

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TX

FILED
2016 SEP 19 PM 3:34
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

WHOLE FOODS MARKET ROCKY
MOUNTAIN/SOUTHWEST LP

RESPONDENT

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Consent Agreement and Final Order
USEPA Docket No. RCRA-06-2016-0904

CONSENT AGREEMENT AND FINAL ORDER

I.

PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CAFO”) is entered into by the United States Environmental Protection Agency, Region 6 (“EPA” or “Complainant”) and Respondent, Whole Foods Market Rocky Mountain/Southwest LP, (“Whole Foods” or “Respondent”) and concerns twenty-nine (29) facilities. The facilities that are covered by this CAFO (the “Facilities”) are listed with corresponding addresses in Appendix I of this CAFO, which is attached hereto, and is incorporated by reference as part of this CAFO.
2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific factual allegations and alleged violations contained in this CAFO.

4. Respondent explicitly waives its right to appeal the proposed final order contained in this CAFO. Respondent does not waive any claims or defenses Respondent has to the interpretation of the CAFO or its terms.
5. The CAFO resolves only those violations which are alleged herein.
6. This CAFO covers the violations alleged herein from the period of April 1, 2010 through the effective date of the CAFO, and the period set forth in Section IV, Compliance Order, Paragraph 40.
7. Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order as set forth in Section IV, Compliance Order, Paragraph 40.
8. Respondent consents to the specific terms of the compliance agreement, as is set forth in Section V, Implementation of Electronic Hazardous Waste Identification System, Paragraph 41.
9. Respondent consents to implement the Supplemental Environmental Project ("SEP") summarized in Appendix III of this CAFO, which is attached hereto, and is incorporated by reference as part of the CAFO. Further, Respondent consents to the specific terms of the SEP set forth in Section VI.
10. For purposes of this CAFO, where applicable, citations to 40 Code of Federal Regulations ("C.F.R.") Part 273 is a citation to the Texas Administrative Code ("TEX.ADMIN.CODE")¹ since the relevant and applicable sections of 40 C.F.R.

¹ All references to the Texas Administrative Code shall refer to the EPA-approved regulatory requirements applicable to the hazardous waste management program, set forth in Texas Administrative Code Title 30, Part 2, Chapter 335, Environmental Quality, effective in October 2009, and adopted by EPA in May 2012.

Part 273 are adopted by reference as amended and adopted by the
30 TEX.ADMIN.CODE § 335.261, Universal Waste Rules.

II.
JURISDICTION

11. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
12. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III.
FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

13. Respondent is a Texas limited partnership, authorized to do business on March 2, 1995 in Texas.
14. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 30 TEX.ADMIN.CODE § 3.2(25), [40 C.F.R. § 260.10].
15. Whole Foods owns and/or operates the Facilities at the respective locations identified in Appendix I.
16. On June 11, 2014, the New Mexico Environment Department, Hazardous Waste Bureau, (“NMED”) conducted an inspection at a Whole Foods facility in the State of New Mexico (“Inspection”).

Re: Whole Foods Market
RCRA-06-2016-0904

17. On August 26, 2014 the NMED referred the matter to the EPA for further investigation and enforcement.
18. During the period of August 2014 through August 2015, EPA conducted a RCRA investigation and record review of Whole Foods' activities as a generator of hazardous waste in the State of Texas, including the issuance of a RCRA information request dated August 18, 2015 ("Investigation").
19. On November 24, 2015, Whole Foods provided EPA with a response to the RCRA 3007 information request.
20. From the Investigation, EPA concluded that in general Whole Foods has customer returns and expired products that are "solid waste" within the meaning of TEX.ADMIN.CODE § 335.1(138), [40 C.F.R. § 261.2].
21. From the Investigation, EPA concluded that Whole Foods, at a minimum, generated hazardous waste having the:
 - A. Characteristic of ignitability (D001) and corrosivity (D002); and
 - B. Characteristic of toxicity (D007, D010, D009, and D011).
22. From the Investigation, the EPA did not identify any spills, leaks or releases at or from the Facilities.
23. The Facilities listed in Appendix I are each a "facility" within the meaning of 30 TEX.ADMIN.CODE § 335.1(59), [40 C.F.R. § 260.10].
24. EPA concluded that all twenty-nine (29) Facilities listed in Appendix I have some or all the waste streams listed in Paragraph 21.

