



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6

1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733

FEB 20 2019

CERTIFIED MAIL-RETURN REQUESTED: 7009 2820 0001 8284 4492

Bobbi Tenborg  
Environmental Manager  
Lowe's Companies Inc.  
1000 Lowe's Blvd. A2ELP  
Moorseville, NC 76308

**RE: Potential RCRA Violations and Opportunity for Settlement**

Dear Bobbi Tenborg,

The United States Environmental Protection Agency, Region 6 (EPA), through its investigation and records review, made certain determinations about Lowe's Company Inc. (Lowe's), and its facilities (stores) located in Texas, Arkansas, Louisiana, and New Mexico. Specifically, EPA has identified potential violations of the Resource Conservation and Recovery Act (RCRA), and the regulations promulgated thereunder. Attachment 1a through 1d are lists of those stores by state identified as having potential violations. I therefore write to share with you: (1) the current areas of concern; (2) an option for resolution; and (3) a timeline for resolution.

**Current Areas of Concern**

As a generator of hazardous waste, Lowe's is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 40 C.F.R. Parts 262 and/or 270.<sup>1</sup> Upon further investigation, EPA may determine that Lowe's is also subject to Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925, and the regulations promulgated thereunder.

Based on EPA's current investigation and records review of data from 2014 through 2016, Lowe's identified stores as RCRA conditionally exempt small quantity generators. However, EPA's investigation and review of those stores indicated hazardous waste generation in quantities between 100 kilograms and 1,000 kilograms or greater than 1,000 kilograms per calendar month, which qualified the stores as small or large quantity generators, respectively, as established under 40 C.F.R. Part 262. At a minimum, EPA identified the following potential violations for those time periods:

1. Failure to meet RCRA notification requirements, in violation of RCRA § 3010(a), 42 U.S.C. § 6930(a); and

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<sup>1</sup>For the purposes of this letter due to the four different state regulations, references will be to the Federal Regulations (Code of Federal Regulations).

2. Failure to meet the requirements of a Small or Large Quantity Generator per 40 C.F.R. Parts 262 and/or 270.

EPA is prepared to meet and discuss the potential violations, and other areas of concern, with Lowe's, with the aim of resolving this matter through a timely settlement process.

### **An Option for Resolution**

Upon receipt of this letter, if Lowe's is interested in resolving the matter through a quick resolution settlement, Lowe's has until March 4, 2019, to inform EPA by e-mail or telephone by contacting:

Mr. Nathaniel Moore (6RC-ER)  
Office of Regional Counsel  
RCRA & Toxics Enforcement Branch  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202  
e-mail: moore.nathaniel@epa.gov

After confirmation by Lowe's of its participation, Lowe's should provide copies of the information requested in Attachment 2 within three weeks. Submittal of information in electronic form, on CD-ROM or other electronic delivery device or mechanism, is preferred. Once information is received and reviewed by EPA, Mr. Nathaniel Moore will make arrangements to meet with Lowe's representatives either at the EPA office in Dallas, Texas or via a conference call. During this meeting or conference, Lowe's may address the potential violations and present evidence that rebuts EPA's evidence. The main goal of this option is to bring the Lowe's stores, into timely compliance with the applicable environmental laws and regulations.

To the extent that Lowe's qualifies as a "small business" under the Small Business Regulatory Enforcement Fairness Act, enclosed is an Information for Small Businesses sheet that provides information on compliance assistance.

### **Timetable for Resolution**

Given the nature of the potential violations listed above and the current evidence that EPA has in support of these violations, EPA estimates that the parties could have an agreed upon Consent Agreement and Final Order by April 15, 2019. This is contingent on whether Lowe's avails itself of the settlement process now offered and works amicably with the EPA. It should be noted that if Lowe's decides not to accept this streamlined option for settlement, Lowe's should notify EPA of its decision in writing to Mr. Nathaniel Moore by March 4, 2019. Thereafter, EPA will exercise its other options for ensuring Lowe's' timely compliance with RCRA and the regulations promulgated thereunder.

Please direct technical questions to Ms. Debra Pandak of the Waste Enforcement Branch at (214) 665-7565, and legal questions to Mr. Nathaniel Moore of the Office of Regional Counsel at (214) 665-8151. Thank you for your attention to this matter.

