Ohio Environmental Protection Agency

**John R. Kasich**, Governor
**Mary Taylor**, Lt. Governor
**Craig W. Butler**, Director

September 28, 2015

Industrial Container Services – OH, LLC
1385 Blatt Blvd.
Gahanna, Ohio 43230

**Re: Industrial Container Services – OH, LLC**
**Director's Final Findings and Orders (DFFO)**
**DFFO**
**RCRA C - Hazardous Waste**
**Franklin County**
**OHD004291654**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Industrial Container Services – OH, LLC.

Enclosed are invoices for the total penalty amount of $16,280.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3180.

Sincerely,

D. R. Crumiell-Hagens

Demitria Crumiell-Hagens, Administrative Professional II
Division of Materials & Waste Management

Enclosure

cc: Kelly Smith, DMWM, CO
Andrea Smoktonowicz, Legal
Melissa Storch, DMWM, CDO
Peter Maneff, DMWM, CDO
Isaac Robinson, DMWM, CDO

OHIO E.P.A.
SEP 28 2015
ENTERED DIRECTOR'S JOURNAL

**BEFORE THE**
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

| | |
|---|---|
| **Industrial Container Services – OH, LLC**<br>1385 Blatt Blvd.<br>Blacklick, OH 43004<br><br>**Respondent** | **Director's Final Findings and Orders** |

## PREAMBLE

It is agreed by the parties hereto as follows:

## I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Industrial Container Services – OH, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13 and 3745.01.

## II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

## III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

## IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and Ohio Administrative Code (OAC) rule 3745-50-31, the Director, may, by order exempt any person generating, collecting, storing, treating, disposing of, or transporting hazardous wastes in such

quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment, from any requirement to obtain a hazardous waste facility installation and operation permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 41 U.S.C. § 6921 et seq., as amended.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A)

3. Respondent owns and operates a drum (container) reconditioning facility at 1385 Blatt Blvd., Blacklick, Franklin County, Ohio (Facility). As part of this operation, used 55 gallon steel and plastic drums are reconditioned and repainted for resale. Respondent reconditions "open head" drums by processing them in a thermal oxidizer unit. Respondent reconditions "closed head" plastic drums using a caustic wash process.

4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste and has been assigned EPA ID number OHD004291654. The hazardous wastes generated by Respondent at the Facility include paint waste, which is an ignitable hazardous waste (D001) and a listed hazardous waste (F003 and F005), oily caustic waste and sludge from reclamation of spent caustic cleaning solution, which is an ignitable (D001) and corrosive (D002) hazardous waste and is also hazardous due to the characteristic of toxicity for barium (D005), cadmium (D006), chromium (D007) and lead (D008), waste ash from the thermal oxidizer which contains heavy metals (D005 and D008), and universal waste spent fluorescent lamps. The hazardous wastes are defined in OAC rules 3745-51-21, 3745-51-22, 3745-51-24 and 3745-51-31.

5. Respondent requires that customers' drums are empty when the drums are sent to the Facility for reconditioning. An empty container, defined by OAC rule 3745-51-07(B), generally, is a container that has been emptied by all normal means and either one inch or less of material remains in the bottom of the container, or a given percentage by weight of the contents remain. Materials remaining in containers which meet this standard are not wastes until removed from the container.

6. Therefore, if a container is not "empty," any material remaining in the container is a waste. If the waste is a hazardous waste, Respondent, upon receipt of a non-

empty container holding hazardous waste, would be establishing and operating a hazardous waste storage facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F).

7. Respondent classifies containers that are not empty as "heavy drums." As a result of this regulatory requirement, Respondent has established a heavy drum policy. Respondent's policy states that a customer that sends a heavy drum to the Respondent must remove the drum from Respondent's Facility within a week of being notified by Respondent. Alternately, the heavy drum will be returned to the customer by a transporter chosen by Respondent. Respondent does not specify a time frame for returning a heavy drum to a customer.

