

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for

Laura J. Berry  
Name of Case Attorney

4/4/13  
Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number RCRA-01-2012-0101, CAA-01-2012-0102, EPCRA-01-2012-0103, CWA-01-2012-0104

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt       This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Shield Packaging Company, Inc.  
50 Oxford Avenue  
Dudley, MA 01571

Total Dollar Amount of Receivable \$ 984,900 Due Date: 11/15/13

SEP due?      Yes \_\_\_\_\_      No       Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>st</sup> \$ 42,450 on 5/19/13  
2<sup>nd</sup> \$ 45,768 on 8/17/13  
3<sup>rd</sup> \$ 403,000 on 11/15/13  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

\_\_\_\_\_  
Phone Number



United States Environmental Protection Agency  
Region 1 – New England  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

April 4, 2013

BY HAND

Wanda Santiago, Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 1 (ORA 18-1)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

RECEIVED

APR 04 2013

EPA ORC *WS*  
Office of Regional Hearing Clerk

Re: *In the Matter of Shield Packaging Company, Inc.*, Docket Nos.  
RCRA-01-2012-0101, CAA-01-2012-0102, EPCRA-01-2012-0103, CWA-01-2012-0104

Dear Ms. Santiago:

Enclosed for filing are the following original documents, and one copy of each, relating to the above-referenced matter:

1. Consent Agreement and Final Order; and
2. Certificate of Service.

Kindly file the documents in the usual manner. Thanks very much for your help.

Very truly yours,

A handwritten signature in blue ink that reads "Laura I. Berry".

Laura I. Berry  
Enforcement Counsel

Enclosures

cc: George A. Bates (President, Shield Packaging)  
A. Bruce Simpson (Vice President of Operations, Shield Packaging)  
Susann D. Nachmann, OES, EPA Region 1  
Leonard Wallace, OES, EPA Region 1  
Joseph Canzano, OES, EPA Region 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED

APR 04 2013

EPA ORC WS  
Office of Regional Hearing Clerk

IN THE MATTER OF )

SHIELD PACKAGING )  
COMPANY, INC. )

50 Oxford Avenue )  
Dudley, MA 01571 )

Respondent )

Docket Nos. RCRA-01-2012-0101,  
CAA-01-2012-0102,  
EPCRA-01-2012-0103,  
CWA-01-2012-0104

**CONSENT AGREEMENT  
AND FINAL ORDER**

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency ("EPA"), having filed a Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent, Shield Packaging Company, Inc. ("Respondent" or "Shield"), the Parties herein, on September 25, 2012;

Respondent having received extensions to file an Answer and Request for Hearing until April 8, 2013; and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter,

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, without admitting or denying any issue of fact, causation, responsibility, liability, or fault, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

## STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of monetary penalties brought pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d), Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11045(c), also known as the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), Section 311(b)(6)(B)(ii) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321(b)(6)(B)(ii), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22.

2. EPA's Complaint alleged that Respondent failed to:

a) conduct adequate hazardous waste determinations for twenty-three (23) different waste streams observed at the facility identified in paragraph 37 of the Complaint (the "Facility"), which waste streams were later determined to be hazardous waste, in violation of Title 310, Chapter 30 of the Code of Massachusetts Regulations ("C.M.R."), 310 C.M.R. 30.000 (the "Massachusetts Hazardous Waste Regulations");

b) maintain properly closed containers for twenty-three (23) containers of hazardous waste located inside the Facility's less-than-90-day hazardous waste storage area ("HWSA"), two containers of hazardous waste located immediately outside the HWSA, and two broken universal waste mercury-containing lamps, in violation of the Massachusetts Hazardous Waste Regulations;

c) properly label or date twenty-three (23) containers of hazardous waste located inside the HWSA, two containers of hazardous waste located immediately outside

the HWSA, twenty-five (25) boxes of universal waste mercury-containing lamps, and two broken universal waste mercury-containing lamps, in violation of the Massachusetts Hazardous Waste Regulations;

d) maintain adequate aisle space between rows of containers of hazardous waste in the HWSA, in violation of the Massachusetts Hazardous Waste Regulations;

e) design and operate the HWSA in a way that minimized the possibility of a threat to public health, safety, welfare, or the environment from a fire, explosion, or any other release of hazardous waste, in violation of the Massachusetts Hazardous Waste Regulations;

f) conduct and document required weekly inspections of the Facility's HWSA, in violation of the Massachusetts Hazardous Waste Regulations;

g) maintain, implement, and share with local emergency responders an adequate contingency plan for the Facility, and ensure that a competent emergency coordinator who was familiar with the Facility's hazardous waste management program and the contents of the contingency plan was on site or on call and available to respond to emergencies at all times, in violation of the Massachusetts Hazardous Waste Regulations;

h) implement an adequate hazardous waste management training program at the Facility, in violation of the Massachusetts Hazardous Waste Regulations;

i) review, update, and resubmit a Risk Management Plan ("RMP") for propane, butane, and isobutane at the Facility every five years, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations found at 40 C.F.R. Part 68 (the "RMP Regulations");



j) submit an RMP for dimethyl ether and difluoroethane before using those chemicals at the Facility in amounts that exceeded the regulatory thresholds, and submit an RMP that addressed the storage of propane, butane, isobutane, and difluoroethane as propellant in aerosol cans at the Facility, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the RMP Regulations;

k) compile process safety information for all “covered processes,” as that term is defined at 40 C.F.R. § 68.3, at the Facility, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the RMP Regulations;

l) adequately identify process hazards for all covered processes at the Facility, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the RMP Regulations;

m) develop and implement operating procedures that provide clear instructions for safely conducting activities involved in covered processes at the Facility that utilize dimethyl ether and difluoroethane, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7); and the RMP Regulations;

n) comply with training requirements for all covered processes at the Facility, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the RMP Regulations;

o) comply with mechanical integrity requirements for all covered processes at the Facility, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the RMP Regulations;

p) timely prepare and submit emergency and hazardous chemical inventory forms to the local emergency planning committee, the state emergency response

commission, and the local fire department listing the following hazardous chemicals, which were stored at the Facility in quantities equal to or greater than the threshold level set forth at 40 C.F.R. § 370.10, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370: Difluoroethane; Synthemul DX-101-90; Polychem 7536-M-70; WD-40 Super Concentrate; Three-In-One Oil; Corsol 100/Coastal; Lithium Grease White #2; Dowanol PnB (Glycol Ether PnB); and Homax Wall Texture (Hamilton Part 28510); and

q) properly maintain and fully implement a Spill Prevention, Control, and Countermeasure (“SPCC”) plan for the Facility in accordance with the requirements of 40 C.F.R. §§ 112.7 and 112.8, by failing to conduct required tank integrity testing on aboveground oil storage containers, provide adequate lighting in areas where oil transfers occur, and identify and describe all discharge or drainage controls in the Facility’s SPCC plan.

### **TERMS OF SETTLEMENT**

3. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states claims upon which relief can be granted against Respondent.

4. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the specific factual allegations contained in the Complaint, consents to the terms of this CAFO and to the payment of the civil penalty cited herein.

5. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact alleged in the Complaint and waives its right to appeal the Final Order.

6. Respondent certifies that it has taken steps to address the compliance deficiencies identified in Counts 1 through 8 of the Complaint, and is currently operating and will continue to operate the Facility in compliance with the Massachusetts Hazardous Waste Regulations cited in those Counts.

7. By no later than April 30, 2013, Shield shall prepare and submit to EPA a written personnel training plan designed to ensure compliance with hazardous waste training requirements, as required by 310 C.M.R. §§ 30.341(1)(a) and 30.516(2)(a). The written personnel training plan shall meet all of the requirements of 310 C.M.R. § 30.516(2).

