

June 7, 2001, Thursday

## **U.S. Reaches Water Pollution Settlement With Wal-Mart; Retailer To Pay \$1 Million Fine, Establish Environmental Management Plan**

The Justice Department and the U.S. Environmental Protection Agency today reached an environmental agreement with Wal-Mart Stores Inc. to resolve claims the retailer violated the Clean Water Act at 17 locations in Texas, New Mexico, Oklahoma and Massachusetts. This is the first federal enforcement action against a company for multi-state violations of the Act's storm water provisions.

The settlement commits Wal-Mart to establish a \$4.5 million environmental management plan, to improve the retailer's compliance with environmental laws at each of its construction sites and minimize the impact of its building on streams and watersheds. The settlement also compels the company to pay a \$1 million civil penalty.

"We must be vigilant in protecting our drinking water. We must be equally protective of streams and lakes enjoyed by American families. Those responsible for construction sites must control hazardous pollutants from flowing into drinking water sources and waterways," said EPA Administrator Christie Whitman.

The United States alleges that Bentonville, Ark.-based Wal-Mart and 10 of its contractors failed to comply with storm water regulations and illegally discharged pollution from several construction sites. The Clean Water Act requires the owners and operators of large construction sites to have permits, which generally require site operators to create and carry out pollution prevention plans to minimize the discharge of pollutants into storm water runoff.

"We expect the retail and construction industries to comply with federal clean water requirements," said John Cruden, Acting Assistant Attorney General of the Justice Department's Environment Division. "With this settlement, we are taking an important step to protect streams and lakes across the country."

In its 1998 National Water Quality Inventory to Congress, EPA identifies urban runoff and storm sewers as leading causes of impaired water quality in the United States. Storm water runoff from construction sites can cause silt and sediments to build up in lakes and streams and kill aquatic life. Runoff also can transport pollutants like oil and pesticides into nearby storm drains, into sewer systems, and ultimately into streams and waterways. These discharges may drastically affect the health and quality of a waterway, and untreated storm water runoff may contaminate drinking water and pollute recreational waters.

The environmental management plan that Wal-Mart will establish aims to avert construction-related pollution. Wal-Mart will require its contractors to certify that all appropriate storm water control measures are in place before construction begins at new stores. The plan also requires Wal-Mart to improve its oversight of environmental compliance at its construction sites, conduct sampling at the sites to monitor the level of pollutants in storm water, and report these findings to the EPA.

The settlement, filed today in federal court in Fayetteville, Ark., will undergo a 30-day period of public comment.

Further information is available in the attached fact sheet and also at: <http://www.epa.gov/ow/305b/> <http://www.epa.gov/owm/wet.htm>

Fact Sheet: Wal-Mart Stores Inc. Clean Water Act Settlement -- June 7, 2001

Overview: The settlement announced today is the first federal government enforcement action taken against a national company for multi-state violations of the storm water requirements. The settlement resolves Wal-Mart Stores Inc. and 10 of the store's contractors of violations of storm water requirements under the Clean Water Act's National Pollutant Discharge Elimination System (NPDES). The alleged violations occurred at 17 Wal-Mart Stores Inc. construction sites in Texas, New Mexico, Oklahoma and Massachusetts. The settlement commits Wal-Mart Stores Inc. to a comprehensive environmental management plan (valued at \$4.5 million) to increase compliance at each of the store's construction sites nationwide through additional inspections, training and recordkeeping, as well as requires the company to pay a \$1 million penalty.

Wal-Mart Stores, Inc. (Wal-Mart) builds dozens of retail stores annually. Each site usually involves large construction projects with the potential for discharges of pollutants directly to waters of the U.S. or indirectly through discharges to public storm water collection systems. Wal-Mart Stores Inc. hires general contractors to oversee construction at each site. Wal-Mart had \$191 billion in sales in the fiscal year ending Jan. 31, 2001. The company employs more than 1 million associates worldwide through nearly 3,500 facilities in the United States and more than 1,000 units internationally.

