



REGION 4

ATLANTA, GA 30303

ELECTRONIC MAIL

CONFIRMATION OF EMAIL RECEIPT REQUESTED

Cassie Clark
Wal-Mart Grocery Distribution Center #7019
1005 Sara G. Lott Blvd.
Brundidge, Alabama 36010
cassie.clark@walmart.com

Re: Request for Information
National Response Center Incident Report # 1362524

Dear Cassie Clark:

On April 27, 2024, the U.S. Environmental Protection Agency began an investigation of the Walmart facility located at 1005 Sara G. Lott Blvd., Brundidge, Alabama to determine compliance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). The EPA is requesting information to determine compliance with Section 304 of EPCRA, 42 U.S.C. 11004 and Section 103 of CERCLA, 40 U.S.C. 9603, and the regulations promulgated at 40 C.F.R. Parts 302 and 355, respectively. The information being requested to determine compliance with CERCLA is specifically being requested pursuant to CERCLA Section 304(b)(1), 42 U.S.C. § 9604(b)(1). **The information request is enclosed with this letter (Enclosure 3).**

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 2. The responses shall be submitted **no later than 15 calendar days** after receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Todd Groendyke, Chief
South Air Enforcement Section
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.

Internet Address (URL) <http://www.epa.gov>

Atlanta, Georgia 30303
Groendyke.Todd@epa.gov

Pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA that involves trade secrets and which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). For detailed instructions for claiming confidentiality, please see Enclosure 1. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this request, you should contact this office prior to the deadline specified above. Please direct questions to Todd Groendyke at (404) 562-8262 or by email at Groendyke.Todd@epa.gov.

Sincerely,

**TODD
RUSSO**

Digitally signed
by TODD RUSSO
Date: 2024.05.08
10:25:57 -04'00'

Todd Russo
Chief
Air Enforcement Branch

Enclosures

Enclosure 1 - CBI
Enclosure 2 - Instructions
Enclosure 3 - Request for Information

cc: corey.ray@walmart.com
jason.fadely@aptim.com

ENCLOSURE 1

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 2

Instructions

1. Please submit your response to this information request to the EPA electronically. You may submit your response using either of the following options: (A) As an attachment sent via email to Todd Groendyke at Groendyke.Todd@epa.gov; or (B) by requesting a link from the EPA for a secure file transfer site where you may upload your response. You may request a link by sending an email to Todd Groendyke at Groendyke.Todd@epa.gov.
2. Please do not send documents that you have claimed as confidential business information (CBI) or trade secret to the EPA by email (option A). If you are submitting documents that you have claimed as CBI or trade secret, please upload them to the EPA's secure file transfer site (option B).

ENCLOSURE 3

Request for Information

Please provide the EPA with the following information regarding the release of Ammonia that occurred at your 1005 Sara G. Lott Blvd., Brundidge, Alabama facility on or around March 17, 2023, and was reported to the National Response Center as Incident Report # 1362524.

1. Please provide the date and time of discovery of the release.
2. Please identify the following individuals and provide their job titles:
 - a. The person who discovered the release;
 - b. The person in charge of the facility at the time of the release;
 - c. The owner of the facility;
 - d. The operator of the facility; and
 - e. The person who notified the National Response Center (NRC) of the release.
3. Please identify the date and time when the owner, operator or person in charge had knowledge of the release.
4. Please identify and provide the contact information for the Local Emergency Planning Committee(s) (LEPC) for any area likely to have been affected by this release.
5. Please provide the date and time the initial notification of the release was reported to the NRC, State Emergency Response Commission (SERC), and LEPC(s).
6. Was a written follow-up emergency notification submitted to the SERC and the LEPC(s)?
7. If the answer to Question 6 is yes, please provide a copy of the written follow-up emergency notification and provide the date and time it was submitted to the SERC and the LEPC(s).
8. Please provide a narrative response describing the timeline of events and actions leading up to, during, and after the release. In this timeline please include a description of who discovered the release, how the release was discovered, the duration of the release, the facility's actions upon discovery, how discovery of the release was communicated internally, the initial notification of the release to the NRC, SERC, and LEPC(s), the facility's activities after notification, how the release was stopped, the timing of any follow-up notifications and any corrective actions.
9. Please provide a copy of any internal reports related to this release.

10. Please identify the chemical(s) that was released and provide the amount of the chemical(s) (in pounds) that was released.
11. If a mixture or solution was released, please provide the concentration of the reportable chemical(s) in the mixture or solution, the density of the mixture or solution (in pounds per gallon), and the amount of the reportable chemical(s) (in pounds) released.
12. Please describe how the amounts of each chemical released were determined, the calculations used to determine the amounts, and describe any assumptions or estimates used in the calculations.
13. For each chemical released, identify the media the chemical was released to (air, water, ground), identify if the release migrated off-site, and identify the amount of chemical that migrated off-site.
14. Provide copies of the material safety data sheet and technical data sheet for the chemical(s) released.
15. Did the release go into a containment area?
16. If the release was into a containment area, please describe the amount of chemical(s) that went into containment, the amount of chemical(s) that was recovered from containment, how the chemical(s) was recovered, how and where the chemical(s) was transferred to or disposed of, and the amount of chemical(s) that evaporated or was otherwise released from containment. Please provide the calculations and describe any assumptions or estimates used in the calculations.
17. Please provided a narrative response describing any on-site or off-site consequences of this release, including but not limited to: injuries, casualties, evacuations, road closures, shelter-in-place orders, and/or property damage.