



STATE OF MISSISSIPPI

PHIL BRYANT
GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

January 23, 2014

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Jack Shih
Navistar Defense/Griffin Inc, West Point Facility
2701 Navistar Drive
Lisle, IL 60532

**Re: Griffin Inc, West Point Facility
Agreed Order No. 6385 14**

Dear Mr. Shih:

Enclosed you will find a copy of Agreed Order No. 6385 14, 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 that reads "Chris Sanders".

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

Enclosure
cc: Mohammad Yassin

Agency Interest No. 23347
ENF20130002

OFFICE OF POLLUTION CONTROL

POST OFFICE BOX 2261 • JACKSON, MISSISSIPPI 39225-2261 • TEL: (601) 961-5171 • FAX: (601) 354-6612 • www.deq.state.ms.us

AN EQUAL OPPORTUNITY EMPLOYER

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 6385 14

NAVISTAR DEFENSE LLC
901 EAST HALF MILE STREET
WEST POINT, MISSISSIPPI 39773

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 Navistar Defense LLC, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated September 18, 2013, as a result of a compliance evaluation inspection conducted on July 23, 2013, Respondent was contacted by Complainant and notified of the following violations of the Mississippi Hazardous Waste Management Regulations at its facility located at 901 East Half Mile Street, West Point, Mississippi in Clay County:

A. §40 CFR 262.34, Accumulation time (c)(1)

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 a permit or interim status and without complying with paragraph (a) or (d) of this section provided he:

- (i) Complies with §§265.171, 265.172, and 265.173(a) of this chapter*
§265.173 (a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

Two open containers of paint thinner were located within two paint booths. The thinner material had been abandoned following the temporary closure of the facility. The content was transferred to a container for disposal during the inspection.

B. §40 CFR 262.34, Accumulation time (c)(1)

(a) 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:

(1) The waste is placed:

(i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265

§40 CFR 265.174, Subpart I – Use and Management of Containers, Inspections.

At least weekly, the owner or operator must inspect areas where containers are stored.

No weekly inspection records were available at the time of the inspection. Weekly inspection records were maintained electronically and the system could not be accessed at the time of the inspection. In addition, no inspections had been conducted during the furlough – from June 28, 2013 through the time of the inspection. Inspection records were provided on October 30, 2013.

C. §40 CFR 262.34, Accumulation time

(a) 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:

(1) The waste is placed:

(i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265

§40 CFR 262.34: Accumulation time

(a) 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:

(4) 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 CFR 265 Subpart C—Preparedness and Prevention

§265.31 Maintenance and operation of facility.

Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

As detailed in section 1.A, above, potentially flammable materials were left open and exposed. Solid waste and liquid solid waste were left in paint pots at both the East and West paint booth areas. Two paint pots had solids and two paint pots had thinner materials left inside them. The potentially flammable materials have been removed and

are no longer open or exposed, as documented in the September 26, 2013 response.

D. §40 CFR 262.34: Accumulation time.

(a) 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:

(4) 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 CFR 265 Subpart D—Contingency Plan and Emergency Procedures
§265.55 Emergency coordinator.**

At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

No emergency coordinator had been assigned following the departure of Tim Meixner (Environmental Coordinator) during the furlough. Dewel Brasher has been assigned as the emergency coordinator as documented in the September 26, 2013 response.

E. §40 CFR 262.34: Accumulation time.

(a) 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:

(4) 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.

§265.16 Personnel training.

(a)(1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.

(2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(3) At a minimum, the 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, including where applicable:

- (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;*
- (ii) Key parameters for automatic waste feed cut-off systems;*
- (iii) Communications or alarm systems;*
- (iv) Response to fires or explosions;*
- (v) Response to ground-water contamination incidents; and*
- (vi) Shutdown of operations .*

No training records were available at the time of the inspection. Training records were stored electronically and the system was not accessible during the inspection. Training records were provided on October 30, 2013.

By letter dated October 30, 2013, 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 \$6600.00. 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.

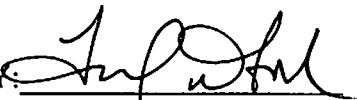
The parties agree that Respondent does not, by executing this Agreed Order, admit liability for the violations alleged in Part 1 above. Complainant continues to assert that Respondent's acts and/or omissions constitute violations of applicable environmental laws, regulations and permits. By this Agreed Order, Complainant and Respondent agree to settle the violations and facts alleged in this Agreed Order, Part 1 above.

6.

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 23 day of January, 2014.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 

TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 10th day of JANUARY, 2014.

NAVISTAR DEFENSE LLC

BY: Robert B. Walsh

TITLE: VP & GM NAVISTAR Defense

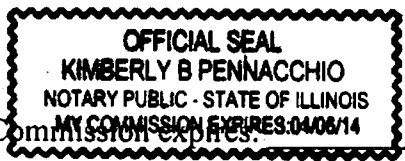
STATE OF Illinois

COUNTY OF DuPage

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named ROBERT B. WALSH who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the VP + GENERAL MANAGER of Navistar Defense LLC and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 10th day of JANUARY, 2014 ^{66P}

Kimberly B Pennacchio
NOTARY PUBLIC



My Commission Expires: _____