25. The waste streams identified in Paragraph 21 are “hazardous waste” as provided in 30 TEX.ADMIN.CODE §§ 335.1 (69) and (70), [40 C.F.R. §§ 261.3, 261.21, 261.22, and 261.24].
26. From the Investigation, EPA concluded that Whole Foods failed to make a sufficient hazardous waste determination of its solid waste streams as is required by 30 TEX.ADMIN.CODE § 335.62, [40 C.F.R. § 262.11(c)].
27. From the Investigation, EPA concluded that Whole Foods has insufficient records for its hazardous waste determination as is required by 30 TEX.ADMIN.CODE § 335.70(a), [40 C.F.R. § 262.40(c)].
28. From the Investigation, EPA concluded that Whole Foods is a “small quantity handler of universal waste” as this term is defined in 30 TEX.ADMIN.CODE § 335.261(b)(16)(D), [40 C.F.R. § 273.9].
29. From the Investigation, EPA concluded that Whole Foods has violated one or more of the universal waste requirements set forth at 40 C.F.R. §§ 273.13 through 273.16.
30. Whole Foods is a “generator” of “hazardous waste” as those terms are defined in 30 TEX ADMIN.CODE §§ 335.1(65) & (69), [40 C.F.R. § 260.10].
31. As a generator of hazardous waste, Whole Foods is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R. Part 262].

All Twenty-Nine (29) Facilities

Claim i. Failure to make Hazardous Waste Determinations

32. The allegations in Paragraphs 1-31 are realleged and incorporated herein by reference.

33. Pursuant to 30 TEX.ADMIN.CODE § 335.62, [40 C.F.R. § 262.11(c)] a person who generates a solid waste, as defined in 30 TEX.ADMIN.CODE § 335.1(138), [40 C.F.R. § 261.2] must determine if the waste is hazardous either by applying the required test method or by applying its knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.
34. For the relevant periods of this CAFO, Respondent failed to make a hazardous waste determination on all its waste streams at the Facilities identified in Appendix I of this CAFO.
35. Respondent violated the requirements of RCRA and the regulations promulgated at 30 TEX.ADMIN.CODE § 335.62, [40 C.F.R. § 262.11(c)] by failing to make the requisite hazardous waste determination on all its solid waste streams generated by Respondent at the Facilities identified in this CAFO.

Claim ii. Failure to Comply with the Universal Waste Requirements

36. The allegations in Paragraphs 1-35 are realleged and incorporated herein by reference.
37. Pursuant to 30 TEX.ADMIN.CODE § 335.261(a), [40 C.F.R. § 273.10] a small quantity handler of universal waste must comply with 40 C.F.R. §§ 273.13 through 273.16.
38. During the Investigation, EPA concluded that Whole Foods has not complied with all requirements set forth at 40 C.F.R. §§ 273.13 through 273.16.
39. During the period of 2010 through 2015, Whole Foods handled universal waste in violation of 40 C.F.R. §§ 273.13 through 273.16.

**IV.
COMPLIANCE ORDER**

40. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within one hundred and eighty (180) calendar

days of the effective date of this CAFO, Respondent shall provide in writing the following to EPA:

- A. Respondent shall certify that it has assessed all its solid waste streams at each Facility to determine the accurate waste codes and has developed and implemented standard operating procedures (“SOPs”) for each Facility to ensure that Whole Foods is operating in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal restrictions. The Respondent’s SOPs for each Facility shall also ensure that Whole Foods is operating in compliance with the universal waste rules set forth at 40 C.F.R. §§ 273.13 through 273.16;
- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 Notification, where applicable, for each Facility and within the prescribed time period, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930; and
- C. Respondent shall provide, with its certification, a copy of Respondent’s SOPs as described in subparagraph A above, which EPA shall maintain as business confidential records.

