



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

February 21, 2017

CERTIFIED MAIL #7010 0780 0001 9992 7138

Mr. Todd Harbour
Metal Coaters
10943 North Sam Houston Parkway West
Houston, TX 77064

**Re: Metal Coaters
Agreed Order No. 6723 17**

Dear Mr. Harbour:

Enclosed you will find a copy of Agreed Order No. 6723 17, 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, appearing to read "Tim Aultman".

Tim Aultman, P.E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Mohammad Yassin

Agency Interest No. 2070
ENF20170001

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

6723 17

METAL COATERS
951 PRISOCK ROAD
JACKSON, MISSISSIPPI 39272

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 Metal Coaters, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated July 1, 2016, Respondent was contacted by Complainant and notified of the following violations at its facility located at 951 Prisock Road, Jackson, Mississippi in Hinds County:

- A. In the 90-day storage area, one drum in Row 3-1, eight drums under "waste rags and filters," twenty drums in Row 346, thirteen drums in Row 347 and two drums in Row 326 (44 drums in total), were not marked with an accumulation start date, an apparent violation of MHWMR 262 (40 CFR §262.34(a)(2)), which states: *Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.*

B. In the 90-day storage area, one drum in Row 347 and one drum in Row 326 (2 drums in total) were not labeled “hazardous waste.” This is an apparent violation of MHWMR 262 (40 CFR §262.34(a)(3)), which states: *Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous waste.”*

C. In the 90-day storage area, three drums in Row 333 (two drums dated 12/05/2015 and one drum dated 12/07/2015) one drum in Row 334 (dated 12/06/2015) and one drum in Row 326 (dated 12/16/2015) exceeded the 90-day accumulation limit for large quantity generators (LQGs). Therefore, Metal Coaters was storing hazardous waste without a permit. This is an apparent violation of MHWMR 262 (40 CFR §262.34(b) which incorporates 40 CFR §270.1(c)).

40 CFR §262.34(b) states: *A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in §§261.31 or 261.33(e) in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 365, and 267 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.*

D. In the 90-day storage area, inadequate aisle space was observed between Row 3-1 and “non-hazardous waste oil,” which prevented inspectors from being able to inspect those containers. This is an apparent violation of MHWMR Part 262, which incorporates MHWMR Part 265 (40 CFR § 262.34(a)(4), which incorporates 40 CFR § 265.35).

40 C.F.R. §262.34(a)(4) states: *Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with §265.16 and with all applicable requirements under 40 CFR part 268.*

40 C.F.R. §265.35 states: *The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.*

- E. In the 90-day storage area, the drum accumulating hazardous waste extracted from punctured aerosol cans in Row 326 was not labeled “hazardous waste,” or with other words identifying the contents of the container. This is an apparent violation of MHWMR Part 262 (40 CFR §262.34(c)(1)(ii)), which states: *A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without complying with paragraph (a) or (d) of this section provided he marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.*
- F. The hazardous waste solvent tank was marked with an accumulation start date of 10/22/2014. Metal Coaters exceeded the 90-day accumulation limit for LQGs and was storing hazardous waste without a permit. This is an apparent violation of MHWMR 262 (40 CFR §262.34(b) which incorporates 40 CFR §270.1(c)).
- G. Based on the gray staining on the side of the hazardous waste solvent tank, as well as the layer of gray dried up material on the floor around the tank, it appears that a release

of hazardous waste has occurred from the tank. This is an apparent violation of MHWMR Part 262, which incorporates MHWMR Part 265 (40 CFR §262.34(a)(1)(ii), which incorporates 40 CFR §265.194(b)).

40 CFR §262.34(a)(1)(ii) states: *Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that waste is placed in tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265 except §§265.197(c) and 265.200.*

40 CFR §265.194(b) states: *The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum: (1) Spill prevention controls (e.g., check valves, dry disconnect couplings); (2) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and (3) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.*

- H. With regards to the hazardous was solvent tank, failure to remove from service immediately the tank system from which there has been a spill and within 24 hours, remove as much of the waste as is necessary to prevent further release of hazardous waste and to allow inspection and repair of the tank system, an apparent violation of MHWMR Part 262, which incorporates MHWMR Part 265 (40 CFR §262.34(a)(1)(ii), which incorporates 40 CFR §265.196(b)).

