UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

1622

March 24, 2005

Mr Peter D. Ness
Health & Safety Manager
New Balance Athletic Shoe, Inc.
Brighton Landing
20 Guest Street
Boston, MA 02135-2088

Dear Mr Ness:

The purpose of this letter is to respond to your letter to me dated March 17, 2005. Your understanding of the testing that should be conducted to determine if the footwear in question would be a hazardous waste, if disposed, is correct. You are also correct in your understanding that the sample used for testing should be the entire shoe. The cadmium bearing plastic piece incorporated into the sole of the shoe does not need to be extracted for testing in isolation from the rest of the shoe.

I wish to note that, if the footwear is imported into the United States solely for the purposes of disposal (i.e it is brought in as a solid waste) and it is also a hazardous waste, then certain import requirements outlined in Title 40 of the Code of Federal Regulations Part 262, Subparts A and F will apply. I am aware from our initial phone call, that at this time you may seek to sell or donate the footwear within the United States and that disposal is not the only option for which the footwear is being imported.

If you have any questions on this letter, or I can be of any further assistance, please contact me at 617-918-1369.

Sincerely,

Ernest Waterman,
Chief of Hazardous Waste Unit

new balance

March 17th, 2005

Mr. Ernest Waterman
Chief of Hazardous Waste Unit
US EPA Region 1
1 Congress St.
Suite 1100, CHW
Boston, MA 02114-2023

Dear Mr. Waterman,

Thank you for taking the time to investigate our question regarding sample protocol for testing our footwear. As I mentioned, this footwear in question has a small piece of plastic incorporated into the sole of the shoe for purposes of stability. This piece when manufactured has a pigment added to the soft plastic which contains Cadmium.

The stability web when completed gets further incorporated into the sole and the final product, in this case athletic footwear. We were unaware of the Cadmium being a part of this piece until it was tested in the Netherlands where we learned it exceeded the EU limit of 100 ppm. As such we can not make this product available for retail sale in this region.

If the product is brought to the US for final disposition, which could be waste disposal, we need to perform a TCLP test to determine if the Cadmium levels are great enough to fail this test. The question posed was whether or not we would grind the entire shoe to create a homogenous mixture for sampling or whether we would need to isolate the component of the shoe which contains the Cadmium pigment?

This letter is to confirm that we would indeed grind the entire shoe prior to obtaining a uniform sample to carry out the TCLP test. Please review my interpretation and confirm this so that we may keep a record in our files if we do indeed bring these shoes to the US for final disposition.

Again, I thank you for your time you gave us on this matter.

Regards,

Peter D. Ness
Health & Safety Mgr.
New Balance Athletic Shoe, Inc.

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