V.
IMPLEMENTATION OF ELECTRONIC HAZARDOUS WASTE
IDENTIFICATION SYSTEM

41. Based on the foregoing, Respondent agrees to implement an improved environmental compliance program in accordance with all the provisions of this Section V, and as described below:

- A. Respondent shall have eighteen (18) months, from the effective date of this CAFO, to engage a third-party consultant and implement the electronic hazardous waste identification system that is described in this compliance agreement;
 - B. Respondent will hire a third-party consultant to review the products at the facilities listed in Appendix II (the "Appendix II Facilities"), and determine whether those products, if discarded by Whole Foods, would be hazardous waste, pursuant to RCRA and its implementing regulations;
 - C. The third-party consultant, after identifying the potentially hazardous items, will load the information into Whole Foods' electronic hazardous waste identification system for use at the Appendix II Facilities, to identify and classify all Whole Foods' solid waste streams;
 - D. Respondent will submit to the EPA, within nine (9) months of the effective date of this CAFO, an interim report on the implementation progress of its electronic hazardous waste identification system described in this compliance agreement; and
 - E. Within twenty-four (24) months of the effective date of this CAFO, Respondent will submit to the EPA a completion report that will describe the electronic hazardous waste identification system as fully implemented at all Appendix II Facilities, certifying the cost incurred to complete its electronic hazardous waste identification system, an evaluation of the electronic hazardous waste identification system success, and a certification that the electronic hazardous waste identification system has been completed in accordance with this CAFO.
42. If within eighteen (18) months after the effective date of this CAFO, Respondent concludes that despite its best efforts to implement the electronic hazardous waste

Re: Whole Foods Market
RCRA-06-2016-0904

identification system described in this compliance agreement, the efforts were futile and the system would be impractical for Whole Foods, Whole Foods shall, no later than 30 days after such conclusions are made, submit to the EPA a report documenting its efforts and the rationale for its conclusion. Further, Whole Foods shall ensure that its compliance with RCRA, ordered in Section IV of this CAFO (Compliance Order) is fully delineated and narrated in the SOPs that are required by Paragraph 40.A of this CAFO.

43. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Whole Foods and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Waste Enforcement Branch
Waste Compliance III Section (6EN-H3)
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Gabriel Salinas

In the alternative, documents required by this CAFO may be sent to Gabriel Salinas via email at Salinas.Gabriel@epa.gov.

VI.
TERMS OF SETTLEMENT

i. Penalty Provisions

44. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Factual Allegations and Alleged Violations, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of Two Million One Hundred and Eighty-Five Thousand One Hundred and Sixty Dollars (\$2,185,160.00) .

45. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to the Treasurer United States.

46. The following are Respondent's options for transmitting the penalties:

Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express

Mail, the check should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Re: Whole Foods Market
RCRA-06-2016-0904

Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (In the Matter of Whole Foods Market Rocky Mountain/Southwest LP, (Docket No. RCRA-06-2016-0904)) shall be clearly documented on or within Respondent's chosen method of payment to ensure proper credit.

47. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Mark Potts, Chief
Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Gabriel Salinas

Adherence to this request will ensure proper credit is given when penalties are received by EPA.

48. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil

penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

ii. Supplemental Environmental Project

49. Respondent shall complete the Supplemental Environmental Project ("SEP") described in in Appendix III of this CAFO, and in accordance with all provisions of this Sub-Section VI.ii, as described below.

- A. Within ninety (90) days of the effective date of this CAFO, Respondent shall submit to the EPA a SEP workplan for review and approval, with a detailed description of the project, including the necessary information to demonstrate that the SEP and Whole Foods' performance of the SEP comply with the 2015 update to SEP Policy.
- B. With EPA's review and approval of the SEP workplan, and without amendment to the CAFO, the workplan will be incorporated into this CAFO by reference as the

Environmental Compliance Promotion Training Project for the Retail Industry (the “ECPTP”) SEP.

- C. Respondent shall implement the activities of the workplan, no later than sixty day (60) after EPA’s review and approval.
- D. With regard to the ECPTP SEP, Respondent certifies the truth and accuracy of each of the following:
 - a. That all cost information that is provided to the EPA in connection with EPA’s approval of the ECPTP is complete and accurate and that Respondent in good faith estimates that the cost to implement the ECPTP SEP is \$500,000;
 - b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the ECPTP SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other forum;
 - c. That the ECPTP SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
 - d. That Respondent has not received and will not receive credit for the ECPTP SEP in any other enforcement action;
 - e. That Respondent will not receive reimbursement for any portion of the ECPTP SEP from another person or entity; and

- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the ECPTP SEP.

E. Respondent certifies that:

- a. It is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Appendix III and this CAFO; and
- b. It has inquired of the ECPTP SEP recipient and/or implementer whether either is a party to an open federal financial assistance transaction that is funding or could fund the same activity as a SEP and has been informed by the recipient and/or implementer that neither is a party to such transaction.

F. The Respondent will submit annual status reports, which shall include the certification language set forth in Paragraph 43 of this CAFO. The status reports will include at a minimum, a description of the activities to date; a budget summary table listing funds expended to date by budget category; and a discussion of any anticipated changes to the project scope or timeline.

G. Respondent has three (3) years from the date of EPA's review and approval to complete the ECPTP SEP.

H. Within thirty (30) days after the completion of the ECPTP SEP, Respondent shall submit a completion report to EPA, certifying that the SEP funds have been applied to the project, how the funds were used, an evaluation of the SEP's success, and a

certification that the SEP has been completed in accordance with the CAFO, the approved workplan, and Appendix III.

- I. The total expenditure for the ECPTP SEP shall not be less than \$500,000.

Respondent shall include documentation of the expenditures made in connection with the ECPTP SEP as part of the ECPTP SEP completion report.

- J. Respondent agrees that any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the ECPTP SEP, with the exception of any advertisements for the training, under this CAFO from the date of its execution of this CAFO shall include the following language: “This project was undertaken in connection with the settlement of an enforcement action, *In the Matter of: Whole Foods Market Rocky Mountain/Southwest LP; USEPA Docket No. RCRA-06-2016-0904* to enforce federal laws”.

- K. Respondent shall complete the ECPTP SEP in a timely and satisfactory manner, to ensure that the EPA and the public receives the benefits expected by the SEP. For purposes of this CAFO, the ECPTP SEP shall have been satisfactorily completed (i) when the program has operated for three (3) years, (ii) Whole Foods has spent no less than \$500,000, (iii) Whole Foods has periodically advertised the program in more than one media in the month that immediately precedes a training event, and (iv) Whole Foods is able to document a level of retailers participation of not less than Two Thousand (2000) retailers in the State of Texas.

iii. Stipulated Penalties

50. Respondent shall be liable for stipulated penalties to be paid to the Treasurer United States, and in accordance with the payment instructions set forth in Section VI.i. (Penalty