8. On June 12, 2013, Ohio EPA conducted a compliance evaluation inspection at the Facility. During the inspection, Respondent provided Ohio EPA with the current heavy drum policy being used at the Facility: *Industrial Container Services – OH, LLC Drum Acceptance and Drum Rejection Policies.*

9. As a result of the June 12, 2013, inspection Ohio EPA determined Respondent, *inter alia*:

    a. Unlawfully established and operated a hazardous waste storage facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F). Respondent received and stored heavy drums from offsite which held hazardous waste in excess of the empty container rule. At a minimum, twenty heavy drums containing hazardous waste were unlawfully stored at the Facility in at least three stationary tractor trailers for two to six months;

    b. Failed to meet the container management standards for containers of hazardous waste ash, in violation of OAC rule 3745-52-34(C). Respondent exceeded the quantity limit, failed to keep containers closed, and failed to mark containers properly;

    c. Failed to have an adequate personnel training program which teaches facility personnel hazardous waste management procedures relevant to their positions, in violation of OAC rule 3745-65-16(A)(2);

    d. Failed to mark containers holding universal waste spent lamps with the phrase "Universal Waste Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)," in violation of OAC rule 3745-273-14(E); and

    e. Failed to properly label a tank of used oil with the words "Used Oil," in violation of OAC rule 3745-279-22(C).

10. By letter dated September 9, 2013, Ohio EPA notified Respondent of the violations referenced in Finding No. 9. of these Orders and also informed Respondent it had abated the violation in Finding No. 9.e. of these Orders.

11. Via electronic mail on October 29, 2013, Ohio EPA received a letter dated September 27, 2013, along with a photograph from Respondent to address the violations referenced in Finding No. 9. of these Orders. The photograph showed a drum containing hazardous waste ash which is in good condition and labeled. The letter indicated a new notification system would be implemented in which Respondent would notify customers that had sent heavy drums to the Facility and give the customer 10 days to retrieve the heavy drum or contract with a licensed transportation company to pick up the drum. If the drum was not removed, Respondent would notify Ohio EPA. The letter also stated that a comprehensive hazardous waste personnel training program would be forwarded to Ohio EPA. Ohio EPA has not received notification from Respondent regarding heavy drums remaining onsite at the Facility nor has Ohio EPA received a hazardous waste personnel training program from Respondent to date.

12. Via electronic mail on October 30, 2013, Respondent submitted a list of heavy drums which had been received at the Facility and a list of heavy drums that had been returned to customers as of October 29, 2013. Not all heavy drums received at the Facility were properly managed by either being returned to the customer or sent to a facility authorized to receive hazardous waste.

13. By letter dated November 21, 2013, Ohio EPA notified Respondent it abated the violations in Findings Nos. 9.b. and 9.d. of these Orders. In this letter, Ohio EPA also requested that within 14 days, Respondent submit an updated personnel training plan to abate the violation in Finding No. 9.c. and a response regarding the disposition of the drums of hazardous waste that had been received from offsite that were being stored at the Facility at the time of the inspection, in violation of ORC § 3734.02(E) and (F).

14. Via electronic mail on March 25, 2014, Respondent submitted additional documentation claiming the heavy drums had been returned to customers. This documentation included various Uniform Hazardous Waste Manifests, Non-Hazardous Waste Manifests, Straight Bills of Lading and Shipping Orders. A review of this documentation indicated not all of the heavy drums had been removed, and that Respondent failed to use a Uniform Hazardous Waste Manifest to ship some of the heavy drums back to the customers thereby causing hazardous waste to be transported to facilities that are not authorized to receive hazardous waste, because some of Respondent's customers do not hold hazardous waste permits.

15. Based upon Respondent's actions described in Findings Nos. 9. and 14. of these Orders, the Director has determined Respondent, *inter alia*:

    a. Failed to file an unmanifested waste report to the Director within fifteen days after receipt of the hazardous waste without an accompanying manifest, in violation of OAC rule 3745-54-76;

    b. Failed to prepare a manifest pursuant to OAC rule 3745-52-20, in violation of OAC rule 3745-54-71(C); and

    c. Caused hazardous waste to be transported to an unauthorized facility, in violation of ORC § 3734.02(F).

    The Director has further determined that no additional action is required at this time to abate these violations.