40 CFR §265.196(b) states: *A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately and the owner or operator must satisfy the following requirements: (b)(1) If the release was from the tank system, the owner or operator must, within 24 hours after detection of the leak or, if the owner or operator demonstrates that that is not*

possible, at the earliest practicable time remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

- I. The one cubic yard container storing hazardous waste sludge generated from the pretreatment system was not marked with an accumulation start date. This is an apparent violation of MHWMR 262 (40 CFR §262.34(a)(2)).
- J. The one cubic yard container storing hazardous waste sludge generated from the pretreatment system was open. This is an apparent violation of MHWMR Part 262, which incorporates MHWMR Part 265 (40 CFR §262.34(a)(1)(i) which incorporates 40 CFR §265.173(a)).

40 CFR §262.34(a)(1)(i) states: *Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the waste is placed in containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265.*

40 CFR §265.173(a) states: *A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.*

- K. In the primer coater room, two 55-gallon drums were observed accumulating hazardous waste and were not marked with an accumulation start date. This is an apparent violation of MHWMR Part 262 (40 CFR §262.34(c)(2)), which states: *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.

- L. In the primer coater room, two 55-gallon drums were observed accumulating hazardous waste and were not properly closed. In finish room #1, one 55-gallon drum accumulating hazardous waste was not properly closed. This is an apparent violation of MHWMR Part 262, which incorporates MHWMR Part 265 (40 CFR §262.34(c)(1)(i) which incorporates 40 CFR §265.173(a)).

40 CFR §262.34(c)(1)(i) states: A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without complying with paragraph (a) or (d) of this section provided he complies with §§265.171, 265.172, and 265.173(a) of this chapter.

40 CFR §265.173(a) states: A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

- M. During a review of the facility's contingency plan, it was noted that addresses and phone numbers were not included for the emergency coordinators. Also, the primary emergency coordinator was not noted. This is an apparent violation of MHWMR Part 262, which incorporates MHWMR Part 265 (40 CFR §262.34(a)(4), which incorporates 40 CFR §265.52(d)).

40 CFR §265.52(d) states: The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see §265.55), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the

order in which they will assume responsibility as alternates.

- N. During the records review, the facility was unable to provide documentation that arrangements had been made with local authorities. This is an apparent violation of MHWMR 262, which incorporates MHWMR Part 265 (40 CFR § 262.34(a)(4), which incorporates 40 CFR §265.37(a)(4)).

40 CFR §265.37(a)(4) requires that arrangements be made with police, fire departments, emergency response teams and local hospitals, as appropriate for the type of waste handled at the facility and the potential need for the services of these organizations.

- O. During the records review, weekly 90-day area inspection records from 09/18/2014 to 10/10/2014, from 11/20/2014 to 12/31/2014, and for the entire years of 2015 and 2016 were missing and not made available for review during this inspection and/or not maintained by the facility. This is an apparent violation of MHWMR Part 262, which incorporates MHWMR Part 265 (40 CFR §262.34(c)(1)(ii), which incorporates 40 CFR §265.174).

40 CFR §265.174 states: *At least weekly, the owner or operator must inspect areas where containers are stored. [...] The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.*

By letters dated August 15, 2016 and December 27, 2016, Respondent alleged to have implemented measures that have resulted in a return to compliance with 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:

Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount

of \$98,000. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee. 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

informed waiver of that right.

ORDERED, this the 17th day of FEBRUARY, 2017.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

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



AGREED, this the 15TH day of FEBRUARY, 2017.

METAL COATERS

BY: *Toraffan*

TITLE: Vice President, Environmental Affairs

STATE OF _____

COUNTY OF _____

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named _____ who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the _____ of Metal Coaters and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the ____ day of _____, 2017.

See Attachment
NOTARY PUBLIC

My Commission expires: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino

On Feb. 15 2017 before me, James Gordon, Notary Public

Date

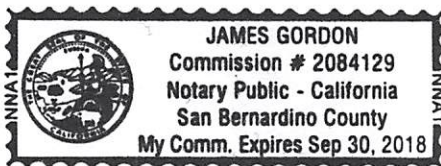
Here Insert Name and Title of the Officer

personally appeared Todd D Harbour
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

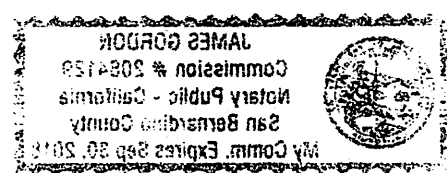
Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

NOTARY PUBLIC - CALIFORNIA
JAMES GORDON
Commission # 2084159
San Bernardino County
My Comm. Expires Sep 30, 2018

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