Provisions) of this CAFO for its failure to: (i) Meet interim milestones, to submit required progress reports and to provide a SEP completion report, beginning sixty (60) days of a submission due date and at rate of \$2000 per day and thereafter that each specific failure continues; (ii) Satisfactorily complete the SEP, in which case a stipulated penalty will be calculated at a rate that is proportionately determined on the objective basis of the total SEP expenditure of \$500,000 and the number of retail participants of 2000 agreed upon by the Parties and is included in the definition of satisfactorily completed, seen in Paragraph 49.K above. For example, if the final number of retailers that participated in the SEP equals One Thousand (1000) then the stipulated penalty in this instance would be $(\$500,000 * 1000 \text{ retailers} / 2000 \text{ retailers}) = \$250,000$; and (iii) Implement the SEP sixty (60) days after EPA's review and approval, or if Respondent halts or abandons work of the SEP, Respondent will pay a stipulated penalty of \$500,000 together with interest accruing from the date the CAFO became effective, and the interest will be assessed in accordance with Paragraph 48 of this CAFO.

iv. Cost

51. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 104-121), and any regulations promulgated pursuant to those Acts.

v. Termination and Satisfaction

52. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty,

Respondent shall so certify in writing and in accordance with the certification language set forth in Paragraph 43. Unless EPA objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

53. This CAFO resolves the claims set forth in Section III, Factual Allegations and Alleged Violations, and Whole Foods, and its officers, directors, employees, and affiliated entities are released from civil liabilities as provided in 40 C.F.R. §§ 22.18(c) and 22.31 upon the termination of this CAFO.

vi. Effective Date of Settlement

54. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

vii. Appendices

56. The following Appendices are attached to and are part of this CAFO:

Appendix I represents a list of all of Whole Foods' Texas Facilities that are subject to this CAFO;

Appendix II represents the List of all Whole Foods' facilities in Region 6 that are incorporated by reference into this CAFO as the "Appendix II Facilities" only for purposes of Section V, Implementation of Electronic Hazardous Waste Identification System; and

Appendix III represents the narrative of the Supplemental Environmental Project.

Re: Whole Foods Market
RCRA-06-2016-0904

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

Date: 9/12/16



Whole Foods Market Rocky
Mountain/Southwest LP

FOR THE COMPLAINANT:

Date: 9.19.16



John Blevins
Director
Compliance Assurance and
Enforcement Division

Re: Whole Foods Market
RCRA-06-2016-0904

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 9/19/16



Thomas Rucki
Regional Judicial Officer

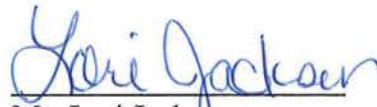
Re: Whole Foods Market
RCRA-06-2016-0904

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of Sept, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Whole Foods Market Rocky Mountain/Southwest LP
c/o Whole Foods Market Central Office
Attn: John H. Hempfling II
550 Bowie Street
Austin, TX 78703


Ms. Lori Jackson
Paralegal

Appendix I

LIST OF WHOLE FOODS' FACILITIES IN TEXAS

Texas Locations:

255 E. Basse Rd, Ste. 130 San Antonio, TX 78209 United States	18403 Blanco Road San Antonio, TX 78258 United States	12601 Hill Country Blvd Bee Cave, TX 78738 United States
4100 Lomo Alto Dr Highland Park, TX 75219 United States	11700 Preston Rd Dallas, TX 75230 United States	4004 Bellaire Blvd Houston, TX 77025 United States
11041 Westheimer Rd Houston, TX 77042 United States	1411 E. Renner Road Richardson, TX 75082 United States	11920 Domain Drive Austin, TX 78758 United States
8190 Park Lane, Suite 351 Dallas, TX 75231 United States	1407 South Voss Rd Houston, TX 77057 United States	1925 Hughes Landing Blvd. Suite 100 The Woodlands, TX 77380 United States
525 N Lamar Blvd. Austin, TX 78703 United States	105 Stacy Rd. Fairview, TX 75069 United States	2955 Kirby Dr Houston, TX 77098 United States
10133 Louetta Road Houston, TX 77070 United States	801 East Lamar Blvd. Arlington, TX 76011 United States	4041 Waller Creek Highland Village, TX 75077 United States
2510 McKinney Ave. Dallas, TX 75201 United States	9607 Research Blvd. Austin, TX 78759 United States	6601 S. Fry Road Katy, TX 77494 United States
701 Waugh Drive Houston, TX 77019 United States	1700 Post Oak Blvd, Suite 100 Houston, TX 77056 United States	2201 Preston Rd Plano, TX 75093 United States
4801 Colleyville Blvd Colleyville, TX 76034 United States	4301 W. William Cannon Bldg B, Ste 800 Austin, TX 78749 United States	5100 Beltline Road, Suite 1012 Addison, TX 75254 United States
2118 Abrams Road Dallas, TX 75214 United States	15900 Southwest Freeway Sugar Land, TX 77479 United States	

