

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TURNER INDUSTRIES GROUP, LLC

AI #26217

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-HE-12-0056
*
* Enforcement Tracking No.
* HE-CN-09-0517
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* Docket No. 2011-8043-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Turner Industries Group, LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owns and/or operates an industrial painting and sandblasting facility located in Port Allen, West Baton Rouge Parish, Louisiana (“the Facility”).

II

On March 3, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-09-0517, which was based upon the following findings of fact:

The Respondent owns and/or operates an industrial painting and sandblasting facility known to the Department as Turner Industries Group, LLC, located at 2180 Highway 1 South, Port Allen, West Baton Rouge Parish, Louisiana. The facility has been assigned EPA identification number LAR000010223 and has notified the Department as a large quantity generator of hazardous waste.

On or about May 7, 2009, an inspection of the facility was conducted to assess the facility's compliance with the Hazardous Waste Regulations. The inspection review revealed the following violations:

- A. The Respondent failed to determine if solid wastes generated at its facility were hazardous wastes, in violation of LAC 33:V.1103. Specifically, the Respondent failed to determine whether the following solid wastes generated at the facility were a hazardous waste:
 - 1) spent air duct filters/dust collectors utilized to capture dust/grit from blasting activities and paint overspray and that had, prior to the inspection, been disposed of as an industrial solid waste;
 - 2) waste fluorescent light bulbs that had, prior to the inspection, been disposed of in the trash.
- B. The Respondent failed to mark containers of hazardous waste with an accumulation start date, in violation of LAC 33:V.1109.E.1.c. Specifically, the Respondent failed to mark an accumulation start date on one (1) 500 gallon tote container used to store waste paint/spent solvents and one (1) 55-gallon container storing hardened paint waste. These containers of hazardous waste were manifested for offsite disposal at a permitted facility on June 20, 2009.
- C. The Respondent failed to label or mark containers of hazardous waste with the words "Hazardous Waste", in violation of LAC 33:V.1109.E.1.d. Specifically, the Respondent failed to mark one (1) 500 gallon tote container used to store waste paint/spent solvents and one (1) 55-gallon container storing hardened paint waste. These containers of hazardous waste were manifested for offsite disposal at a permitted facility on June 20, 2009.
- D. The Respondent failed to sufficiently close a container storing hazardous waste in accordance with the requirements of LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.1.a.i. Specifically, the bung ring was not fastened for one (1) 55-gallon container storing hardened paint waste that was located within Hazardous Waste Storage Area 2. The aforementioned container was designated as "Container 1" in the

Respondent's May 7, 2009, email correspondence to the Department. The container was manifested for offsite disposal at a permitted facility on June 20, 2009.

- E. The Respondent failed to properly label containers of used antifreeze as universal waste, in violation of LAC 33:V.3823.A.8. Specifically, the Respondent failed to label one (1) 55-gallon container of used antifreeze stored within Hazardous Waste Storage Area 2 with the words "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze." The container was manifested for offsite disposal at a permitted facility on June 20, 2009.
- F. The Respondent failed to label or clearly mark a container storing used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, the Respondent failed to label one (1) 55-gallon container storing used oil generated at the facility and stored within Hazardous Waste Storage Area 2 with the words "Used Oil". The container was manifested for offsite recycling at an authorized facility on June 20, 2009.

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

In further response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent submitted additional information to the Department. Based on its review of the additional information, the Department determined that the following portions of or allegations in the Consolidated Compliance Order & Notice of Potential Penalty, Findings of Fact, were not violations of the Hazardous Waste Regulations: Section II.A regarding the waste determination of the blast media; Section II.B regarding the failure to mark an accumulation start date on the 55-gallon

container; Section II.C regarding the failure to mark or label the 55-gallon container with the words 'Hazardous Waste'; Section II.D; and Section II.E. Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of ONE THOUSAND NINE HUNDRED SEVENTY-SIX AND 03/100 DOLLARS (\$1,976.03), of which Four Hundred Seventy-Six and 03/100 Dollars (\$476.03) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

A. Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

B. Section VI.A, above, does not apply to the following portions of or allegations in the Consolidated Compliance Order & Notice of Potential Penalty, Findings of Fact: Section II.A regarding the waste determination of the blast media; Section II.B regarding the failure to mark an accumulation start date on the 55-gallon container; Section II.C regarding the failure to mark or label the 55-gallon container with the words 'Hazardous Waste'; Section II.D; and Section II.E. The

Department agrees that these specific portions of or allegations in the Consolidated Compliance Order & Notice of Potential Penalty, Findings of Fact, mentioned in this Section VI.B were not violations of the Hazardous Waste Regulations and further that it will not consider the specific portions of or allegations in the Consolidated Compliance Order & Notice of Potential Penalty, Findings of Fact, mentioned in this Section VI.B for the purposes of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent.

VII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in West Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an

original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

TURNER INDUSTRIES GROUP, LLC

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 
Cheryl Sonnier Nolan, Assistant Secretary