Clean Water Act Storm Water Requirements: The NPDES storm water program requires that each operator on a construction site of more than five acres with the potential to discharge pollutants into waters of the United States to obtain a storm water discharge permit or be covered under an applicable general storm water permit. Permits generally require operators (in many cases, general contractors and subcontractors) to develop storm water pollution prevention plans that would minimize the discharge of pollutants in storm water. A storm water plan identifies potential sources of pollutants in storm water discharges from a site, and includes measures to minimize the pollutant discharges, such as spill prevention and response, proper storage of waste fluids in containers, and employee training on environmental requirements.

Health and Environmental Benefits of the Settlement: Storm water can carry sediment, oil, grease, toxics, pesticides, pathogens and other pollutants into nearby storm drains. Once this polluted runoff enters the sewer system, it generally gathers speed and is discharged-usually untreated-into local streams and waterways. When the water exits the sewer system and empties into a stream, huge volumes of high-speed runoff can damage stream banks, damage stream-side plant life, and widen streams. This will result in lower water levels during non-storm periods, higher-than-average water levels during wet weather, increased sediment loads, and higher water temperatures. Untreated storm water runoff also can contaminate drinking and recreational waters, and remains a major source of beach and shellfish bed closures.

This agreement should substantially reduce the hundreds of thousands of dollars spent by communities and states each year to ensure the safety of their drinking water, rivers, lakes and beaches.

Settlement Terms:

Civil Penalty: Wal-Mart Stores Inc. has agreed to pay a \$1 million penalty.

Injunctive Relief (\$4.5 million): The agreement requires Wal-Mart to implement a storm water management plan to increase compliance at each of its construction sites nationwide by additional site inspections, record-keeping, reporting and training. Specifically, Wal-Mart will, among other things:

- Produce a video on storm water control best management practices to be shown to contractors at each construction site prior to the commencement of any excavation or construction;
- Require its contractors to certify that all appropriate storm water control are in place before construction begins;
- Designate a storm water coordinator to be responsible for oversight of storm water compliance by Wal-Mart and its general contractors for all store construction sites covered by the agreement;
- Require in its construction contracts at each Wal-Mart-owned store construction site that the general contractor designate its site superintendent as its storm water coordinator;
- Review with the general contractor, as part of the awarding of a construction contract, a specific checklist of storm water requirements;
- Hold an annual storm water seminar for contractors and others involved in the Wal-Mart storm water program;
- Inspect storm water controls weekly and correct any problems found within seven days;
- Report to EPA all discharges of pollutants resulting from the absence or failure of erosion or sediment controls at its site following a rain event of 0.5 inch or more;
- Conduct sampling at its sites to monitor and analyze the level of pollutants in its storm water discharge and to report this information to EPA; and
- Have an independent audit conducted at some of its construction sites to assess, among other things, the success of its compliance plan and compliance with storm water regulations.

Affected Store Construction Sites: The following Wal-Mart-owned store construction sites are subject to the consent decree:

Texas: Wal-Mart Supercenter #284, Mansfield Wal-Mart Store #240, Commerce Wal-Mart Supercenter Store #259, Rockwall Wal-Mart Store #2667, Dallas Wal-Mart Store # 2427, Dallas Wal-Mart Store #1216, Carrollton Wal-Mart Supercenter #2724, Pasadena Wal-Mart Expansion Store No. 915, Stafford Wal-Mart Store #1279 Expansion, Houston Wal-Mart Store #2718, Houston Wal-Mart Store #789, Mesquite

New Mexico: Wal-Mart Supercenter #851, Ruidoso Wal-Mart Supercenter #1347, Silver City Wal-Mart Supercenter #868, Carlsbad Wal-Mart Supercenter #1397, Albuquerque

Oklahoma: Wal-Mart Store #277, Moore

Massachusetts: Wal-Mart Store #2683, Hadley

Contractors covered by the Consent Decree: COVERED BY RELEASE OF CONSENT DECREE Western Builders, Inc., Amarillo, TX Rogers-O'Brien, Inc., Dallas, TX D/B Constructors, Inc., Fort Worth, TX Construction Supervisors, Inc., Bellaire, TX Dalmac Construction, Inc., Richardson, TX Williams Development & Construction, Inc., Houston, TX Jaynes Corporation, Albuquerque, NM Gerald A. Martin, Ltd., Albuquerque, NM W.S. Bowlware Construction, Inc., Oklahoma City, OK Vratsinas Construction Co., Little Rock, AR