Appendix II

List of Whole Foods' Facilities in EPA Region 6

Texas Locations:

255 E. Basse Rd, Ste. 130 San Antonio, TX 78209 United States	18403 Blanco Road San Antonio, TX 78258 United States	12601 Hill Country Blvd Bee Cave, TX 78738 United States
4100 Lomo Alto Dr Highland Park, TX 75219 United States	11700 Preston Rd Dallas, TX 75230 United States	4004 Bellaire Blvd Houston, TX 77025 United States
11041 Westheimer Rd Houston, TX 77042 United States	1411 E. Renner Road Richardson, TX 75082 United States	11920 Domain Drive Austin, TX 78758 United States
8190 Park Lane, Suite 351 Dallas, TX 75231 United States	1407 South Voss Rd Houston, TX 77057 United States	1925 Hughes Landing Blvd. Suite 100 The Woodlands, TX 77380 United States
525 N Lamar Blvd. Austin, TX 78703 United States	105 Stacy Rd. Fairview, TX 75069 United States	2955 Kirby Dr Houston, TX 77098 United States
10133 Louetta Road Houston, TX 77070 United States	801 East Lamar Blvd. Arlington, TX 76011 United States	4041 Waller Creek Highland Village, TX 75077 United States
2510 McKinney Ave. Dallas, TX 75201 United States	9607 Research Blvd. Austin, TX 78759 United States	6601 S. Fry Road Katy, TX 77494 United States
701 Waugh Drive Houston, TX 77019 United States	1700 Post Oak Blvd, Suite 100 Houston, TX 77056 United States	2201 Preston Rd Plano, TX 75093 United States
4801 Colleyville Blvd Colleyville, TX 76034 United States	4301 W. William Cannon Bldg B, Ste 800 Austin, TX 78749 United States	5100 Beltline Road, Suite 1012 Addison, TX 75254 United States
2118 Abrams Road Dallas, TX 75214 United States	15900 Southwest Freeway Sugar Land, TX 77479 United States	

Louisiana Locations:

300 North Broad Street, Suite 103 New Orleans, LA 70119 United States	7529 Corporate Blvd. Baton Rouge, LA 70809 United States	5600 Magazine Street New Orleans, LA 70115 United States
4247 Ambassador Caffery Parkway Lafayette, LA 70508 United States	3420 Veterans Memorial Blvd. Metairie, LA 70002 United States	3450 Highway 190, Suite 8 Mandeville, LA 70471 United States

New Mexico Locations:

753 Cerrillos Road Santa Fe, NM 87505 United States	2103 Carlisle Boulevard NE Albuquerque, NM 87110 United States	1090 S. St Francis Dr. Santa Fe, NM 87505 United States
5815 Wyoming Blvd NE Albuquerque, NM 87109 United States		

Oklahoma Locations:

9136 South Yale Avenue Tulsa, OK 74137 United States	6001 N. Western Ave. Oklahoma City, OK 73118 United States	1401 E. 41 st St. Tulsa, OK 74105 United States
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Arkansas Location:

501 Bowman Road Little Rock, AR 72211 United States	3425 N. College Ave. Fayetteville, AR 72703 United States	
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Appendix III

Proposed Supplemental Environmental Project Summary

Whole Foods Rocky Mountain/Southwest LP

Whole Foods Market Rocky Mountain/Southwest LP ("WFM") proposes to implement an environmental compliance promotion project for the retail industry. The supplemental environmental project ("SEP") will consist of financing, developing and hosting a series of compliance promotion activities through several different media. The objective of the SEP is to educate the retail industry, particularly smaller retailers, in the State of Texas about the hazardous waste laws and regulations that apply to their operations.