16. As a result of the inspection, the Director has further determined Respondent failed to comply with the general waste analysis requirements, in violation of OAC rule 3745-54-13, by not obtaining all relevant chemical and physical analyses needed to properly store hazardous waste at the Facility. At a minimum, Respondent failed to obtain all relevant chemical and physical analyses for the hazardous waste heavy drums unlawfully stored at the Facility as described in Finding No. 9.a. of these Orders. In addition to the hazardous waste heavy drums described in Finding No. 9.a. of these Orders, Respondent failed, at a minimum, to obtain chemical and physical analyses of other heavy drums at the Facility which potentially contained hazardous wastes. Based on a review of inventory lists provided by Respondent, some of these drums contained Dynapol (may contain naphtha and xylene), paint, glycol ether, ethanol, and butyl acrylate, which are likely ignitable hazardous waste (D001), and ammonium hydroxide, diacid, and acid 511, which are likely corrosive hazardous waste (D002).

17. Due to Respondent's establishment and operation of a hazardous waste storage facility as described in Finding No. 9.a. of these Orders, Respondent is required to have a hazardous waste facility and installation permit and is subject to all general facility standards found in OAC Chapter 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.

18. The submittal of a Facility Compliance Plan (FCP) and Closure Plan for the three stationary tractor trailers where containers of hazardous waste were unlawfully stored and any other location where hazardous waste received from offsite was unlawfully stored at the Facility in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. The Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G) provided Respondent complies with the conditions in these Orders.

19. During negotiations, Respondent informed Ohio EPA that there are four trailers used for the management of heavy drums at the Facility -- the three stationary box tractor trailers referenced in Finding No. 9.a. of these Orders (the "Great Dane trailer", the "Dorsey trailer", and the "Stake Bed trailer") and one additional stationary box trailer (the "Holding trailer"). There is also a shorter, "Pup trailer", used by Respondent to shuttle heavy drums from the unloading dock to the other trailers. Respondent would like to perform closure of the Great Dane, Dorsey, and Stake Bed trailers under an Ohio EPA-approved Closure Plan at this time. Respondent would also like to use the Holding trailer (or its replacement) and the Pup trailer for future management of heavy drums until Respondent ceases to use the Holding trailer or Pup trailer, or Respondent ceases Facility operations. At such time, Respondent will then perform closure of the Holding trailer, Pup trailer, or both under an Ohio-EPA approved Closure Plan.

20. On July 29, 2015, Ohio EPA approved Respondent's FCP for the Facility.

## V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Pursuant to ORC § 3734.02(G) and Ohio Administrative Code (OAC) rule 3745-50-31, Respondent is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility.

2. Within 30 days after the effective date of these Orders, Respondent shall implement the attached approved FCP.

3. Within 60 days after the effective date of these Orders, Respondent shall submit documentation to Ohio EPA demonstrating Facility personnel have been trained in hazardous waste management procedures relevant to their positions in accordance with OAC rule 3745-65-16. Compliance with this Order will abate the violation in Finding No. 9.c. of these Orders.

4. Within 90 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a Closure Plan for the Great Dane, Dorsey, and Stake Bed trailers. A copy of the Closure Plan shall be submitted in accordance with Section X. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Erik Hagen, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049.

5. The Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of OAC Chapters 3745-54 and 3745-55, including but not limited to, the ground water protection program in accordance with OAC rules 3745-54-90 through 54-100 and the closure and post-closure requirements for tanks in OAC rule 3745-55-97. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan. Upon Ohio EPA's written approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13.

6. Within 60 days after approval of the Closure Plan pursuant to Order No. 5., Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47.

7. Within 60 days after completion of closure of the Great Dane, Dorsey, and Stake Bed trailers, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15. Ohio EPA's acceptance of the closure certification shall abate the violation referenced in Finding No. 9.a. of these Orders.

8. Respondent shall pay to Ohio EPA the amount of $18,280.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. in accordance with the following provisions:

    a. Within 30 days after the effective date of these Orders, Respondent shall pay $2,570.00 which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $2,570.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the Facility. A copy of this check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Administrative Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

    b. In lieu of paying $2,000.00 of the $18,280.00 total civil penalty identified in Order No. 8.a. above, within 30 days of effective date of these Orders, Respondent shall purchase and use at the Facility a Pensky-Martens closed cup tester to evaluate waste for the ignitability hazardous waste characteristic.

    c. Should Respondent fail to purchase the ignitability tester within the required time frame established in Order No. 8.b., Respondent shall pay to Ohio EPA within 7 days after failing to comply with Order No. 8.b. the amount of $2,000.00 in accordance with the procedures in Order No. 8.a.

    d. Within 120 days of the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,570.00 in accordance with the procedures in Order No. 8.a.

    e. Within 240 days of the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,570.00 in accordance with the procedures in Order No. 8.a.

    f. Within 360 days of the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,570.00 in accordance with the procedures in Order No. 8.a.

## VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

## VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

## VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

## IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

## X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Materials and Waste Management
50 West Town Street, Suite 500
Columbus, Ohio 43215-1049
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of the Holding trailer (or its replacement) and the Pup trailer and corrective action at the Facility, at some time in the future, pursuant to ORC Chapter

3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to performing such closure of the Holding trailer (or its replacement) and the Pup trailer or corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

## XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek closure for the Holding trailer (or its replacement) or the Pup trailer or corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

## XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

## XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

Craig W. Butler
Director

SEP 28 2015
Date

**IT IS SO AGREED:**

**Industrial Container Services - OH, LLC**

Signature

8/18/2015
Date

Gretchen Krum
Printed or Typed Name

EHS Director
Title

**ATTACHMENT**

# Industrial Container Services

## Facility Compliance Plan

## Non-Conforming Container Management Plan

Date of arrival is the date of receipt for purposes of this Facility Compliance Plan. ICS will ensure all drums are removed from the facility within 45 days of receipt.

1) Customer trailer arrives at facility
    a. The trailer is inspected to verify the actual load matches the bill of lading by the shipping/receiving manager.
    b. The trailer is pulled into an empty dock space and unloaded (following step 2).
    c. Should the trailer not be unloaded upon its receipt, it will be staged in the yard and added to the inventory until dock space is available to unload the trailer.
    d. Trailers received will be unloaded within 14 days of the date of receipt.

2) Unloading of incoming trailers
    a. Unloading Dock personnel will inspect the drums as they are being unloaded from the incoming trailer before the end of each work day. Only containers that are empty are acceptable for receipt. The definition of an "empty" container is defined by 40 CFR 261.7 and OAC rule 3745-51-07.
        i. Drums must be as empty as they can be using normal emptying methods.
        ii. In no event may there be more than one inch (or 3 percent by weight of residue) left in the drum.
    b. Acceptable/Conforming containers are moved to drum conveyor staging area to be prepared for reclamation processing.
    Non-conforming drums are set aside and moved by the unloading dock personnel onto the non-conforming transfer trailer before the end of each work day and before signing off on acceptance of the load if any of the following conditions are noted by the Unloading Dock personnel:
        i. Total weight greater than 40lbs. (checked using a scale located at the dock).
        ii. Any residue greater than 1" (checked using a marked stick located at the dock).
        iii. Visual evidence of any leakage during the inbound transit.
        iv. Any evidence of other unacceptable damage to any drum.
    c. The following additional criteria will be applied by the unloading dock personnel during unloading of trailers to flag "Non-Conforming" containers:
        i. If a container has been transported to the facility on a Hazardous Waste Manifest.
        ii. If a container has a yellow hazardous waste label affixed but is not empty. If the drum contents do not satisfy the EPA "empty" container definition in OAC rule 3745-51-07 and 40 CFR 261.7.
        iii. Any drum that is believed to have contained "acutely hazardous chemicals" (OAC rule 3745-51-33 and 40 CFR 261.33).
        iv. Any drum that was not properly prepared for transportation as defined in 49 CFR 173.29.

3) Marking of a Rejected "Non-Conforming" Drum:
    a. An Orange "Rejected" label will be placed on the drum by the Yard Manager when the drum is unloaded to identify it as non-conforming. The label shall be given the date the drum arrived at the facility.
    b. The drum will then be entered into the non-conforming inventory log (step 4).

4) A "Non-Conforming Container Receipt Form" shall be completed by the Yard Manager within 24 hours of unloading any non-conforming drums. This Form shall provide all necessary details to key personnel (Operations Supervisor, EHS Management Team) to initiate the process of final management of the contents. The form will be delivered before the end of the operating day that it was completed to the Production Supervisor who will initiate communication, within 24 hours of receiving the form, via email to the Plant Manager, EHS Management Team, Customer Sales Representative and Sales Manager for the Region. Those personnel will be responsible to complete any other necessary arrangements for the proper management of the non-conforming container(s) in accordance with the rest of this plan. This form will be kept as a part of the operating record for a minimum of 3 years after date of return/disposal shipment of the material, and shall be made available to Ohio EPA upon inspection. The form will include notations with all available information on the following:

