



Mike DeWine, Governor
Jon Husted, Lt. Governor
Anne M. Vogel, Director

February 1, 2023

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

**Re: Industrial Container Services OH LLC
Director's Final Findings and Orders (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 is the invoice for the total penalty amount of \$31,500.00 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 Sarah Miles at (614) 644-3037.

Sincerely,

Diana Bammerlin

Diana Bammerlin, Administrative Professional 2
Division of Environmental Response and Revitalization

Enclosure

cc: Bill Narotski, DERR, CO
Mitch Mathews, DERR, CO
Tammy Heffelfinger, DERR, CO
Andy Maneff, CDO
Martin Smith, CDO
Sarah Miles, Legal
Brian Grannan, Industrial Container Services OH LLC

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in Ohio Revised Code (ORC) § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(P).
2. Respondent owns and operates a container (drum) reconditioning facility located at 1385 Blatt Boulevard, Gahanna, Franklin County, Ohio 43230 (Facility). Respondent is a large quantity generator of hazardous waste and has been assigned U.S. EPA identification number OHD004291654.
3. Respondent receives 55-gallon steel and plastic containers from its customers and reconditions and paints the drums for resale. Not all containers arriving at the Facility are empty, as defined under OAC rule 3745-51-07(B), commonly referred to as "RCRA Empty." These non-RCRA empty containers, considered non-conforming containers or commonly referred to as "heavy drums," may hold characteristic hazardous waste, such as ignitable (D001) and toxic (chromium (D007), benzene (D018), methyl ethyl ketone (D035)) hazardous waste, and spent solvent listed hazardous waste (F003, and F005) as defined in OAC rules 375-51-21, 3745-51-24, and 3745-51-31, respectively.
4. On September 28, 2015, Ohio EPA issued Director's Final Findings and Orders (2015 DFFOs). The 2015 DFFOs, in part, exempted the Respondent from obtaining a hazardous waste installation and operation permit, provided Respondent, *inter alia*, implement an approved Facility Compliance Plan (FCP) to manage non-conforming containers. Respondent's FCP states that non-conforming containers may be returned to the original generator or will be managed properly at an authorized facility within 45 days of receipt (FCP Item 10.). As part of this plan, Respondent may store hazardous waste in a Transfer and Holding trailer. The 2015 DFFOs establish that Respondent will use the Transfer trailer to shuttle non-conforming drums from the unloading docks to the Holding trailer and will use the Holding trailer for the management of non-conforming containers until Respondent ceases to use the trailers for hazardous waste management or Respondent ceases Facility operations; at such time, Respondent will then perform closure on the Holding trailer, Transfer trailer, or both under an Ohio EPA approved Closure Plan.
5. Respondent's FCP requires Respondent to identify non-conforming containers within 24 hours of arrival on-site and to move non-conforming containers to the Transfer trailer before the end of each workday. Respondent is required to log

and move the non-conforming containers from the Transfer trailer to the Holding trailer within 3 days, enter them into the Heavy Drum data base, conduct daily inspections during days of operation of the Transfer and Holding trailers, characterize any non-conforming container that remains on-site for more than 20 days and ensure that all non-conforming containers are removed from the Facility within 45 days of receipt. Respondent is also required to submit quarterly reports documenting the non-conforming containers received and the containers' subsequent dispositions and maintain records of non-conforming container management for three years.

6. On February 15 and 16, 2022, Ohio EPA performed an announced compliance evaluation inspection of the Facility. At the time of the inspection, Respondent was not in compliance with the FCP. Respondent had 86 non-conforming containers on site, which included 44 containers with contents characterized as hazardous waste, had logged only 22 of these containers in the Heavy Drum Database, had not been conducting inspections, had not characterized or properly managed of the non-conforming containers in a timely manner and had not submitted quarterly reports since January 2021. The oldest non-conforming container was on site for 389 days, 345 days longer than allowed by the FCP.
7. As a result of the inspection referenced in Finding No 6. of these Orders, Ohio EPA determined that Respondent, *inter alia*, failed to comply Order 2. of the 2015 DFFOs which requires compliance with the FCP, in violation of ORC §3734.13(D).
8. On February 17, 2022, Respondent provided Ohio EPA with an updated Heavy Drum log documenting that there were 86 non-conforming containers on site at the time of the inspection and provided partial information on the contents of the containers.
9. On February 18, 2022, Respondent transported 10 non-conforming containers of hazardous waste, including the oldest non-conforming container of hazardous waste identified in Finding No. 6. of these Orders, off-site to an authorized facility. A copy of the hazardous waste manifest was provided to Ohio EPA by email on February 22, 2022.
10. By letter dated March 16, 2022, Ohio EPA notified Respondent of the violation referenced in Finding No. 7. of these Orders.
11. By e-mails on April 14, May 9, and May 13, 2022, Respondent provided updated heavy drum logs, heavy drum disposal tracking spreadsheets, and additional hazardous waste manifests documenting the transportation of non-conforming

containers of hazardous waste to authorized facilities to Ohio EPA.