Expected Environmental Benefit

WFM's SEP will achieve the objectives outlined in the United States Environmental Protection Agency's SEP Policy, as it goes above and beyond what is legally required in order to comply with the applicable federal and state hazardous waste laws, and it secures additional environmental benefits to those achieved through compliance alone. The anticipated environmental benefits from the proposed SEP will be reducing risks to public health and the environment by improving compliance with the applicable hazardous waste laws in the retail sector.

The value of WFM's environmental compliance promotion project will be substantial, as there are little to no compliance promotion materials available that specifically target the retail industry. This SEP will disseminate an extensive amount of information to the retail sector in Texas in order to raise awareness of, and educate the industry on, the federal and state hazardous waste laws that apply to the day-to-day operations of a retailer. Increasing the retail sector's knowledge of the regulatory requirements that apply to the industry will, in turn, reduce the instances in which hazardous wastes are improperly managed and disposed of by the retail industry.

Project Description

Compliance Promotion Activities

As part of the implementation of the SEP, WFM will, in conjunction with its partner organizations, present at least fifty (50) compliance trainings over the course of a three-year period. These trainings will be conducted through various media including, but not limited to, workshops, seminars and webinars, with question and answer opportunities for the participants. WFM will retain one or more third-party contractor(s) to assist with developing and conducting the trainings.

Training Materials

At or before each scheduled training, WFM will provide participants with educational materials that correspond to the session. These training materials will serve to reinforce

participants' understanding of the hazardous waste laws and regulations discussed during the training session, and will also serve as a resource that may be referenced and used to promote compliance going forward.

Advertising

WFM will advertise each scheduled training session at least two (2) times within the thirty (30) days preceding the session. WFM will pay to advertise each training session in at least two (2) locations (e.g., in an industry publication or website, a local trade paper or a local newspaper). These advertising provisions are minimum requirements for the project (i.e., WFM may conduct additional advertising if necessary to increase attendance, provided sufficient budget is available), and they are intended to provide WFM flexibility to target different and/or particular audiences for each training event.

Project Cost

The estimated cost of the SEP is five hundred thousand dollars (\$500,000.00). WFM will provide EPA with a work plan and an estimated budget itemizing each component of this proposed SEP within ninety (90) days of the effective date of the CAFO.

Timeline

WFM will implement this proposed environmental compliance promotion project for a three-year period following the effective date of the CAFO and in compliance with the CAFO.

Louisiana Locations:

300 North Broad Street, Suite 103 New Orleans, LA 70119 United States	7529 Corporate Blvd. Baton Rouge, LA 70809 United States	5600 Magazine Street New Orleans, LA 70115 United States
4247 Ambassador Caffery Parkway Lafayette, LA 70508 United States	3420 Veterans Memorial Blvd. Metairie, LA 70002 United States	3450 Highway 190, Suite 8 Mandeville, LA 70471 United States

New Mexico Locations:

753 Cerrillos Road Santa Fe, NM 87505 United States	2103 Carlisle Boulevard NE Albuquerque, NM 87110 United States	1090 S. St Francis Dr. Santa Fe, NM 87505 United States
5815 Wyoming Blvd NE Albuquerque, NM 87109 United States		

Oklahoma Locations:

9136 South Yale Avenue Tulsa, OK 74137 United States	6001 N. Western Ave. Oklahoma City, OK 73118 United States	1401 E. 41 st St. Tulsa, OK 74105 United States
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Project Description

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