



April 6, 2020

Frito-Lay, Inc
1 Cabot Rd
Hudson, MA 01749

Re: March 26, 2020 diesel spill in violation of the Montana Solid Waste Management Act [CVID 22153]

To Whom It May Concern:

The Enforcement Program (ENF) of the Montana Department of Environmental Quality (DEQ) received information that 100 gallons of diesel fuel spilled to the environment due to a truck accident on Interstate 90 East, Mile Marker 315.8, in Gallatin County, Montana.

As of the date of this letter, ENF has not received any written documentation that indicates the spill site has been fully assessed, and all diesel fuel affected media has been remediated and properly disposed.

This letter is to inform Frito-Lay that the spill of diesel fuel to the environment is an improper disposal of a solid waste, and therefore constitutes a violation of the Montana Solid Waste Management Act (SWMA).

In order to return to compliance, ENF requests that the following corrective actions be conducted:

- By May 6, 2020, hire a qualified environmental consultant and complete assessment and remedial actions, including proper disposal of all diesel fuel-impacted media. Please provide a copy of this letter to your environmental consultant and have them contact me prior to initiating on-site activities. It is recommended that a copy of this letter also be provided to your insurance company as well. As this incident occurred on a public right-of-way, an encroachment permit (Permit) may be required. For information on obtaining a Permit, please contact the Montana Department of Transportation Maintenance Area Office at: https://www.mdt.mt.gov/mdt/organization/maint_sites.shtml.
- By July 6, 2020, complete assessment and remedial actions, and submit a cleanup report meeting ENF's Standardized Cleanup Report format. Please refer to this document for information on submitting the cleanup report to ENF.

The Standardized Cleanup Report format and ENF's Soil Sampling Guidance can be accessed on ENF's web site at: <http://deq.mt.gov/DEQAdmin/ENF/Spill>. Please note that cleanup reports not submitted in the Standardized Cleanup Report format or not providing all requested information will not be accepted by ENF.

ENF only accepts electronic copies of the Standardized Cleanup Report (Report). Reports should be in .PDF format and submitted via email or the Montana File Transfer Service. Please note that state email is limited to 10 megabytes.

Under the SWMA and the Administrative Rules of Montana (ARM):

- It is unlawful to dispose of solid waste except as permitted. *See* Section 75-10-212, Montana Code Annotated (MCA).
- A person may not dispose of solid waste without a license from the department. *See* Section 75-10-221(1) MCA.
- Disposal is defined as the discharge, injection, deposit, dumping, spilling, leaking, or placing of any solid waste into or onto the land. *See* Section 75-10-203(3), MCA.
- Contaminated soil means soil, rocks, dirt, or earth that has been made impure by contact, commingling, or consolidation with petroleum hydrocarbons. *See* ARM 17.50.502(8).
- Waste is defined as useless, unwanted, or discarded materials in any physical form. *See* ARM 17.50.502(41).
- Contaminated soils are Group II wastes that require disposal at a Class II solid waste management system. *See* ARM 17.50.503.

If you have questions related to this matter, have difficulty accessing the above-referenced ENF documents/links or feel the reported information is not factually accurate, please contact me at either jrasmann2@mt.gov or the telephone number listed below. Please reference **CVID 22153** on the cleanup report and on any future correspondence related to this incident.

Sincerely,



John Rasmann
Enforcement Specialist
Enforcement Program
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jrasmann2@mt.gov

cc via email: Gallatin County DES
Gallatin County Environmental Health
Joe Radonich, MDT