8. In January 2013, Shield's consultant, Tetra Tech, Inc., provided Shield with a draft revision of the Facility's RMP, which is currently being reviewed by Shield and another consultant, Roux Associates, Inc.

9. In January 2013, Shield hired CommTank to conduct inspections and integrity testing on certain aboveground storage tanks at the Facility that contain RMP chemicals or oil products. Following those inspections, CommTank prepared a written report which included, among other things, a written summary of the tank inspection findings, recommendations based on the inspections, and the recommended date for the next inspection and general service life assessment for each tank tested (the "CommTank Outcome Report").

10. By no later than April 30, 2013, Shield shall prepare updated process safety information for all RMP covered processes at the Facility, as required by 40 C.F.R. § 68.65, which shall address and correct the deficiencies alleged in Count 12 of the Complaint. By no later than April 30, 2013, Shield shall certify to EPA via email that it has completed the work required by this paragraph.



11. By no later than May 31, 2013, Shield shall conduct and prepare an updated process hazards analysis for all RMP covered processes at the Facility, as required by 40 C.F.R. § 68.67, which shall address and correct the deficiencies alleged in Count 13 of the Complaint and incorporate the recommendations in the CommTank Outcome Report and the updated process safety information referenced in paragraph 10. By no later than May 31, 2013, Shield shall certify to EPA via email that it has completed the work required by this paragraph.

12. By no later than June 14, 2013, Shield shall prepare updated written operating procedures for all RMP covered processes at the Facility, as required by 40 C.F.R. § 68.69, which shall address and correct the deficiencies alleged in Count 14 of the Complaint and incorporate the updated process safety information referenced in paragraph 10 and the updated process hazard analysis referenced in paragraph 11. By no later than June 14, 2013, Shield shall certify to EPA via email that it has completed the work required by this paragraph.

13. By no later than July 1, 2013, Shield shall establish and implement a mechanical integrity program that meets the requirements of 40 C.F.R. § 68.73, which shall address and correct the deficiencies alleged in Count 16 of the Complaint and incorporate the updated process safety information referenced in paragraph 10, the updated process hazard analysis referenced in paragraph 11, and the updated written operating procedures referenced in paragraph 12. The mechanical integrity program also shall incorporate a schedule to implement the recommendations of the CommTank Outcome Report, including but not limited to the recommended date for the next inspection and general service life assessment for each tank used in an RMP covered process. By no later than July 1, 2013, Shield shall certify to EPA via email that it has completed the work required by this paragraph.

14. By no later than July 31, 2013, Shield shall train all employees involved in operating a covered process at the Facility, as required by 40 C.F.R. § 68.71. This training shall address and correct the deficiencies identified in Count 15 of the Complaint. Employees shall be trained in an overview of the process, the updated process safety information referenced in paragraph 10, the updated process hazard analysis referenced in paragraph 11, the updated written operating procedures referenced in paragraph 12, and the updated mechanical integrity program referenced in paragraph 13, including an emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.

15. By no later than July 31, 2013, Shield shall prepare and submit via the RMP\*Submit system an updated RMP for all covered processes at the Facility, as required by 40 C.F.R. §§ 68.12 and 68.150, which shall address and correct the deficiencies alleged in Count 11 of the Complaint.

16. By no later than July 31, 2013, Shield shall submit to EPA the following documents relating to the RMP update work outlined in paragraphs 10-15 above:

- a. a copy of the CommTank Outcome Report for all tanks at the Facility containing RMP chemicals;
- b. updated process safety information (including information relating to the hazards of the regulated substances used or produced, the technology, and the equipment for each process) for the following RMP covered processes at the Facility:
  - i. non-odorized propane; and
  - ii. dimethyl ether;

- c. updated process hazard analyses for all covered processes at the Facility;
- d. updated written operating procedures for the following procedures at the Facility:
  - i. filling the non-odorized propane tank from a truck and/or railcar;  
and
  - ii. connecting a dimethyl ether tank or cylinder to the aerosol can fill lines;
- e. written procedures to maintain the ongoing integrity of process equipment, as required by 40 C.F.R. § 68.73(b), including a schedule for inspections and maintenance of all process equipment at the Facility;
- f. the following documentation regarding the training referenced in paragraph 14:
  - i. a summary of the name, title, and qualifications of the individual(s) who conducted the training;
  - ii. a summary of the subject matter and duration of each topic covered during the training; and
  - iii. training certificates and/or sign-in sheets for all attendees; and
- g. a copy of the information submitted via the RMP\* eSubmit system referenced in paragraph 15.

