



STATE OF MISSISSIPPI

PHIL BRYANT
GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

December 4, 2012

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Jimmy Blanton
Mueller Copper Tube Company
PO Box 450
Ridgeland, MS 39157

**Re: Mueller Copper Tube Company
Agreed Order No. 6199 12**

Dear Mr. Blanton:

Enclosed you will find a copy of Agreed Order No. 6199 12, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, 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 "Chris Sanders".

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

Enclosure
cc: Mohammad Yassin

Agency Interest No. 1915
ENF20120002

OFFICE OF POLLUTION CONTROL

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 6 199 12

MUELLER COPPER TUBE COMPANY
400 MUELLER ROAD
FULTON, MISSISSIPPI 38843

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 Mueller Copper Tube Company, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated August 15, 2012, Respondent was contacted by Complainant and notified of the following violations of the Mississippi Hazardous Waste Management Regulations for Large Quantity Generators:

A. **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."

One 5-gallon container of used oil was not marked or labeled clearly with the words "Used Oil".

B. **40 C.F.R. § 262.34(c)(1)(ii)**

A generator may accumulate as much as 55-gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with MHWMR 262 (40 C.F.R. § 262.34(d)), provided that he marks his containers with the words "Hazardous Waste" or with other words that identify the contents of the

containers.

One 55-gallon container at the satellite accumulation area located adjacent to the block line was not marked as "Hazardous Waste" or with words identifying the container content.

- C. **40 C.F.R. § 262.34(c)(1)(i) and by reference 40 C.F.R. § 265.173(a)**
A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

One 55-gallon container at the satellite accumulation area located in the warehouse/copper winding area was open.

- D. **40 C.F.R. § 262.34(a)(1)(ii) and by reference 40 C.F.R. § 265.194(b)**
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.

MDEQ staff observed staining from possible release of hazardous waste from open pipes constructed on top of the tank.

- E. **40 C.F.R. § 262.34(a)(2)**
The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

The 8,000-gallon used solvent tank was not marked with a date and/or a written log recording the length of time hazardous waste is stored in the tank.

- F. **40 C.F.R. § 262.34(b)**
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, 265, 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.

The 90-day hazardous waste storage limit was exceeded for all of 2010, April-July 2011, July-December 2011, and February-May 2012.

- G. **40 C.F.R. § 262.34(a)(4) and by reference 40 C.F.R. § 265.51**
Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

Respondent did not have an up-to-date contingency plan.

- H. **40 C.F.R. § 262.34(a)(4) and by reference 40 C.F.R. § 265.37**
The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:
(1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
(2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
(3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
(4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.
(b) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

Respondent did not provide documentation showing the arrangements with the State and Local authorities nor with an emergency contractor and equipment supplier.

- I. **40 C.F.R. § 262.34(a)(1)(ii) and by reference 40 C.F.R. § 265.195**
Except as noted under the paragraph (c) of this section, the owner or operator must inspect at least once each operating day:
(1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;
(2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and
(3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary

containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

Respondent did not maintain written daily inspections of the 8,000-gallon used solvent tank.

- J. **40 C.F.R. § 262.34(a)(4) and by reference 40 C.F.R. § 265.16(c)**
Facility personnel must take part in an annual review of the initial training required in 40 C.F.R. § 265.16(a).

Respondent had not conducted proper hazardous waste training since 2010.

By letter dated August 29, 2012, Respondent alleged to have implemented corrective actions which resulted in a return to compliance.

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 \$39,285. 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: Mona Varner
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. Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

ORDERED, this the 30 day of November, 2012.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 12th day of November, 2012.

MUELLER COPPER TUBE COMPANY

BY: Charles Blanton

TITLE: Corporate Director EHS

STATE OF Mississippi

COUNTY OF Itawamba

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Charles Blanton who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the Corporate Director EHS of Mueller Copper Tube Company and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 12th day of November, 2012.

Jennifer Hale
NOTARY PUBLIC

My Commission expires: 8/28/2019