    a. Structural integrity of the non-conforming container (or any evident lack thereof).
    b. Any identifying markings on the non-conforming container related to the possible nature of any residue remaining inside.
    c. Comparison of marking/labeling and observations to any incoming shipping paperwork, with notes on any discrepancies or errors.
    d. If at this point the contents of the container are not known or able to be verified using the records for its incoming shipment, it will be marked – "Unknown pending analysis".
    e. "Unknown" drums will be identified as such on the Non-Conforming Receipt Form and brought to the attention of the EHS management team to begin material identification and characterization.

5) Overpacking: If the integrity of a non-empty, non-conforming container is found by any employee at any time to be compromised, non-intact, damaged or leaking, it will be brought to the attention of the Yard Manager and/or the Production Supervisor. The container (drum) will be placed by the Yard Manager into a compatible overpack container immediately for safety and containment reasons, which will be labeled with any pertinent information about its contents and managed otherwise consistently with this plan.

6) Transfer Trailer: Non-Conforming Container(s) will be loaded by unloading dock personnel before the end of each work day onto a transfer trailer (pup trailer labeled "Transfer Trailer") and removed from the unloading dock. They will be moved to the identified Non-Conforming Holding Trailer within 3 calendar days by the Yard Manager who will inspect the drums again to ensure the drums are correctly segregated. The Transfer Trailer parking locations at the unloading dock and Non-Conforming Holding Trailer, are shown on the map attached to this plan and incorporated by reference. The Transfer Trailer shall be subject to formal RCRA closure when ICS ceases operations and/or ceases to use the Transfer Trailer for storage of Non-Conforming drums.

7) Non-Conforming Holding Trailer: This holding trailer shall be located in the Northwest corner of the trailer yard along Research Road in a fixed location. That location is marked on the map attached to this plan and incorporated by reference. The boundaries of its corresponding parking area shall also be permanently marked on the ground surface with visible metal in-ground pins to create a defined area. This holding trailer (or its replacement) and its parking area so defined shall be subject to formal RCRA closure when ICS ceases operations and/or ceases using the trailer for storage of Non-Conforming (non-RCRA empty) drums. There shall be only one Non-Conforming Holding Trailer at the facility.

    a. The trailer shall be marked "Non-Conforming Holding Trailer" with wording plainly visible on all four sides.

b. The trailer will be maintained in good condition with a solid floor containing no gaps or cracks which could allow for release of material in the event of an uncontrolled spill.
c. This trailer (or its replacement) shall have a sealed floor and sides.
d. The wheels of the Non-Conforming Holding Trailer will be blocked at all times to prevent movement.
e. Containers inside the Non-Conforming Holding Trailer will be kept arranged neatly upon spill containment pallets. All containers will be positioned with labels facing outward and all lids secured tightly.
f. The Non-Conforming Holding Trailer shall be equipped with spill containment barriers to prevent an uncontrolled release to the environment in the event of a spill/release from the containers being held.
g. The Non-Conforming Holding Trailer will be secured at the end of each operating day with a locking mechanism for which authorized personnel will maintain the key for access.
h. Notification of replacement of the Holding Trailer shall be made to Ohio EPA inspector within 5 days prior to putting the replacement into service.

8) Heavy Drum Database. Within one workday after a drum is moved into the Non-Conforming Holding Trailer, the Production Supervisor will log an entry for it into the Heavy Drum Database.

a. Heavy Drum Database information will initially include:
   i. Date received by ICS.
   ii. Description of contents and amount in weight, inches of depth in container, or gallons.
   iii. Indication if the contents may be a DOT hazardous substance (based on risk labels, etc.).
   iv. If contents are determined to be hazardous, the applicable RCRA waste code numbers.
   v. Name and address of the originating generator.
   vi. EPA/State Identification number of the generator, if available.

b. The Heavy Drum Database log entries will be supplemented with the following additional information as it becomes known:
   i. Date of shipment offsite by ICS or the generator.
   ii. Destination of shipment.
   iii. Method of tracking for shipment offsite—bill of lading or hazardous waste manifest.
   iv. Uniform Hazardous Waste Manifest number, if applicable.

c. Reports from this database will be generated and submitted to Ohio EPA on a quarterly basis within ten days of the start of each business quarter and contain the information specified above.