17. Shield certifies that it is currently operating and will continue to operate the Facility in compliance with Section 312 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 370.

18. By no later than April 30, 2013, Shield will prepare and submit to EPA an updated SPCC plan for the Facility and a copy of the CommTank Outcome Report for

aboveground oil storage tanks at the Facility. The updated SPCC plan shall address the violations alleged in Count 18 of the Complaint and incorporate a schedule to implement the recommendations in the CommTank Outcome Report for each aboveground oil storage tank, including but not limited to the recommended date for the next inspection and general service life assessment. Any aboveground oil storage tanks that required but did not undergo integrity testing shall be “permanently closed” as defined in 40 C.F.R. § 112.2 and identified as such in the updated SPCC plan.

19. Approval of Deliverables.

- a. After review of any document that is required to be submitted to EPA pursuant to paragraphs 7 - 16 of this CAFO (the “Submission”), EPA shall in writing (i) approve the Submission; (ii) approve the Submission with specified conditions; (iii) approve part of the Submission and disapprove the remainder; or (iv) disapprove the Submission. For purposes of this paragraph, the term “approval” means that the Submission appears to be complete, as EPA may not have the technical expertise or familiarity with the equipment, Facility, or personnel necessary in order to judge the adequacy of the submission on its merits.
- b. If the Submission is approved, Respondent shall take all actions required by the Submission in accordance with the schedules or requirements therein. If the submission is conditionally approved or approved only in part, Respondent shall, upon written direction from EPA, take all actions required by the Submission that EPA determines are technically severable from any disapproved portions.

- c. If the Submission is disapproved in whole or in part, Respondent shall, within 30 days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the Submission, or disapproved portion thereof, for approval in accordance with the preceding subparagraphs. If the resubmission is approved in whole or in part, Respondent shall proceed in accordance with the preceding subparagraphs.
- d. Any stipulated penalties applicable to the original Submission, as provided in paragraph 22 of this CAFO, shall accrue during the 30-day period referenced in subparagraph 19.c above or other specified period but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original Submission was so deficient as to constitute a material breach of Respondent's obligations under this CAFO as determined by EPA, the stipulated penalties applicable to the original Submission shall be due and payable notwithstanding any subsequent resubmission.
- e. If a resubmission or portion thereof is disapproved in whole or in part, EPA may again require Respondent to correct any deficiencies, in accordance with the preceding subparagraphs, in addition to seeking stipulated penalties as provided in the preceding subparagraph.

20. Notifications.

- a. Submissions required by this CAFO shall be in writing and shall be mailed to the following addresses with a copy also sent by electronic mail, unless otherwise noted:

Leonard Wallace  
Environmental Scientist  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: OES05-1)  
Boston, Massachusetts 02109-3912  
Wallace.Len@epa.gov

and

Laura J. Berry  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: OES04-2)  
Boston, Massachusetts 02109-3912  
Berry.LauraJ@epa.gov

- b. EPA will send all written communications to the following representative(s) for Respondent:

A. Bruce Simpson  
Vice President of Operations  
Shield Packaging Company, Inc.  
50 Oxford Avenue  
Dudley, Massachusetts 01571  
abs6812@aol.com

and

Jerry Tolosko  
Roux Associates, Inc.  
12 Gill Street, Suite 4700  
Woburn, Massachusetts 01801  
jtolosko@rouxinc.com

21. All documents submitted to EPA in the course of implementing this CAFO shall be available to the public unless, pursuant to 40 C.F.R. Part 2 Subpart B, Respondent identifies any as confidential and EPA determines they merit treatment as confidential business information in accordance with applicable law.



22. Stipulated Penalties.

a. Respondent must pay the following stipulated penalties to the United States for violations of the compliance obligation requirements described in paragraphs 7, 10 - 16 and 18 above:

i. For failure to submit the written personnel training plan described in paragraph 7 above, in a manner consistent with the terms of this CAFO, or within the time required by this CAFO: \$375 per day for the first fifteen (15) days of such violation; \$750 per day for the sixteenth (16th) through thirtieth (30th) day of such violation, and \$1,125 per day for each day of such violation, thereafter;

ii. For failure to submit any of the certifications described in paragraphs 10 - 13 above, in a manner consistent with the terms of this CAFO, or within the time required by this CAFO: \$375 per day for the first fifteen (15) days of such violation; \$750 per day for the sixteenth (16th) through thirtieth (30th) day of such violation, and \$1,125 per day for each day of such violation, thereafter;

iii. For failure to submit the documentation described in paragraphs 15 - 16 above, in a manner consistent with the terms of this CAFO, or within the time required by this CAFO: \$750 per day for the first fifteen (15) days of such violation; \$1,500 per day for the sixteenth (16th) through

thirtieth (30th) day of such violation, and \$2,250 per day for each day of such violation, thereafter;

- iv. For failure to submit the documentation described in paragraph 18 above, in a manner consistent with the terms of this CAFO, or within the time required by this CAFO: \$375 per day for the first fifteen (15) days of such violation; \$750 per day for the sixteenth (16th) through thirtieth (30th) day of such violation, and \$1,125 per day for each day of such violation, thereafter.
- b. Penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the day of correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this CAFO. Penalties shall continue to accrue regardless of whether EPA has notified Respondent of a violation.
- c. All penalties owed to the United States under this paragraph shall be due and payable within thirty (30) days of Respondent's receipt from EPA of a written demand for payment of the penalties. Such a written demand will describe the violation and will indicate the amount of penalties due.
- d. EPA may, in its sole discretion, decide not to seek stipulated penalties or to waive any portion of the stipulated penalties that accrue pursuant to this CAFO.

- e. All penalties shall be made payable by certified or cashier's check to the United States of America and shall be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

- f. All such checks shall reference "*In the Matter of Shield Packaging, Inc., Consent Agreement and Final Order, EPA Region 1*" and Respondent's name and address. Copies of all such checks and letters forwarding the checks shall be sent simultaneously to the EPA contacts listed in paragraph 20.a herein.
- g. The payment of stipulated penalties in accordance with this paragraph shall in no way alter Respondent's obligation to comply with the terms and conditions of this CAFO.
- h. The stipulated penalties set forth in this section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the terms and conditions of this CAFO.
- i. No payments under this paragraph shall be tax deductible for federal, state, or local tax purposes.

23. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Section 113(e) of the CAA, 42 U.S.C. § 7413(e), Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), and taking into account relevant statutory penalty criteria, the facts alleged in the Complaint, and such other circumstances as justice may

require, EPA has determined that it is fair and proper to assess a civil penalty of four hundred eighty four thousand nine hundred dollars (\$484,900) for the violations alleged in this matter. The penalty shall be apportioned in the following manner: \$258,100 for the alleged RCRA violations, \$192,800 for the alleged CAA violations, \$14,000 for the alleged EPCRA violations, and \$20,000 for the alleged CWA violations.

24. Respondent shall pay the total penalty amount of \$484,900 for the violations of RCRA, CAA, EPCRA, and CWA set forth herein in installments according to the payment schedule identified in paragraph 25. Interest at a rate of three percent (3%) per annum shall be included in any and all payments made more than ten (10) days after the date this CAFO becomes final pursuant to paragraph 46 below, and shall accrue from ten (10) days after the date this CAFO becomes final until the date of payment.

