



EPA REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION

June 11, 2024

VIA EMAIL

Mr. Aidan Malcolm
Store Manager
Home Depot Store #8622
1105 Barren Spot Kingshill
U.S. Virgin Islands, 00850
aidan_d_malcolm@homedepot.com

RE: RCRA § 3008 – NOTICE OF VIOLATION

Facility Name: Home Depot Store #8622

EPA ID: VIR000001867

CEPD-RCRA-24-0000-3008-012

Dear Ms. Malcolm:

Greetings from the Caribbean Environmental Protection Division (CEPD) of the US Environmental Protection Agency (EPA) Region 2.

EPA is charged with the protection of human health and the environment under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq. Pursuant to RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), EPA promulgated rules, regulations, and standards governing the handling and management of hazardous waste as set forth in 40 Code of Federal Regulations (C.F.R.) Parts 260-272. For the purposes of this Notice of Violation (NOV), the hazardous waste regulations governing the generation of hazardous waste were promulgated in 1980 and amended by HSWA in 1984. The Government of the United States Virgin Islands is not authorized by the EPA to conduct a hazardous waste program and to enforce RCRA under Section 3006 of RCRA, 42 U.S.C. § 6926.

On or about May 1, 2024, a duly authorized representative of the EPA conducted a Compliance Evaluation Inspection (CEI) of Home Depot Store #8622, located in St. Croix, United States Virgin Islands, (the "Facility") pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927. As a result of the CEI, EPA representative found the Facility in violation of §§ 262.16(b)(6)(i), 262.16(b)(8)(ii)(D), 262.16(b)(8)(vi)(B), 262.40(a), 273.13(d)(1), and 273.14(a) of the RCRA Regulations.

This Notice of Violation (Enclosure I) is issued pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by RCRA and HSWA, 42 U.S.C. §§ 6901 and 6928. Issuance of this NOV and compliance with its terms does not preclude EPA from taking formal enforcement action against you and/or your company, including a monetary penalty, under Section 3008 of RCRA, 42 U.S.C. § 6928, or any other applicable regulation or statute.

If you have not already done so, you must take immediate action to correct the violations described in Enclosure I. Please submit, within thirty (30) days of the receipt of this letter, a response which includes (1) a description of the actions you have taken to correct the violations noted in Enclosure I, (2) documentation that the violations have been corrected, and (3) a description of the procedures that will be put into place to prevent such violations from occurring in the future. For consistency, please provide your answers in a format which is keyed to the sections as outlined in Enclosure I to this letter.

Your response to this NOV can be sent through email to the following email address caballer.rosana@epa.gov and can also be mailed to the following address:

Rosana Caballer-Cruz, Enforcement Officer
RCRA & Revitalization Section
U.S. Environmental Protection Agency - Region 2
Caribbean Environmental Protection Division
City View Plaza II, Suite 7000
#48 PR-165 km 1.2
Guaynabo, PR 00968-8069

Failure to respond in full to the above requirements may result in federal enforcement action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, including the assessment of a monetary penalty.

If you have any questions or need any additional information, please contact me at 787-977-5865 or guerrero.carmen@epa.gov or have your staff contact Ms. Rosana Caballer-Cruz, Environmental Engineer, at caballer.rosana@epa.gov or (787) 977-5880.

Sincerely,

CARMEN
GUERRERO PEREZ

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GUERRERO PEREZ
Date: 2024.06.11 20:26:02
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Carmen R. Guerrero Pérez
Director

ENCLOSURES

1. Enclosure I - Notice of Violation

cc: Hon. Jean-Pierre L. Oriol, Commissioner, USVI Department of Planning and Natural Resources
jp.oriol@dpr.vi.gov