9) Daily Inspections. The transfer trailer and holding trailer will be inspected daily on days of operation by the Yard Manager and documented on the Daily Inspection form (sample forms attached). Documentation of this inspection will be kept as a record of daily activities and inventory verification. Issues/concerns noted during inspections will be brought to the attention of the EHS management team the same day as the inspection. Inspection forms will be kept as a part of the operating record until RCRA Closure is completed. Items inspected will include but will not be limited to:

a. Visual awareness of leaks/spills, near or around the containers, inside the containment pallets, upon the floor of the trailer, or outside the container (floor joints or surrounding ground).
b. Condition of the trailer inside and outside – specifically noting structural integrity and evidence of leaks/spills.
c. Spill kits and other emergency response equipment necessary.

d. Proper labeling, rejection labels, other required identification.
e. Container inventory – including date of oldest drum and number of drums that have been onsite for greater than 40 days.
f. Spills will be addressed in accordance with the facility's contingency plan.

10) Customer Relations.

a. As previously mentioned, an internal company e-mail will be sent within 24 hours from when the non-conforming container(s) is/are identified.
b. Upon receipt of the email, the Customer Service Representative will initiate communications with the customer of record to determine management of the drum.
c. Options for acceptable resolution of non-conforming drums may include return to the original generator/owner or disposal to a properly permitted disposal facility. Either of these may be arranged according to agreements that may be reached with the customer but shall be done in accordance with OAC rule 3745-54-72.

11) Waste Characterization. If the drum remains onsite for more than twenty days from receipt with no resolution of acceptable management with the customer of record, the EHS management team will take responsibility for preparing the drum for proper management via disposal offsite to a properly permitted facility within 45 days from the date of receipt. Material will be characterized using the following:

a. Generator knowledge to establish a profile for the waste material.
b. Without generator knowledge or as needed, residual material will be evaluated: for corrosivity, using pH paper; TCLP; and/or for ignitability, using a Pensky-Martens closed cup ignitability tester using OAC rule 3745-51-21(A)(1).
    i. Per agreement with testing laboratory, a representative sample of material will be collected by the Yard Manager in the designated container and forwarded to the laboratory for required testing.
    ii. Samples will be discarded by the identified laboratory after testing is complete.
c. ICS will consider any unknown residual to be discarded by the customer/generator. If considered discarded and the residue profile characteristics indicate it is a hazardous waste, the shipment of hazardous waste offsite will be documented using a Uniform Hazardous Waste Manifest pursuant to OAC rules 3745-54-72 and 3745-52-20.

12) Offsite shipment of non-conforming drums:

a. ICS will ensure all drums are removed from the facility within 45 days of receipt.
b. Return shipment of non-conforming (non-empty) drums of non-hazardous or solid waste may be returned back to the originating generator or a solid waste facility using a bill of lading.
c. If a non-conforming drum is determined to contain hazardous waste, the drum (or hazardous waste) shall be shipped offsite back to the generator or a permitted facility; i.e., if hazardous, a TSD facility; using a hazardous waste manifest pursuant to OAC rules 3745-54-72 and 3745-52-20. At a minimum, this shall include all non-empty drums that arrive at the facility bearing hazardous waste labeling from the originating generator. It will also include other containers with contents determined to be discarded waste that upon evaluation is identified as hazardous waste.

13) Records Retention. Copies of outbound bills of lading and hazardous waste manifests for shipment of non-conforming drums will be maintained for a period of three years, and will be made available upon request for Ohio EPA inspection. Completed Non-Conforming Container Receipt Forms, as previously mentioned, shall also be maintained for a period of three years and be made available for inspection upon request by Ohio EPA.

Attachments

1) Sample Rejection Label
2) Non-Conforming Container Receipt Form
3) Sample Daily Inspection Logs for Transfer and Holding Trailers
4) Facility Map
5) Key employee list

# REJECTED

This **container** is being **rejected** and returned because it still contains excessive amounts of valuable product and is **NOT EMPTY** according to U.S. EPA's definition in 40 CFR 261.7.

Please empty, deface this notice, and return.

