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Hazardous Waste Enforcement: Arkansas Department of Environmental Quality and Pulaski County. Arkansas Distribution Center and Auto Parts Store Enter Into Consent Administrative Order to Address Alleged Violations

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O'Reilly Automotive Stores, Inc. ("O'Reilly") and Ozark Automotive Distributors, Inc. ("Ozark") entered into a Consent Administrative Order ("CAO") dated January 19, 2016 addressing alleged violations of Arkansas Pollution Control and Ecology Commission Regulation 23 involving hazardous waste management. See LIS 16-008.

The CAO provides that Ozark and O'Reilly both have facilities located on a property ("Site") in Pulaski County, Arkansas.

O'Reilly is stated to operate a distribution center at the Site that packs and ships automotive products to O'Reilly stores in addition to collecting returned merchandise to be redistributed and resold or to be disposed of as hazardous waste. Further, the Site is stated to be owned by O'Reilly and Ozark's operation is physically connected to an O'Reilly store.

The CAO provides that both O'Reilly and Ozark share a Resource Conservation and Recovery Act ("RCRA") Environmental Protection Agency identification number. Ozark is stated to have reported as a RCRA Small Quantity Generator of hazardous waste.

ADEQ is alleged to have conducted a Compliance Evaluation Inspection at the Site on September 21, 2015. The agency allegedly identified the following violations described in the Compliance Evaluation Inspection:

During the CEI, an O'Reilly employee indicated that the O'Reilly store at the site has previously accepted small quantities of hazardous waste paint solvent from Custom Colors of Arkansas (hereinafter "Custom Colors"), a mobile paint shop that is a Conditionally Exempt Small Quantity Generator of hazardous waste. The hazardous waste paint solvent from Custom Colors was then added to Ozark's hazardous waste stream. In order to accept and store hazardous waste from other generators, Respondents must possess an ADEQ hazardous waste permit as a treatment, storage, and disposal facility (hereinafter

“TSDF”). At the time of the CEI, neither Respondent was permitted as a TSDF. Failure to possess a TSDF permit while accepting and storing hazardous waste from other generators is a violation of APC&EC Regulation No. 23 § 270.1(c) which state in part, “RCRA requires a permit for the ‘treatment’, ‘storage’, and ‘disposal’ of any ‘hazardous waste’ as identified or listed in § 261 of this regulation ...” Consequently, this is also a violation of Ark. Code. Ann. § 8-7-205(1).

Ozark and O’Reilly informed ADEQ on October 29, 2015 that “acceptance and storage of hazardous waste from outside generators had ceased”.

The CAO provides that O’Reilly and Ozark and jointly are severally liable for failure to comply with any and all obligations contained in the CAO.

Ozark and O’Reilly are required to submit documentations (including disposal manifests) to ADEQ for review and approval that all hazardous waste generated off-site is no longer accepted or stored at the Site. The organizations are also required to:

... conduct an Internal Compliance Audit of all hazardous waste management activities. The Internal Compliance Audit shall be of sufficient scope to identify any instances of noncompliance with applicable hazardous waste management requirements, whether identified by the aforementioned CEI Report or not.

Ozark and O’Reilly must document actions taken to achieve and maintain compliance with any instances of noncompliance detected by the Compliance Evaluation Inspection Report and the Internal Compliance Audit. Also required is a Pollution Prevention Study to “investigate ways to reduce the amount of waste from the facility and submit a Report of Findings specific to the Pollution Prevention Study to ADEQ for review and approval.

The CAO assesses a civil penalty of \$1,250 if the CAO is executed by the organizations by a certain date.

[Click here to download a copy of the CAO.](#)