



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
GARY C. RIKARD, EXECUTIVE DIRECTOR

October 21, 2014

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Richard Colbey
Worthington Cylinders Mississippi LLC
795 Sam T Barkley Drive
New Albany, MS 38652

**Re: Worthington Cylinders Mississippi LLC
Agreed Order No. 6460 14**

Dear Mr. Colbey:

Enclosed you will find a copy of Agreed Order No. 6460 14, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Gary Rikard, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Mohammad Yassin at (601) 961-5195.

Sincerely,

A handwritten signature in blue ink, reading "Chris Sanders".

Chris Sanders, P.E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Mohammad Yassin

Agency Interest No. 8221
ENF20140002

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

6460 14

WORTHINGTON CYLINDERS MISSISSIPPI LLC
795 SAM TOM BARKLEY DRIVE
NEW ALBANY, MISSISSIPPI 38652

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and Worthington Cylinders Mississippi LLC, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated July 1, 2014, Respondent was contacted by Complainant and notified of the following violations at its facility located at 795 Sam Tom Barkley Drive, New Albany, Union County, Mississippi:

A. 40 C.F.R. § 262.12(b)

A generator must submit subsequent notifications to EPA via form 8700-12 when site contact changes.

At the time of the inspection, the Respondent's point of contact needed to be updated.

B. 40 C.F.R. § 262.11

Generators of solid wastes are required to make a hazardous waste determination on said solid waste either by generator knowledge or by analytical testing.

Several instances were noted during the inspection where no hazardous waste determinations had been made.

C. 40 C.F.R. § 262.34(c)(2)

A generator who accumulates either hazardous waste or acutely hazardous waste listed in §261.31 or §261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

A 300-gallon tote was being used to capture the overflow from the nitric acid cleaning process. The tote exceeded the 55-gallon allowed satellite accumulation limit.

D. 40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.31

Generators are required to maintain and operate their facilities to minimize the possibility of fire, explosion, or any unplanned release of hazardous waste.

Numerous instances of hazardous waste spills and oil spills were noted during the inspection. The spills had not been cleaned up properly or timely.

E. 40 C.F.R. § 279.22(d)

Upon detection of a release of used oil to the environment that is not subject to the requirements of part 280, subpart F of this chapter and which has occurred after the effective date of the recycled used oil management program in effect in the state in which the release is located, a generator must perform the following cleanup steps: 1) Stop the release; 2) Contain the released used oil; 3) Clean up and manage properly the released used oil and other materials; 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

Numerous oil leaks and spills around machines had not been cleaned up properly or timely.

F. 40 C.F.R. § 279.22(c)(1)

Containers and above-ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

Numerous buckets containing used oil from oil spills around the machines were not labeled correctly.

G. 40 C.F.R. § 262.34(c)(1)(ii)

A generator who accumulates either hazardous waste or acutely hazardous waste listed in MHWMR 261 at or near the point of generation must mark his containers either with the words "Hazardous Waste" or with other words that identify the contents of the container.

Four instances were noted during the inspection where there were no hazardous waste labels on

hazardous waste containers.

H. 40 C.F.R. 262.34(c)(1)(i), which incorporates 40 C.F.R. 265.173(a)

Containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

Two instances were noted during the inspection where the hazardous waste containers were not properly closed.

I. 40 C.F.R. § 262.34(a)(1)(ii), which incorporates 40 C.F.R. § 265 – Subpart J

The requirements of this subpart include but are not limited to daily inspections, containment and detection of releases, tank integrity testing, containment, as well as additional operating requirements.

Respondent had no documentation for inspections of the hazardous waste tank near the lube line.

J. 40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.35

Adequate aisle space shall be maintained to allow the unobstructed movement of personnel, fire protection equipment, spill containment equipment, and decontamination equipment to any area of the facility operation in the event of an emergency.

There did not appear to be adequate aisle space in the wastewater treatment area nor the 90-day storage area. Respondent's personnel noted aisle space problems in many of the hazardous waste inspection reports.

K. 40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.171

If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from the container to a container that is in good condition, or manage the waste in some other way that complies with the requirements.

Two instances were noted during the inspection where hazardous waste containers appeared to be leaking.

L. 40 C.F.R. § 273.13(d)(1)

A small quantity handler of universal wastes is required to contain its universal waste lamps within closed containers.

Fluorescent light bulbs were observed in a cardboard container without the lid in the 90-day storage area.

M. 40 C.F.R. § 273.14(e)

A small quantity handler of universal wastes is required to contain its universal waste lamps in containers clearly marked with the words "Universal Waste-Lamp(s)," or "Waste Lamp(s)" or "Used Lamp(s)."

Fluorescent light bulbs were observed in a cardboard container unlabeled in the 90-day storage area.

N. 40 C.F.R. § 273.15(c)

A small quantity handler of universal waste is required to be able to demonstrate the length of time that its universal waste has accumulated from the earliest date that any universal waste in the container became a waste or was received.

Fluorescent light bulbs were observed in a cardboard container undated in the 90-day storage area.

O. 40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.174

At least weekly, the owner/operator must inspect areas where containers are stored. During these weekly inspections the owner or operator must look for leaking containers and for the deterioration of containers caused by corrosion or other factors.

One 55-gallon satellite accumulation area behind the paint booth had not been accounted for during any weekly inspections.

P. 40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.54(c)

The facility specific Contingency Plan must be immediately amended, if necessary, whenever the list of emergency coordinators changes.

The contingency plan was dated September 2012 and its list of emergency contacts was no longer applicable for the facility.

Q. 40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.16(d)

A written job title, description for each position, required training, and the employees name filling the position at the facility related to hazardous waste management shall be developed and maintained at the facility.

No job titles with accompanying descriptions and training requirements, including the name of each employee holding the position, were available for review.

R. 40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.16(e)

Records of the annual training must be maintained for all current employees and for former employees for at least three years following their last day of employment.

Required training records for all current and past employees were not available for review.

By letter dated July 16, 2014, Respondent alleged to have implemented corrective action measures that have resulted in a return to compliance with the applicable regulations.

2.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$45,665. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director. The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Jennifer Parish
P.O. Box 2339
Jackson, MS 39225

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

4.

Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

5.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an

AGREED, this the 29th day of September, 2014.

WORTHINGTON CYLINDERS MISSISSIPPI LLC

BY: Richard Colbey

TITLE: Operations Manager

STATE OF Mississippi

COUNTY OF Union

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Richard Colbey who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the Operations Manager of Worthington Cylinders Mississippi LLC and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 26th day of September, 2014.

Angela M. Whiteside
NOTARY PUBLIC


My Commission expires: Oct. 15, 2017



informed waiver of that right.

ORDERED, this the 10th day of OCTOBER, 2014.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
GARY C. RIKARD
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY