751-0323
Fax: (573) 526-3444

----- Forwarded by Dana Foster/OD/MODNR on 08/15/2008 12:09 PM -----

Candace Bias/HWP/DEQ/MODNR

08/15/2008 11:41 AM

To Kara Valentine/OD/MODNR@MODNR

cc Dana Foster/OD/MODNR@MODNR

Subject Re: EPA call Link

The pdf conversion on my computer isn't working so here is the .doc version if anyone over there can convert it.

I will forward you WM's two responses.

Candace Bias
Missouri Department of Natural Resources
Hazardous Waste Program
(573) 751-3465
Visit www.dnr.mo.gov/env/subscribe_ecahwg.htm
for information on hazardous waste compliance.

CERTIFIED MAIL – 7001 2510 0005 3344 2944
RETRUN RECEIPT REQUESTED

Mr. Orval Ward
Wal-Mart
508 South West 8th Street
Bentonville, AR 72716-0505

NOTICE OF VIOLATION #5580E

Dear Mr. Ward:

On January 15 and 16, 2008, representatives of the Missouri Department of Natural Resources' Southwest Regional Office and the department's Hazardous Waste Program conducted a site visit to evaluate concerns with the management and storage of agricultural chemicals at the Greenleaf, L.L.C. (Greenleaf), facility located at 13960 Palm Road in Neosho, Missouri. Greenleaf was established to provide Wal-Mart, and potentially other large retailers, an outlet for damaged or out of season lawn and garden goods. According to Greenleaf they have received approval under the U.S. Environmental Protection Agency's (EPA) 100% Repack Exemption to produce pesticides. As a result of the inspection of Greenleaf, violations of Missouri Hazardous Waste Laws and Regulations by Wal-Mart were identified. On March 14, 2008, the department sent Wal-Mart a copy of the Notice of Violation issued to Greenleaf.

From the inspection and a review of documentation, pesticide wastes from six Wal-Mart Return Centers were identified. These distribution centers are Bentonville, Arkansas; Indianapolis, Indiana; Las Vegas, Nevada; Waco, Texas; Macon, Georgia; and Johnstown, New York. Wal-Mart failed to make a hazardous waste determination on pesticide wastes sent to Greenleaf. Bottles of GardenTech Sevin liquid pesticide, identified as both originating from Wal-Mart and as a waste, were found at Greenleaf (see photograph 1). The pesticide Sevin contains the single active ingredient Carbaryl, a U279 listed hazardous waste. In addition, wastes without identification or labeling were sent to Greenleaf from Wal-Mart without the proper waste determination (see photographs 2 and 3).

The inspection also found that Greenleaf did not have the appropriate equipment to recycle liquids and aerosol cans. The documentation available to the department shows that the six Wal-Mart Return Centers sent liquid pesticide wastes on 22 occasions during the period of July 31, 2007, through December 28, 2007. Further, manifests show that 192, 55-gallon drums of liquid pesticides received by Greenleaf were then sent off site for disposal, not recycling. Greenleaf held no EPA registrations for liquid pesticide formulations, so any liquid sent by Wal-Mart could not legally be repackaged and recycled. Documents available to the department refute any claim that the material is not a solid waste.

Aerosol cans identified as originating from Wal-Mart Return Centers, both by labeling on the cans and by a Greenleaf employee's statements, were found at the site. At the time of the inspection, Greenleaf did not have the ability to recycle the aerosol cans. An employee of Greenleaf stated that Wal-Mart had been advised that Greenleaf could not accept liquids and aerosol cans. By sending these pesticide wastes to Greenleaf, a facility unable to recycle either

liquids or aerosols, Wal-Mart failed to demonstrate legitimate recycling (see photographs 4 and 5). In addition, because Wal-Mart sent a listed hazardous waste to Greenleaf, Wal-Mart failed to use an authorized hazardous waste treatment, storage, and disposal or resource recovery facility as required by law.

Notice of Violation Number 5580E is being issued to Wal-Mart for failure to make a hazardous waste determination, failure to demonstrate legitimate recycling, and failure to use an authorized hazardous waste treatment, storage, and disposal or resource recovery facility.

Due to the serious nature of the violations identified during the inspection, these matters have been referred to the department's Hazardous Waste Program, Compliance and Enforcement Section, for evaluation and resolution.

Within 15 days of receipt of this letter, a written response to the violations listed on the enclosed Notice of Violation is to be submitted to Ms. Candace Bias at the Missouri Department of Natural Resources, Hazardous Waste Program, Compliance and Enforcement Section, P.O. Box 176, Jefferson City, Missouri 65102-0176. The response is to be very specific and provide a detailed account of the actions to be taken or provide the documentation necessary to comply with the required actions. The response should also outline what changes have been implemented to ensure that future operations are in compliance with environmental laws and regulations.

If you have questions, or wish to discuss what enforcement action may be taken, please contact Ms. Bias by telephone at (573) 751-3465, or by mail at the address previously mentioned.

Sincerely,

HAZARDOUS WASTE PROGRAM

Kathy S. Flippin
Chief
Compliance and Enforcement Section

KSF:cbm

Enclosure

c: Mr. David Allison, Southwest Regional Office
Mr. Paul Bailey, Missouri Department of Agriculture, Bureau of Pesticide
CT Corporation System
Hazardous Waste Program, Enforcement Unit
Ms. Beth Koesterer, Environmental Protection Agency, Region 7
Mr. Chris Nagel, Solid Waste Management Program
Ms. Akilah Nicks, Environmental Protection Agency
Mr. H. Lee Scott, Jr., President, Wal-Mart

bc: Mr. Terry Ball, Division of Environmental Quality, Administration
Mr. Daryl Hultman, Environmental Protection Agency, Criminal Investigation Division