

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

6689 16

MISSISSIPPI CVS PHARMACY, L.L.C.
ONE CVS DRIVE
WOONSOCKET, RHODE ISLAND 02895

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 Mississippi CVS Pharmacy, L.L.C., Respondent, in the above captioned cause and agree as follows:

1.

By letter dated February 12, 2016, Respondent was contacted by Complainant and notified of the following alleged violations as the result of an unannounced compliance evaluation inspection at the CVS Pharmacy Number 5846, located at 822 Highway 35 North, Forest, Mississippi in Scott County:

- A. § 40 C.F.R. 262.34 (a)(1)(i) which incorporates § 265.174: 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. (CVS-5846 has apparently not been conducting regular weekly inspections of the less than 90 day storage area. A log was available, but incomplete and containers in the storage area indicated issues that should be addressed during inspections.)
- B. § 40 C.F.R. 262.40(a): A generator of hazardous waste must keep a copy of each manifest

signed in accordance with § 262.23(a) for three years, or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter. (Only 3 manifests were made available at the time of the inspection.)

- C. § 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 hazardous waste container in the Pharmacy storage area, and two hazardous waste containers in the less than 90 day storage area were opened without waste being added or removed during the inspection.)
- D. § 40 C.F.R. 262.34 (b): 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 CFR Parts 264 and 265 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. (There was one box labeled as hazardous waste in the less than 90 day storage area dated March 3, 2015, and one box in the Pharmacy storage area dated April 24, 2014.)

The parties agree, by entering into this Agreed Order, that Respondent does not admit to any factual allegation contained herein or to any alleged violations and that Complainant continues to assert the violations occurred as alleged in this Section and the acts or omissions of the Respondent constitute violations of the environmental laws, regulations, and/or permits applicable to the Respondent. An administrative conference was conducted on March 30, 2016, and follow-up documentation was submitted on April 28, 2016, where Respondent documented the violations had been corrected.

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 \$23,948.50. 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.

This Agreed Order is executed and entered solely for the purpose of resolving and disposing of the alleged violations listed above related to Complainant's compliance evaluation inspection at CVS Store 5846, , and does not constitute a finding, adjudication, or evidence of a violation of any law, rule, or regulation by Respondent. This Agreed Order is not intended to create, and it shall not be construed or otherwise deemed to recognize or create, any claim, rights, liability, estoppel, or waiver of rights in favor of any third-party or parties.

4.

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.

5.

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.

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 15th day of SEPTEMBER, 2016.

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

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

AGREED, this the 8th day of September, 2016.

MISSISSIPPI CVS PHARMACY, L.L.C.

BY: [Signature]
TITLE: Vice President

STATE OF Rhode Island
COUNTY OF Providence

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Lawrence Park who, first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the Vice President of Mississippi CVS Pharmacy, L.L.C. and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 8th day of September, 2016.

[Signature]
NOTARY PUBLIC

My Commission expires: 8/26/2019

