



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR

May 13, 2013

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

James L. Pettis, III
Wyatt, Tarrant & Combs, LLP
4450 Old Canton Road, Suite 210
Jackson MS 39211

**Re: Masonite Corporation
Agreed Order No. 6252 13**

Dear Mr. Pettis:

Enclosed you will find a copy of Agreed Order No. 6252 13, 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 Chris Wells at (601) 961-5545.

Sincerely,

A handwritten signature in blue ink that reads "Chris Sanders".

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

Enclosure
cc: Chris Wells

Agency Interest No. 1774
ENF20130001

OFFICE OF POLLUTION CONTROL

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 6 252 13

MASONITE CORPORATION
PO BOX 1048
LAUREL, MISSISSIPPI 39440

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 Masonite Corporation, Respondent, in the above captioned cause and agree as follows:

1.

On February 23, 2012, Respondent was contacted by Complainant and notified of the following violations alleged by Complainant to have occurred at Respondent's facility located at 1001 South 4th Avenue, Laurel, Mississippi in Jones County:

- A. **(MHWMR 262.34(c)(1)(ii))**, which states that 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, provided that he marks his containers with the words "Hazardous Waste" or with other words that identify the contents of the containers. Respondent failed to properly label a container in the SMC lab, and a drip pan in the Pre-finish area with the words "Hazardous Waste" or other words that would identify their contents.
- B. **(MHWMR 265.173(a))**, which states that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

Respondent failed to keep two drums in the SMC Area, a drip pan in the Pre-finish Area, and a drum in the 90 Day Storage Area properly closed.

- C. **(MHWMR 265.31)**, which states that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil, or surface water which would threaten human health or the environment. Respondent failed to manage resin collection buckets in a manner that minimizes the possibility of release.
- D. **(MHWMR 273.15(a))**, which states that a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste was generated, or received from another handler. Respondent stored U-tube fluorescent bulbs in the 90 Day Storage Area for 992 days without disposal.
- E. **(MHWMR 262.11)**, which requires generators to make a hazardous waste determination on solid wastes at their facilities either by generator knowledge or by analytical testing. Respondent failed to make a determination regarding a box of HID bulbs in the 90 Day Storage Area.
- F. **(MHWMR 273.17)**, which states that a small quantity handler of universal waste must immediately contain all releases of universal waste and other residues from universal waste, and determine if any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable regulations. Respondent failed to contain broken fluorescent bulbs in the 90 Day Storage Area.
- G. **(MHWMR 262.34(b))**, which states that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. parts 264 and 265 and the permit requirements of 40 C.F.R. part 270 unless he has been granted an extension to the 90 day period. Respondent failed to properly dispose of a drum containing broken fluorescent lamps.
- H. **(MHWMR 262.11)**, which requires generators to make a hazardous waste determination on solid wastes at their facilities either by generator knowledge or by analytical testing. Respondent failed to make a determination regarding CRTs.
- I. **(MHWMR 279.22(c)(1))**, which states that containers and above-ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." Respondent failed to label the drum and other containers in the Maintenance Building with the words 'Used Oil.'
- J. **(MHWMR 265.52(f))**, this regulation requires that the facility specific Contingency Plan include an evacuation plan for the facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to being evacuation, evacuation routes, and alternative evacuation routes. Respondent failed to complete this component of the Contingency Plan.

- K. **(MHWMR 265.53(b))**, *this regulation requires that the facility specific Contingency Plan be submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.* Respondent failed to submit the Contingency Plan to the local authorities.
- L. **(MHWMR 265.54(c))**, *this regulation requires that the facility specific Contingency Plan be immediately amended, if necessary, whenever the facility changes a design, construction, operation, maintenance, or other circumstances.* Respondent failed to amend the Contingency Plan as required for personnel and operational changes.
- M. **(MHWMR 265.16(c))**, *this regulation requires that facility personnel take part in an annual review of the initial training on proper hazardous waste handling and emergency procedures relevant to their positions.* Respondent failed to maintain adequate training annually.
- N. **(MHWMR 265.16(a)(2))**, *this regulation requires that the annual training provided to personnel must cover hazardous waste management procedures relevant to the positions in which they are employed, which should include the implementation of the contingency plan.* Respondent failed to include the contingency plan as part of the training material.
- O. **(MHWMR 265.16(a)(3))**, *this regulation requires that the annual training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.* Respondent failed to include emergency procedures, equipment, and systems as part of the training process.
- P. **(MHWMR 265.174)**, *this regulation requires weekly inspections of areas where containers holding hazardous waste are stored.* Respondent conducted weekly inspections on at least two occasions outside of the required frequency.

Subsequent to the November 16, 2011, Compliance Evaluation Inspection, Respondent submitted correspondence disputing many of the alleged violations and describing corrective actions taken to cause Respondent's operations to conform to what the regulations require, and to thereby end the above described violations, notwithstanding Respondent's differing views. Respondent alleges that the individual violations have been satisfactorily corrected.

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 \$18,000. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director. The settlement payments 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. An. Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

6.

Respondent, MDEQ and the Commission agree that nothing in this Agreed Order, and no performance under this Agreed Order, shall be construed as an admission by Respondent of the violations alleged herein or of the failure by Respondent to take corrective actions to return all alleged violations listed herein to compliance. Respondent agrees to enter into this Agreed Order

for the purpose of compromising disputed claims.

ORDERED, this the 6th day of May, 2013.

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

BY: *Trudy D. Fisher* *Duly Authorized*
TRUDY D. FISHER *Signature for*
EXECUTIVE DIRECTOR *Trudy D. Fisher.*
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 26th day of April, 2013.

MASONITE CORPORATION

BY: *John J. Ambler*

TITLE: PLANT MANAGER

STATE OF Mississippi

COUNTY OF Jones

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

SWORN AND SUBSCRIBED BEFORE ME, this the 26 day of April, 2013.

Kathy T. Strickland
NOTARY PUBLIC



My Commission expires: 6-12-2015