# Hazardous Waste Enforcement: U.S. Environmental Protection Agency and Kutztown, PA, Storage/Distribution Automotive Products Facilities Enter Into Consent Agreement

**Walter Wright, Jr.**
wwright@mwlaw.com
(501) 688.8839

06/12/2023

The United States Environmental Protection Agency ("EPA") and Advance Stores Company, Inc. and Advance Auto Distribution Center ("Advance" collectively") entered into a May 19th Consent Agreement ("CA") addressing alleged violations of the Resources Conservation Recovery Act ("RCRA") hazardous waste regulations. See Docket. No. RCRA-03-2023-0039.

The CA provides that Advance operates its facility. Kutztown, PA.

The facility is stated to include activities that provide storage of consumer automotive products in connection with distribution of such consumer products to certain retail stores operated by Advance.

Advance is described by the CA as an owner and operator facility as those terms are defined in 40 CFR §260.10. Further, the Pennsylvania Department of Environmental Protection is stated to have assigned Advance an EPA generator ID number.

Advance is stated to have undergone activities that qualify as a RCRA generator and has engaged in the storage of containers at the facility of materials described as solid and hazardous waste.

EPA Region 3 issued Advance a request for information on December 15, 2020. Advance is stated to have provided an initial response dated February 1, 2021.

The CA describes certain hazardous wastes generated by the Advance facility which includes :

a) petroleum distillate- based "press wash" and b) waste paint mixed with a hydrocarbon-based solvent (known by the trade name "MRC-K"), each of which is hazardous because each exhibits characteristics of ignitability and meets the criteria for EPA Hazardous Waste No. D001, as set forth at 40 C.F.R. § 261.21, which is incorporated by reference into the PAHWMR at 25 Pa. Code § 261 a. I; and b) parts washer fluid which exhibits the characteristic of toxicity and meets the criteria for EPA Hazardous Waste No. D039, as set forth at 40 C.F.R. § 261.24, which is incorporated by reference into the PAHWMR at 25 Pa. Code § 261 a. I.

The CA provides that during certain periods of time in calendar years 2019 through 2020, the material described in the previous paragraph was in "storage" in containers at the facility.

Alleged violations cited in the CA include:

1. Failure to qualify for a permit exemption or obtain interim status or a permit;
2. Failure to maintain training documentation;
3. Failure to maintain a complete contingency plan; and
4. Failure to submit a biennial report for 2019 by March 1, 2020.

A civil penalty of $15,000 is assessed.

The CA can be downloaded here.