Sincerely,



Mark Potts  
Chief

Waste Enforcement Branch

Enclosure

eC: Charles Johnson (501) 682-0832, johnsoncm@adeq.state.ar.us  
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Office of Land Resources  
Arkansas Department of Environmental Quality

Craig Easley, 225-219-3801, Craig.Easley@LA.GOV  
Senior Environmental Scientist  
Enforcement Division, Office of Environmental Compliance  
Louisiana Department of Environmental Quality

Phyllis Luke, 225-219-3617, phyllis.luke@la.gov  
Senior Environmental Scientist  
Surveillance Division, Office of Environmental Compliance  
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Program Manager  
Compliance & Technical Assistance Program, Hazardous Waste Bureau  
New Mexico Environment Department

James Gradney, 512-239-6549, james.gradney@tceq.texas.gov  
Manager, Waste Enforcement Section  
Enforcement Division (MC-128)  
Texas Commission on Environmental Quality

Casey Grunnet, 512-239-7025, casey.grunnet@tceq.texas.gov  
Waste Liaison, Program Support Section (MC-174)  
Office of Compliance and Enforcement  
Texas Commission on Environmental Quality

**Attachment 1a**  
**List of Stores in Texas**

**Attachment 1b**  
**List of Stores in Louisiana**

**Attachment 1c**  
**List of Stores in Arkansas**

**Attachment 1d**  
**List of Stores in New Mexico**

**Attachment 2**  
**Document Request**

Provided the following information to EPA.

1. Copy(s) of documents and/or a description of any programs Lowe's may use that demonstrate Lowe's waste determination process for its solid waste.
  - a. In addition, please include waste determination documentation and a description for "non-RCRA" waste identified on manifests generated at stores.
  
2. Documentation of compliance with 40 C.F.R. 262 Subpart C-Pre-Transportation Requirements, Section 262.34.
  - a. This includes documentation of compliance based on generator status with the following:
    - i. For SQGs:
      1. 40 C.F.R. § 262.34(d)(5); and
      2. 40 C.F.R. § 262.34(d)(4) (cross referencing 40 C.F.R. Part 265-Subpart C – Preparedness and Prevention)
    - ii. For LQGs:
      1. 40 C.F.R. § 262.34(4) (cross referencing 40 C.F.R. Part 265-Subpart C and D)
      2. 40 C.F.R. § 262.34(4) (cross referencing 40 C.F.R. Part 265.16-Training)
  
3. Documentation that Land Disposal Restriction (LDR) forms for all hazardous waste manifested are/have been generated and maintained.
  
4. Documentation to counter the claim that stores, identified on Attachment 1a, 1b, 1c and 1d, operated outside of the conditionally exempt small quantity generator. Attachments list the stores with triggering events requiring registration as a small quantity generator or large quantity generator. The lists include the store number, manifest number, month and year and waste quantity of the triggering event.

**Attachment 1b**  
**Triggering Events**  
**Lowes New Mexico Stores**

EPA ID	STORE #	Address	City	State	Generator Registration	Manifest # triggering SQG or LQG event
NMR000015404	#1543	3010 JUAN TABO BLVD.	ALBUQUERQUE	NM	CESQG	#008585151FLE Nov- 2015: 709 kg ave. 236kg/m for Sept, Oct, Nov #008206145FLE Aug-2016 700kg ave. 107kg/m for June, Jul, Aug.
Not registered	#1636	3500 NM 528 NW	ALBUQUERQUE	NM	CESQG	#008585149FLE Nov-2015 474kg ave. 118kg/m for Aug, Sept, Oct, Nov.
MNR000025098	#2539	2001 12TH STREET NW	ALBUQUERQUE	NM	CESQG	#008647254FLE Sept-2015: 421kg ave. 105kg/m for June, Jul, Aug Sept #008206216FLE Aug 2016: 417kg ave. 139kg/m for June, Jul, Aug.
MNR000025148	#2510	407 LOWDERMILK LANE	ESPANOLA	NM	CESQG	#009194267FLE0 April-2016: 612kg ave. 153k/g/m for Jan, Feb, Mar, April #008206266FLE Aug-2016: 567kg ave. 113kg/m for May, Jun, Jul, Aug
MNR000025130	#3048	3048 MAIN STREET NW* 1600 Main Str NW	LOS LUNAS	NM	CESQG	#008206233FLE Sept -2016 267 kg/m. <b>*Appears to have two addresses.</b>

**Attachment 1b  
Triggering Events  
Lowe's New Mexico Stores**

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