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September 21, 2018

TO: ALL UNIFIED PROGRAM AGENCIES

FROM: BILL JONES, INSPECTION/ENFORCEMENT ISSUE COORDINATOR SENT VIA EMAIL

COOKS COLLISION, INC., INJUNCTION PROVISIONS

This is to summarize (stipulated) injunctive provisions in the COOKS COLLISION, INC., statewide judgement dated July 26, 2018. This communique is to provide Unified Program Agencies (UPA's) with injunctive provisions to compare with any future potential violations.

This is also to provide clear direction on what to do if future violations occur and where this information should be sent. For those jurisdictions that have active involvement by a local prosecutor, this is the point of contact to send subsequent non-compliance information. If your jurisdiction does not have active prosecutorial involvement, you are requested to provide the information to Sacramento County Deputy District Attorney, Michelle Restrepo at (918) 874-6174.

What follows is a summary of the injunction provisions. For more detailed information, you are directed to the final court document referenced below (numbered as in the Final Judgement).

COOKS COLLISION, INC., Injunction Provisions (ref. Case No. 34-2018-00236156, Stipulation for Entry of Final Judgement and Permanent Injunction dated 07/26/2018).

Defendants Cooks Collision, INC., shall comply with:

California Health and Safety Code (H&SC), Division 20:

Chapter 6.5 (§25100-§25258.2): Hazardous Waste Control Law

Chapter 6.95 (§25500-§25519): Hazardous Materials Release Response Plans and Inventory

California Code of Regulations (CCR)

Title 19 and Title 22

Code of Federal Regulation (CFR)

Chapter 40, Title 40

Injunctive provisions are summarized below. Defendants shall comply with each of the following provisions at all California Cooks Collision, Inc., facilities:

4.2. General Injunctive Provision

Pursuant to the provisions of H&SC §25181, §25515.6, §25515.6, §25515.8, and Business and Professions Code §17203, Defendant is enjoined from violating Chapters 6.5 and 6.95 of Division 20 of the Health and Safety Code and the regulations promulgated under these chapters. Notwithstanding any other provision in this Final Judgment, nothing in this Final Judgment shall relieve Defendant from prospectively complying with any and all applicable laws and regulations, nor shall any term of this Final Judgment extend to Defendant's facilities outside the State of California.

4.3. Specific Injunctive Provisions

Pursuant to H&SC §25181, §25515.6, §25515.8, and Business and Professions Code §17203, Defendant is enjoined, restrained, and prohibited from doing any of the following:

4.3.a. Disposing or causing the disposal, of hazardous waste at a point not authorized by law, in violation of H&SC §25189 and §25189.2;

4.3.b. Transporting, transferring custody of, or causing to be transported in California any hazardous waste unless the transporter is registered to transport hazardous waste, in violation of H&SC §25163;

4.3.c. Failing to determine if a waste generated at the Facilities is a hazardous waste, in violation of CCR, Title 22, §66260.11 and §66260.200(c);

4.3.d. Failing to properly manage, identify the date of accumulation, and label containers of hazardous waste at the Facilities, in violation of CCR, Title 22, §66262.34

4.3.e. Failing to lawfully and timely dispose of all accumulated hazardous waste at each Facility, in violation of CCR, title 22, §66262.34

4.3.f. Failing to timely cause to be prepared and filed with the Department of Toxic Substance Control ("DTSC") a hazardous waste manifest for all hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, from any Facility, in violation of H&SC §25160(b)(3) and CCR, Title 22, §66262.23

4.3.g. Failing to contact the owner or operator of a designated facility that was to receive hazardous waste from Defendant to determine the status of the hazardous waste, in the event Defendant has not received a copy of the manifest signed by all transporters and the facility operator within thirty-five (35) days of the date the waste was accepted by the initial transporter, in violation of H&SC §25160(b)(3) and CCR, title 22, §66262.42;

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4.3.h. Failing to timely notify the DTSC by filing an exception report concerning a treatment, storage, or disposal facility's failure to return any executed manifest, in violation H&SC §25160(b)(3) and CCR, title 22, §66262.42;

4.3.i. Failing to maintain copies of hazardous waste manifests for three (3) years, in violation of CCR, title 22, §66262.40;

4.3.j. Unlawfully storing, handling, and accumulating hazardous waste, in violation of H&SC §25123.3 and CCR, title 22, §66262.34 and §66265.173;

4.3.k. Storing hazardous waste onsite beyond the time permitted by law at a Facility that did not have a hazardous waste storage permit from DTSC, in violation of CCR, title 22, §66262.34 and H&SC §25123.3, subdivision (h);

4.3.l. Unlawfully failing to segregate incompatible hazardous-waste items in violation, of CCR, title 22, §66265.177;

4.3.m. Failing to conduct inspections of hazardous waste storage areas at each Facility, in violation of CCR, title 22, §66262.34 and §66265.174;

4.3.n. Failing to comply with employee training obligations pertaining to the handling of hazardous waste at the Facilities, in violation of CCR, title 22, §66262.34(d) and 40 C.F.R. §262.16(b)(9)(iii), or title 22, §66265.16, whichever may apply;

4.3.o. Failing to immediately report any release or threatened release of a reportable quantity of any hazardous material from any Facility into the environment, in violation of H&SC §25510;

4.3.p. Failing to establish, implement and submit to the responsible "Unified Program Agency" (as defined in H&SC §25501), a complete hazardous materials business plan, for each Facility, in violation of H&SC §25505 and §25507 and CCR, title 19, §2650;