Received From _____

Date Received _____

Trailer Number _____

Rev. 12/14/14

# Non-Conforming Container Receipt Form

ACCOUNT: _____

LOCATION: _____

TRAILER#: _____ DATE UNLOADED: _____

| | | AMOUNTS |
|---|---|---|
| # _____ OH/CH | VENDER: _____<br>MATERIAL: _____<br>DRUM DESCRIPTION (MARKINGS, COLOR, LOT#, SERIAL #):<br>_____<br>_____<br>U.N.#: _____<br>FLAMMABLE CORROSIVE OXIDIZER HAZARDOUS WASTE | |
| # _____ OH/CH | VENDER: _____<br>MATERIAL: _____<br>DRUM DESCRIPTION (MARKINGS, COLOR, LOT#, SERIAL #):<br>_____<br>_____<br>U.N.#: _____<br>FLAMMABLE CORROSIVE OXIDIZER HAZARDOUS WASTE | |
| # _____ OH/CH | VENDER: _____<br>MATERIAL: _____<br>DRUM DESCRIPTION (MARKINGS, COLOR, LOT#, SERIAL #):<br>_____<br>_____<br>U.N.#: _____<br>FLAMMABLE CORROSIVE OXIDIZER HAZARDOUS WASTE | |
| # _____ OH/CH | VENDER: _____<br>MATERIAL: _____<br>DRUM DESCRIPTION (MARKINGS, COLOR, LOT#, SERIAL #):<br>_____<br>_____<br>U.N.#: _____<br>FLAMMABLE CORROSIVE OXIDIZER HAZARDOUS WASTE | |
| # _____ OH/CH | VENDER: _____<br>MATERIAL: _____<br>DRUM DESCRIPTION (MARKINGS, COLOR, LOT#, SERIAL #):<br>_____<br>_____<br>U.N.#: _____<br>FLAMMABLE CORROSIVE OXIDIZER HAZARDOUS WASTE | |

# Non - Conforming Container Holding Trailer Inspection Form

Week Beginning Date:_____ Inspection Conducted By and Form Completed By: _____

| *Place check in appropriate Yes/No box to show current status | Monday | | Tuesday | | Wednesday | | Thursday | | Friday | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No |
| Any drums without completed orange "Rejected" label? | | | | | | | | | | |
| Any drums without trailer number and unload date? | | | | | | | | | | |
| Any drums show signs of an active leak? | | | | | | | | | | |
| All drums staged on containment pallets? | | | | | | | | | | |
| Rubber containment strip completely in place? | | | | | | | | | | |
| Containment Pallets free of liquid and/or debris? | | | | | | | | | | |
| Any containment pallets have cracks or other deformations? | | | | | | | | | | |
| Any visible signs of a spill on the floor inside trailer? | | | | | | | | | | |
| Any floorboards damaged or in need of repair? | | | | | | | | | | |
| Any visible signs of a spill underneath the trailer? | | | | | | | | | | |
| Storage trailer drum count corresponds to Onsite Report? | | | | | | | | | | |
| Storage trailer doors secured after business hours? | | | | | | | | | | |
| Any other issues noted? | | | | | | | | | | |
| ***DATE of OLDEST DRUM** | | | | | | | | | | |

NOTE: Any non-passing items noted during inspection must be brought to the attention of the on site EHS Representative the same day of inspection.

**NOTES / CORRECTIVE ACTIONS:**

| |
|---|
| |

Rev 3/4/2015

DWG NAME: Siteplan DATE: 05/12/2015

Cox-Colvin & ASSOCIATES, INC. ENVIRONMENTAL SERVICES

Non-Conforming Drum Related Areas,
Industrial Container Services, LLC,
Gahanna, Ohio
(March 2013 Photo)

Figure 1

# Key Employee List

Industrial Container Services, LLC
1385 Blatt Blvd, Gahanna, OH 43230

Effective as of: 3/10/2015

EHS Management Team

1) Gretchen Krum – EHS Director
2) Brian Granan – EHS Management Team
3) Tyler Phillipneck – EHS Management Team

Regional Operations Manager

1) Jerry Butler – East Coast Region
2) William Carrol – MidWest Region

Plant Manager – Ron Grannan

Production Supervisor – Miguel Carrol

Yard Manager – Khamdy Amnatvong

Unloading Dock Personnel – varies by day based on job rotation (on the job training is required)

Sales Manager – Kurt Richardson