Linda Austria, Home Depot Store #8622, specialtyasm_8622@homedepot.com

Andrew Graham, Home Depot Store #8622, andrew_j_graham@homedepot.com

Marian Michael, Home Depot Store #8622, marian_a_michael1@homedepot.com



ENCLOSURE I – RCRA § 3008 NOTICE OF VIOLATION

Home Depot Store #8622
EPA ID: VIR000001867
CEPD-RCRA-24-0000-3008-012

On or about May 1, 2024, a duly authorized representative of EPA conducted a Resource Conservation and Recovery Act (RCRA) Hazardous Waste Compliance Evaluation Inspection (CEI) of Home Depot Store #8622, located in St. Croix, United States Virgin Islands, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927. As a result of the CEI, EPA has identified the following violations of the RCRA regulations.

i. 40 CFR § 262.16(b)(6)(i)

At the time of the inspection, the Facility failed 40 CFR § 262.16(b)(6)(i), which required “A *small quantity generator must mark or label its containers with the following: (A) The words “Hazardous Waste”; (B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and (C) The date upon which each period of accumulation begins clearly visible for inspection on each container”.*

The Facility failed to comply with this requirement in the Central Accumulation Area. At this location, one (1) 5-gallon black container with corrosive was observed mislabeled as non-hazardous waste. In addition, two (2) containers with content, that remained with their original labeling, were observed inside the shelf. Although at the time of the CEI, these were observed closed and in their original container, nevertheless, they were not labeled as hazardous waste, did not have a pictographic label and or indication of the hazard available, and were not dated. The containers mentioned above were already processed by the facility personnel and did not include the five (5) 5-gallon black plastic containers that were being processed by Mr. Graham during the inspection.

ii. 40 CFR § 262.16(b)(8)(ii)(D)

At the time of the inspection, the Facility failed 40 CFR § 262.16(b)(8)(ii)(D), which required “All areas where hazardous waste is either generated or accumulated must be equipped with the items in paragraphs (b)(8)(ii)(A) through (D) of this section (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies... (D) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.”

The Facility failed to comply with this requirement in the Central Accumulation Area. During the CEI, although a water source was observed at the other side of the facility’s receiving area, a water source was not observed within the vicinity of the Central Accumulation Area. As a result, additional information related to this item was requested to the facility representatives in order to confirm if the current location is the most appropriate location. Since additional information on the latter was not provided, and according to the information gathered and evaluation conducted during the inspection, it was determined that the facility’s Central Accumulation Area was not equipped, as identified in this citation.

iii. 40 CFR § 262.16(b)(8)(vi)(B)

At the time of the inspection, the Facility failed 40 CFR § 262.16(b)(8)(vi)(B), which required “A small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made”.

The Facility failed to comply with this requirement. During the inspection, information related to preparedness and prevention, and emergency procedures was requested to the facility representatives. Although information related to the emergency procedures was available during the inspection, at the time of the inspection, information related to records that documented the arrangements made with local emergency responders was not able to be evaluated, as required by this citation.

iv. 40 CFR § 262.40(a)

At the time of the inspection, the Facility failed 40 CFR § 262.40(a), which required *“A generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.”*

The Facility failed to comply with this requirement. Although the facility has available a binder with the last three (3) years of manifests generated, the facility was not able to provide the last three (3) years of the manifests which include the signed copy. The facility representatives agreed to submit the latter at a later date, nevertheless, the information was not provided by the due date established.

v. 40 CFR § 273.13(d)(1)

At the time of the inspection, the Facility failed 40 CFR § 273.13(d)(1), which required *“A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.”*

The Facility failed to comply with this requirement at the Central Accumulation Area. At this location, two (2) open cardboard boxes were observed: one (1) small cardboard box with fluorescent lamps dated 4/22/2024, and one (1) bigger cardboard box with fluorescent lamps dated 1/14/2024.

vi. 40 CFR § 273.14(a)

At the time of the inspection, the Facility failed 40 CFR § 273.14(a), which required *“Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste—Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies);”*

The Facility failed to comply with this requirement at the Central Accumulation Area. At this location, two (2) unlabeled batteries were observed above the closed rectangular black plastic container lid identified with universal waste-waste batteries. At the time of the CEI, a container labeled as universal waste used to pour the batteries was not observed, or in turn, each battery was not labeled as described in this citation.