12. Based upon the observations documented during the inspection and referenced in Finding No. 6. of these Orders and the information provided by Respondent and referenced in Findings Nos. 9., 10. and 12. of these Orders, Ohio EPA determined Respondent, *inter alia*, stored 44 non-conforming containers of hazardous waste on-site beyond the time allowed by the FCP, resulting in Respondent establishing an unlawful hazardous waste treatment, storage or disposal facility without a permit, in violation of ORC § 3734.02 (E) and (F), and OAC rules 3745-50-41(A) and 3745-50-45(A).
13. By letter dated May 25, 2022, Ohio EPA notified Respondent of the violations referenced in Finding No. 12. of these Orders.
14. BY email on June 17, 2022, Respondent notified Ohio EPA that all non-conforming containers of hazardous waste identified during the February 15 and 16, 2022 inspection were sent to an authorized facility. Ohio EPA confirmed this information by reviewing electronic manifests in the national e-manifest system.
15. Because Respondent returned to compliance with its FCP and transported all the non-conforming containers that held hazardous waste identified during the inspection to authorized facilities for proper and lawful management, the Director has determined that there is no further action required by Respondent at this time regarding the violations referenced in Findings Nos. 7. and 12. of these Orders.

V. ORDERS

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

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$31,500.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$31,500.00. The official check shall be submitted to Ohio EPA, PO Box 77005, Cleveland, Ohio 44194-7005, together with a letter identifying the Respondent. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance Assurance Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V. of these Orders.

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 (except penalty payment checks) required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Lazarus Government Center
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
50 West Town Street
Columbus, Ohio 43215

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

For electronic mail delivery, submit documents to the following email addresses:

Mitchell.Mathews@epa.ohio.gov

Martin.Smith@epa.ohio.gov

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of the Holding trailer and Transfer trailer (or their replacements) 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 and the Transfer trailer (or their replacements) 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 of the Holding and Transfer trailers (or their replacements) and corrective action at the Facility, which rights 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

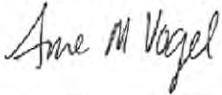
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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




Anne M. Vogel
Director

Director's Final Findings and Orders
Industrial Container Services – OH, LLC
Page 8 of 8

IT IS SO AGREED:

Industrial Container Services – OH, LLC



Signature

1/20/2023

Date

Brian Grannan

Printed or Typed Name

Facility Manager

Title

Penalty Summary Sheet

Respondent: Industrial Container Services – OH, LLC

| Citation | Description | Potential for Harm | Extent of Deviation | Gravity Penalty | Number of Violations | Multi-container Penalty | Economic Benefit | Adjustments | Total Penalty |
|--|--|--------------------|---------------------|-----------------|---|---|------------------|---------------|---------------|
| ORC §3734.13(D); ORC § 3734.02(E) and (F); OAC rules 3745-50-41(A) and 3745-50-45(A) | Violating an Order of the Director to implement Facility Compliance Plan; Unpermitted storage of hazardous waste | Major | Major | \$10,000 | 44 containers of hazardous waste not managed under Facility Compliance Plan | (1 st container included in gravity penalty) 43 drums x \$500/drum \$21,5000 | | | \$31,500 |
| | | | | | | | Total Penalty | Total Penalty | \$31,500 |



Mike DeWine, Governor
Jon Husted, Lt. Governor
Anne M. Vogel, Director

Ohio EPA Invoice

Date Printed: February 1, 2023

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

Receivable ID: 1550285
Please include this Receivable ID with all correspondence

Due Date:
Amount Due:
Effective Date: February 1, 2023

Revenue Description: DERR - Findings and Orders - Hazardous Waste Cleanup (FFOHW)
Program Name: RCRA C - Hazardous Waste
Reason: Civil penalties pursuant to ORC Chapter 3734; will be deposited into the environmental protection remediation fund established pursuant to ORC 3734.281.

How to Pay Fee Online:

1. Go to Ohio EPA's homepage: <https://epa.ohio.gov/>
2. In the "Featured Content" section locate the tile for the eBusiness Center and click.
3. On the right side of the screen click the blue "Launch" tile to enter the eBusiness Center.
4. To use the eBusiness center you will need an account. If you have an account, click the OH|ID icon in the light blue section on the left of the screen to log in.
5. If you do not have an account, the light blue section on the right of the screen has eBiz Help Wizard to assist with creating an account.
6. If you are paying your receivable with a credit card no PIN is required. If you plan to pay using a bank account and routing information you will need to request a PIN.

CUT OFF THIS STUB AND MAIL IT WITH YOUR CHECK. DO NOT MAIL TOP PORTION.

Pay to: Treasurer, State of Ohio. Please write the Revenue ID on your check. Please send this stub with your check. DO NOT SEND LETTERS OR OTHER FORMS.

Ohio EPA
PO Box 77005
Cleveland, OH 44194-7005

| | |
|-----------------|-------------|
| Due Date: | 3/1/2023 |
| Revenue ID: | 1550285 |
| Amount Due | \$31,500.00 |
| Type Code: | FFOHW |
| Transaction ID: | |