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Hazardous Waste Enforcement: U.S. Environmental Protection Agency and Lowe's Home Centers, LLC, Enter into Consent Agreement Addressing 243 Stores (Including 21 Arkansas Facilities)

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The United States Environmental Protection Agency (Region 6) ("EPA") and Lowe's Home Centers, LLC, ("Lowe's") entered into a November 17th Consent Agreement and Final Order ("CAFO") addressing an alleged violation of the Resource Conservation and Recovery Act ("RCRA") regulations. See Docket No. RCRA-06-2023-0901.

The CAFO addresses Lowe's stores/distribution centers ("Facilities") in five states that include Arkansas.

The Facilities addressed include 21 in Arkansas. They are located in the following Arkansas communities:

- Russellville
- Conway
- Jonesboro
- Fayetteville
- Fort Smith
- Hot Springs
- Rogers
- North Little Rock
- Pine Bluff
- Jacksonville
- Searcy
- S. Fayetteville
- Springdale
- N. Bentonville
- Mountain Home
- Bryant
- Siloam Springs
- Blytheville
- Van Buren
- Paragould
- W. Little Rock

The facilities described include home improvement retail business and distribution centers that:

. . . offer products and services related to home improvement, repair, maintenance, or construction projects . . .

The NAICS code for the home centers is stated to be 444110 and may generate hazardous waste as that term is defined in 40 CFR § 260.10. Such term is stated to include scenarios in which there is:

. . . a return of certain products, when certain products are damaged or spilled, and/or when outdated products are discarded.

The CAFO states that from 2018 and continuing through the date of the filing of the CAFO, Lowe's submitted various Section 3010(a) of RCRA notifications for certain of the facilities listed in Appendix I which identified them as conditionally exempt small quantity generator or very small quantity generator ("CESQG" or "VSQG") for certain Lowe's Pro Supply facilities, as small quantity generator ("SQG") for Lowe's retail stores, or as a large quantity generator ("LQG") for its Regional Distribution Center.

EPA states that it initially undertook a RCRA online data review and subsequently Lowe's records in the RCRA Info Database, Texas Steers/Central Registry, EPA's Biennial Reports, e-Manifest, as well as additional information voluntarily provided to EPA.

EPA is stated to have contacted Lowe's as a result of the initial investigation and communicated its findings.

The CAFO describes:

- Discussions between EPA and Lowe's regarding hazardous waste determinations/recordkeeping obligations
- Expansion of the initial investigation
- Identification of potential violations

The subsequent investigation is stated to have determined that Lowe's generates several solid waste streams from certain of its facilities. Such hazardous wastes are described in the CAFO.

Further, the CAFO states that Lowe's generated some or all of the hazardous waste identified in a referenced paragraph in quantities that in some instances exceeded a threshold amount of 100 kilograms of hazardous waste per month at certain of the 243 facilities identified in Appendix I and that in such instances Lowe's appropriately classified certain of its facilities as SQG status.

The violation alleged in the CAFO is:

- Failure to File Subsequent Notifications

The CAFO contains a Compliance Order which requires that Lowe's undertake a number of activities by certain deadlines regarding implementation of standard operating procedures such as:

- Addressing job responsibilities
- Employment of independent third-party review
- Coordinate with third-party vendors
- Correction of the alleged violations

A civil penalty of \$141,729.75 is assessed.

A copy of the CAFO can be downloaded [here](#).