4.3.q. Failing to properly manage, mark, and store universal waste at each Facility in violation of the standards for universal waste management found in CCR, title 22, §66273.33 through §66273.36; or in the alternative, failing to manage such waste as hazardous waste in violation of Chapter 6.5 and its implementing regulations in CCR, title 22, including, but not limited to, §66262.34;

4.3.r. Failing to keep a record of each shipment of universal waste sent from any Facility, in violation of CCR, title 22, §66273.39; or in the alternative, failing to manage such waste as hazardous waste in violation of Chapter 6.5 and its implementing regulations in CCR, title 22, including, but not limited to, §66262.34;

4.3.s. Failing to treat returned or discarded non-empty aerosol can at the Facilities as universal waste or hazardous waste, in violation of CCR, title 22, §66273.1 et seq.;

4.3.t. Failing to implement, maintain, and comply with an employee-training program in violation of H&SC §25505, subdivision (a)(4), and CCR, title 19, §2659, pertaining to hazardous materials and businesses and area plans, including, but not limited to, Hazardous Materials Business Plans;

4.3.u. Failing to implement, maintain, or submit to the responsible “Unified Program Agency” (as defined in H&SC §25501), a complete hazardous materials business plan for each of the Facilities, in violation of H&SC §25505 and §25508, and CCR, title 19, §2650;

4.3.v. Transporting, or causing to be transported, any hazardous waste to an unauthorized location in California, in violation of H&SC §25189.5; and

4.3.w. Disposing of customer records without first shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or undecipherable, in violation of Civil Code §1798.81.

4.4. Compliance Assurance Program

Pursuant to the provisions of H&SC §25181, §25515.6, and §25515.8, and Business and Professions Code §17203, Defendant shall expend ONE HUNDRED AND FIFTY THOUSAND DOLLARS (150,000.00) on compliance assurance programs described in this paragraph to augment the injunctive provisions of this Final Judgment.

4.4.a. Compliance Employee. Defendant shall employ one (1) full-time employee, or equivalent, responsible for environmental, health, regulatory, and safety compliance assurance at the Facilities (“Full-Time Employee”) for a period of no less than two (2) years after the effective date of this Final Judgment. The Full-Time Employee may be employed by Defendant or a Defendant affiliate, subsidiary, or parent, and may be employed in Defendant’s locations within or outside of California. The Full-Time Employee may also have other responsibilities not related to hazardous waste, including, without limitation, environmental, health, regulatory, and safety matters. Defendant shall make good faith efforts to continually staff this position, but it is recognized that there may be an occasional vacancy due to staffing transitions or other staffing interruptions. Within thirty (30) days after the effective date of this Final Judgment, or after the hiring of a new Full-Time Employee, Defendant shall provide notice to the People in the form of a written affidavit stating the name, qualifications, responsibilities, and location of the Full-Time Employee. Such written affidavit shall be noticed pursuant to Paragraph 20 and shall be submitted under penalty of perjury.

4.4.b. Training. Defendant shall ensure that all employees at any of its Facilities are thoroughly familiar with proper waste handling and emergency procedure relevant to their responsibilities during normal facility operations and emergencies, as required by CCR, title 22, §66262.34(d) and 40 C.F.R. §262.16(b)(9)(iii), and shall comply with the following for each employee at any of its Facilities:

4.4.b.1. For each training conducted to ensure compliance with Chapters 6.5 and 6.95 of Division 20 of the H&SC, Defendant shall maintain documentation identifying the person providing the training, the location where the training was conducted, the name of each employee attending such records are not available during a governmental inspection, Defendants shall provide such

the training, the employee identification number of each employee attending the training, the date of the training, and the employee's signature acknowledging attendance at the training. Alternatively, Defendant may provide training via a computer-based system, in which case it shall maintain electronic data identifying the name of each employee attending the training, the date of the training, and the employee's electronic acknowledgment of training attendance. This documentation and electronic data are referred to here as the "Training Roster."

4.4.b.2. Defendant shall maintain a copy of the Training Roster evidencing each employee's training at each facility where the employee provides any labor or services. Defendant shall, at each Facility, maintain a copy of that Facility's Training Roster for a period of five (5) years from the date the training was conducted, regardless of the duration of the employee's employment. Such records may be maintained electronically. In the event that such records are not available during a governmental inspection, Defendant shall provide such records to the inspector within five (5) business days.

4.4.b.3. Defendant shall review the training records on a quarterly basis to ensure each employee at the Facilities have received the training required under CCR, title 22, §66262.34(d) and 40 C.F.R. §262.16(b)(9)(iii), and that less than one year has elapsed since the employee last received the required training.

4.4.b.4. Defendant shall not permit an employee to provide labor or services relating to the storage or disposal of hazardous waste if the employee has not received the required training under CCR, title 22, §66262.34(d) and 40 C.F.R. §262.16(b)(9)(iii), or more than one year has elapsed since the employee was last trained.

4.4.b.5. Defendant shall promptly make available upon request by any UPA Inspector, peace officer, agent of the Department of Justice, California Environmental Protection Agency, the DTSC, or District Attorney all Training Rosters and training records for each Facility. In the event that such records are not available during a governmental inspection, Defendant shall provide such records to the inspector within five (5) business days.

4.4.b.6. To the extent any one of the Defendant's Facilities generates, more than 1,000 kg/month of hazardous waste, or 1 kg/month of acute hazardous waste, or 100 kg/ month of acute spill residue or soil, then Defendant shall additionally comply with the personnel training requirements contained in CCR, title 22, §66265.16, to the extent applicable, for that particular facility's employees.

If you have any questions, please feel free to call me at 323-890-4042 or email me at bill.jones@fire.lacounty.gov.