

OMIS "TREY" GLENN, III  
DIRECTOR



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GOVERNOR

Alabama Department of Environmental Management  
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SUPERINTENDENT'S OFFICE

2008 JAN 14 P 1:57

January 9, 2008

**CERTIFIED MAIL # 7007 0710 0001 6200 4306**  
**RETURN RECEIPT REQUESTED**

Melvin Pierce Painting, Inc.  
8475 Moffett Road  
Semmes, AL 36575-5309

Dear Sirs:

Enclosed please find Administrative Order No. 08-072-HW which requires you to take certain actions in regard to violations of the Alabama Hazardous Wastes Management and Minimization Act. Failure to comply with the terms of this Order may result in penalties of up to \$25,000 per day for each violation.

Pursuant to §22-22A-7(c)(1), Code of Alabama (1975), as amended, this Order may be appealed by filing a request for a hearing within 30 days after receiving notice of this Order. The request should be addressed to the Chair of the Environmental Management Commission and must comply with the requirements of ADEM Admin. Code R. 335-2-1-.04, a copy of which is available online at the Department's website at:

[www.adem.state.al.us/regulations/div2/div2.htm](http://www.adem.state.al.us/regulations/div2/div2.htm)

Should you have any questions concerning this matter please call Mr. Ronald T. Shell at (334) 271-7748.

Sincerely,

Wm. Gerald Hardy, Chief  
Land Division

Attachment  
Administrative Order No 08-072-HW

cc: Dr. Faron L. Hollinger

Birmingham Branch  
110 Vulcan Road  
Birmingham, AL 35209-4702  
(205) 942-6168  
(205) 941-1633 (Fax)

Decatur Branch  
2715 Sandlin Road, S.W.  
Decatur, AL 35602-1333  
(256) 353-1713  
(256) 340-9359 (Fax)



Mobile Branch  
2204 Penimeter Road  
Mobile, AL 36615-1131  
(251) 450-3400  
(251) 479-2593 (Fax)

Mobile - Coastal  
4171 Commanders Drive  
Mobile, AL 36615-1421  
(251) 432-6533  
(251) 432-6598 (Fax)

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**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

**IN THE MATTER OF**

**Melvin Pierce Painting, Inc.  
8475 Moffett Road  
Semmes, AL 36575-5309**

**ADMINISTRATIVE ORDER NO 08-072-HW**

**FINDINGS**

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), and the Alabama Hazardous Wastes Management and Minimization Act of 1978, (AHWMMA), Ala. Code §§ 22-30-1 to 22-30-24 (2006 Rplc. Vol.), and the ADEM Administrative Code, promulgated thereunder, the Alabama Department of Environmental Management (hereinafter "ADEM" or "the Department") makes the following FINDINGS:

1. Melvin Pierce Painting, Inc. (hereinafter "MPP") is a company located in Semmes, Alabama that specializes in painting and paint removal activities.
2. The Alabama Department of Environmental Management is a duly constituted department of the state of Alabama pursuant to Ala. Code §§22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).
3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act, 42 U.S.C. §§ 6901 to

6992k, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Hazardous Wastes Management and Minimization Act, Ala. Code §§ 22-30-1 to 22-30-24 (2006 Rplc. Vol.).

4. Ala. Code § 22-30-19(a) (2006 Rplc. Vol.) authorizes the Department to issue an order requiring immediate compliance whenever there is a violation of the Alabama Hazardous Wastes Management and Minimization Act, Code of Alabama (1975), §§ 22-30-1 through 22-30-24 as amended or regulations promulgated thereunder.

5. ADEM Admin. Code r. 335-14-3-.01(2) states that a person who generates a solid waste, as defined in 335-14-2-.01(2), must determine if that waste is a hazardous waste.

6. ADEM Admin. Code r. 335-14-8-.01(1)(c) states that the Alabama Hazardous Wastes Management and Minimization Act (AHWMMA) requires a permit for the treatment, storage, and disposal of any hazardous waste.

7. MPP conducted sandblasting activities at Spanish Fort Elementary School, 30900 State Highway 225, Spanish Fort, AL between December 20, 2007 and January 4, 2008. As a result of the sandblasting activities, a waste mixture of blast media and paint chips was generated.

8. MPP failed to adequately determine if the waste mixture that was generated from the sandblasting activity was a hazardous waste as required by Admin. Code r. 335-14-3-.01(2).

9. Analysis of the waste mixture conducted on January 4, 2008 by Envirochem Environmental Laboratories revealed a lead level of 198,000 mg/kg. A waste with that concentration of lead is normally determined to be hazardous during the determination required by Admin. Code r. 335-14-3-.01(2).

10. The waste mixture generated from MPP's sandblasting activities at the Spanish Fort Elementary School was allowed to collect on the school grounds and property. This action constituted disposal of the waste mixture on the school grounds by MPP. If the waste contained a lead content sufficient to render the waste "Hazardous Waste" within the meaning of applicable ADEM administrative regulations, MPP would have needed an AHWMMMA permit to dispose of it on the school grounds. At the time of the waste mixture disposal, MPP had not been issued an AHWMMMA permit as required by §22-30-12(b) and 335-14-8-.01(1)(c).

**ORDER**

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-5(10), 22-22A-5(18), 22-30-20 and 22-30-19(a) and (b), (2006 Rplc. Vol.), it is hereby Ordered:

A. That, within seven (7) calendar days of receipt of this Order, MPP shall conduct a hazardous waste determination in accordance with ADEM Admin. Code r. 335-14-3-.01(2) on any waste generated during MPP's sandblasting activities at Spanish Fort Elementary School described in paragraph 7 above.

B. That, immediately upon receipt of this Order and continuing each and every day thereafter, MPP shall not dispose of hazardous waste without obtaining an AHWMMMA permit in accordance with, ADEM Admin. Code r. 335-14-8-.01(1)(c).

C. That, within seven (7) calendar days of completion of the activities required in paragraph A. above, MPP shall remove all hazardous waste and hazardous waste constituents from the Spanish Fort Elementary School generated by MPP, manage all hazardous wastes and hazardous waste constituents in accordance with Division 14 of the ADEM Admin. Code, and conduct sampling of Spanish Fort Elementary School property to demonstrate the complete

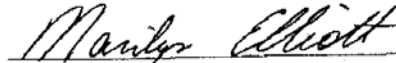
removal of all hazardous waste and hazardous waste constituents in accordance with applicable portions of ADEM Admin. Code r. 335-14-5-07.

D. That, within thirty (30) calendar days after completion of closure by removal of all hazardous waste generated by MPP at Spanish Fort Elementary School, MPP shall submit to ADEM a closure report containing specific details of the closure and all certifications and notices of closure in accordance with all requirements of ADEM Administrative Code r. 335-14-5-07(6).

E. That the issuance of this Administrative Order does not preclude the Department from seeking civil or criminal fines or other appropriate sanctions or relief against MPP, its contractors, or any other party for the violations cited herein.

F. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against MPP, its contractors, or any other party for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 9<sup>th</sup> day of January, 2008.

  
Onis "Trey" Glenn, III  
Director