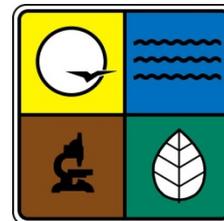


# Federal Consent Agreement and Final Order with Wal-Mart

Kathy Flippin



**MISSOURI**  
DEPARTMENT OF  
NATURAL RESOURCES

# History

- 2006-Greenleaf, L.L.C. (Greenleaf) established to recycle damaged lawn care products
- January 2007-Wal-Mart Stores, Incorporated (Wal-Mart) starts sending pesticides to Greenleaf in Neosho, Missouri
- December 4, 2007- Missouri Department of Natural Resources' Southwest Regional Office (SWRO) conducts Environmental Assistance Visit (EAV) at Greenleaf in Neosho

# EAV results

Greenleaf advised to

- make hazardous waste determinations on liquids and floor sweepings
- Move all pesticides from outdoors to inside under a roof
- Hire a consultant
- Missouri Department of Agriculture (MDA) contacted because of volume of pesticides on site

# MDA inspection

- January 8, 2008-MDA inspected the facility
- Found multiple pesticide labeling violations
- Placed ~93,100 pounds of dry formulated pesticides and one gallon of liquid formulation pesticide under a Stop Sale, Use or Removal Order (SSURO)
- All pesticides under a SSURO become waste

# MDNR Neosho inspection

- January 15-16, 2008- Missouri Department of Natural Resources' Hazardous Waste Program (Program) and SWRO staff inspected and found Greenleaf's Neosho facility was out of compliance
- March 7, 2008-Notice of Violation issued



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# Neosho Violations

- failure to determine
- operating as an unauthorized treatment, storage, and disposal (TSD) facility
- accumulating materials speculatively
- failure to demonstrate legitimate recycling
- failure to update notification
- failure to store hazardous waste in containers that were in good condition, closed, and properly packaged/labeled/marked

# Neosho Violations continued

- failure to inspect and maintain the facility weekly and areas subject to spills daily
- failure to provide aisle space
- failure to operate the facility in a manner to minimize the possibility of an emergency
- failure to provide adequate and proper spill control equipment
- failure to train personnel
- failure to maintain a contingency plan.

# Another Facility

- 2008 spring-Greenleaf moves some wastes from their Neosho facility to their Pineville facility
- May 12, 2008-Program and SWRO staff inspected and found that Greenleaf's Pineville facility was out of compliance.









# Pineville Violations

- failure to determine
- operating as an unauthorized TSD facility
- failure to register as a generator
- failure to store hazardous waste in containers that were in good condition, closed, and properly packaged/labeled/marked
- failure to inspect and maintain the facility weekly and areas subject to spills daily
- failure to provide aisle space.

# Cleanup

- 2008- Missouri Department of Natural Resources staff direct and oversee the Wal-Mart contractor's removal and cleanup of solid and hazardous wastes from Greenleaf properties. Wal-Mart has indicated this cleanup was in excess of \$3.4 million.





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# Greenleaf Conviction

- November 2008- Greenleaf convicted of a Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) violation
- 2009-paid a criminal penalty of \$200,000

# Missouri Civil Settlement

- March 2012-Walmart, Department and Attorney General enter into settlement agreement for civil penalties and Supplemental Environmental Project (SEP).
  - Civil penalties-\$214,378 to Newton County School Fund
  - Cost recovery-\$4,082.00 for Department's oversight and cleanup expenses and unpaid generator fees.
  - SEP-\$1,050,000 to sponsor Pesticide collection events for rural Missouri

# Federal Cases

- Violations pertained to mismanagement of hazardous waste at Wal-Mart stores across the country and mismanagement of damaged pesticide containers by Wal-Mart and its contractor, Greenleaf LLC, at the Greenleaf facilities in Neosho and Pineville, Missouri

# Federal Cases-Civil

- May 28, 2013- Consent Agreement and Final Order (CAFO) between EPA and Wal-Mart Stores Inc. to resolve civil violations of Resource Conservation and Recovery Act (RCRA) and FIFRA
- Requires Wal-Mart to:
  - continue to implement and develop corporate-wide hazardous waste management program employed in 2006
  - Pay a penalty of \$7.628 million.

# Federal Case – Civil con't.

- Includes the following obligations:
  - Comply with RCRA generator requirements at all of Wal-Mart's ~4,000 stores, (including conditionally exempt small quantity generator stores).
  - No shipment of any hazardous wastes to Wal-Mart reverse distribution centers.
  - Comply with an annual monitoring plan to identify new products that are hazardous wastes when disposed of.
  - Implement operational changes to ensure compliance with RCRA

# Federal Cases - Criminal

- May 28, 2013- Wal-Mart also enters guilty pleas
  - six counts of violating the Clean Water Act in cases filed by federal prosecutors in Los Angeles and San Francisco
  - violating FIFRA in a case filed by federal prosecutors in in Kansas City

# Criminal Penalties- California

- \$40 million dollar fine
  - \$20 million of that will fund various community service projects
    - includes opening a \$6 million Retail Compliance Assistance Center that will help retail stores across the nation learn how to properly handle hazardous waste.

# Criminal Penalties- Missouri

- Criminal fine of \$11 million
- Additional \$3 million to the Missouri Department of Natural Resources Hazardous Waste Program
  - to fund education on pesticide regulations for regulators, the regulated community and the public and related inspection and enforcement efforts.

# Totals

- \$81.6 million for unlawful conduct as a result of the 3 criminal cases brought by the Justice Department and the civil case filed by U.S. EPA
- With previous civil actions brought by the states of California and Missouri, Wal-Mart will pay a combined total of more than \$110 million to resolve these cases

# Missouri Statewide Initiative

- Pesticide Inspection and Education
  - Education –prepare and perform
    - multi-media cross training for existing staff to better recognize violations of FIFRA, hazardous waste, solid waste, air pollution, and water pollution in regard to pesticide management.
    - training for all department staff, regulated community, and the public on the purchase, application, use, and disposal of pesticides.
    - and conduct inspection and enforcement efforts.

# Missouri Statewide Initiative

- Inspections
  - Potential inspection universe of restricted use applicators is 8,106.
    - 3,932 are commercial applicators
    - 936 are dealers
    - 1,062 are non-commercial applicators
    - 2,173 are public applicators

Questions?