25. Respondent shall pay the total penalty amount of \$484,900 plus interest according to the following schedule:

- a. payment of \$42,450 (\$20,000 for the alleged CWA violations and \$22,450 for the alleged RCRA, CAA, and EPCRA violations) shall be made within ten (10) calendar days of the date this CAFO becomes final;
- b. payment of \$45,768 (\$42,450 principal for the alleged RCRA, CAA, and EPCRA violations plus \$3,318 accrued interest) shall be made within one hundred (100) days of the date this CAFO becomes final; and
- c. payment of \$403,000 (\$400,000 principal for the alleged RCRA, CAA, and EPCRA violations plus \$3,000 accrued interest) shall be made within one hundred ninety (190) days of the date this CAFO becomes final.

26. Respondent may accelerate its payments described in the payment schedule in paragraph 25, and thereby reduce its interest payments. If Respondent chooses to accelerate its payments, Respondent will notify EPA in writing of the decision to do so in advance and inform EPA of a proposed date for each accelerated payment. Based on the date of each proposed accelerated payment, EPA will inform Respondent of the revised payment amount, including interest calculated as described in paragraph 24 above.

27. Respondent shall make each payment due under this CAFO as follows:

- a. Within ten (10) calendar days of the date this CAFO becomes final, Respondent shall pay a penalty of \$20,000 for the violations of Section 311(j) of the CWA, and shall make this payment by cashier's or certified check, payable to **"Treasurer, United States of America,"** referencing **the case name and CWA docket number** (In the matter of Shield Packaging Company, Inc., Docket No. CWA-01-2012-0104) and **"Oil Spill Liability Trust Fund – 311" on the face of the check.** The payment shall be mailed via regular U.S. Postal Service mail, to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

- b. Within ten (10) calendar days of the date this CAFO becomes final, Respondent shall pay a penalty of \$22,450 for the violations of RCRA, CAA, and EPCRA, and shall make this payment by cashier's or certified check, payable to **"Treasurer, United States of America,"** referencing **the case name and docket numbers of this action** (In the matter of

Shield Packaging Company, Inc., Docket Nos. RCRA-01-2012-0101,  
CAA-01-2012-0102, EPCRA-01-2012-0103, CWA-01-2012-0104) **on the**

**face of the check.** The payment shall be mailed via regular U.S. Postal

Service mail, to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

- c. Within one hundred (100) calendar days of the date this CAFO becomes final, Respondent shall pay a penalty of \$45,768 (\$42,450 principal plus \$3,318 accrued interest) for the violations of RCRA, CAA, and EPCRA, and shall make this payment by cashier's or certified check, **payable to "Treasurer, United States of America," referencing the case name and docket numbers of this action** (In the matter of Shield Packaging Company, Inc., Docket Nos. RCRA-01-2012-0101, CAA-01-2012-0102, EPCRA-01-2012-0103, CWA-01-2012-0104) **on the face of the check.**

The payment shall be mailed via regular U.S. Postal Service mail, to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

- d. Within one hundred ninety (190) calendar days of the date this CAFO becomes final, Respondent shall pay a penalty of \$403,000 (\$400,000 principal plus \$3,000 accrued interest) for the violations of RCRA, CAA, and EPCRA, and shall make this payment by cashier's or certified check,



**payable to “Treasurer, United States of America,” referencing the case name and docket numbers of this action (In the matter of Shield Packaging Company, Inc., Docket Nos. RCRA-01-2012-0101, CAA-01-2012-0102, EPCRA-01-2012-0103, CWA-01-2012-0104) on the face of the check.** The payment shall be mailed via regular U.S. Postal Service mail, to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

28. At the time of each payment, Respondent shall simultaneously send notice of the payment and copies of the checks to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: ORA 18-1)  
Boston, Massachusetts 02109-3912

and

Laura J. Berry  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: OES04-2)  
Boston, Massachusetts 02109-3912

29. If Respondent fails to make any payment required by paragraph 27 by the required due date, the total penalty amount of \$484,900, plus all accrued interest (less payments already made), shall become due immediately to the United States upon such failure. Then, interest as calculated under paragraphs 31, 32, and 33 shall continue to accrue on any unpaid amounts until the total amount due has been received by the United States. Respondent shall be

liable for such amount regardless of whether EPA has notified Respondent of its failure to pay or made a demand for payment. All payments to the United States under this paragraph shall be made by cashier's or certified check as described in paragraph 27.

30. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim.

31. In the event that any portion of the civil penalty amount relating to the alleged RCRA or EPCRA violations (which shall be deemed to be 59 percent of any payment due under paragraphs 27(b), 27(c), and 27(d), above) is not paid when due, the penalty shall be payable, plus accrued interest<sup>1</sup>, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

32. In the event that any portion of the civil penalty amount relating to the alleged CAA violations (which shall be deemed to be 41 percent of any payment due under paragraphs 27(b), 27(c), and 27(d), above) is not paid when due without demand, pursuant to Section

---

<sup>1</sup> If Respondent misses a penalty installment payment, the entire penalty becomes accelerated and due, in accordance with paragraph 29. Thus, the interest rates referred to in this paragraph and the next two paragraphs (*i.e.*, paragraphs 31-33) are not the interest rates used to calculate the installment payments, but rather the interest rates that will apply if Respondent fails to pay the entire accelerated penalty.

113(d)(5) of the CAA, Respondent will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid when due. In that event, interest will accrue from the due date at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorney’s fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent’s outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

33. In the event that any portion of the civil penalty amount relating to the alleged CWA violations (which shall be deemed to be 100 percent of the payment due under paragraph 27(a) above) is not paid when due without demand, pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), Respondent will be subject to a civil action to collect the assessed penalty, plus interest at current prevailing rates, from the date this CAFO becomes final. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(d), promulgated under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay in addition to such amount and interest, attorney’s fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person’s penalties and nonpayment penalties

which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

34. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

35. This CAFO constitutes a final settlement by EPA of all claims for civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), for the violations alleged in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law.

36. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

37. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of

Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO are based, or for Respondent's violation of any applicable provision of law.

38. Consistent with paragraph 35, this CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

39. The provisions of this CAFO shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors and assigns.

40. The terms and conditions of this CAFO may not be modified or amended except by the written agreement of both Parties and approval by a Regional Judicial Officer, except that a Regional Judicial Officer need not approve written agreements modifying the compliance schedule described in paragraphs 7, 10 - 16 and 18.

41. If any provision or authority of this CAFO or the application of this CAFO to any Party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

42. The Parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other Party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

43. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the Party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that Party to it.

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

Susan Studlien  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1

Date: 04/03/13

FOR RESPONDENT SHIELD PACKAGING COMPANY, INC.

A. Bruce Simpson  
A. Bruce Simpson, Vice President of Operations  
Shield Packaging Company, Inc.

Date: April 1/13



**FINAL ORDER**

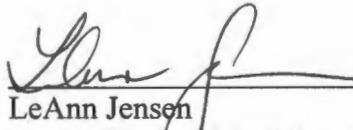
44. EPA has provided a thirty (30) day opportunity for public notice and comment on the CWA terms and conditions of this CAFO, pursuant to Section 311(b)(6)(C)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(C)(i), and 40 C.F.R. § 22.45(b), and has not received any public comments.

45. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), and the delegated authority of the undersigned, and in accordance with 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.

46. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will become final thirty (30) days from the date it is signed by the Regional Judicial Officer.

Date:

Apr. 13, 2013



\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 1

**ATTACHMENT A**  
**SUMMARY OF DEADLINES CONTAINED IN CAFO**

Requirement	CAFO Provision	Responsible Party	Deadline
Penalty payment 1 (\$20,000) <sup>1</sup> and notice of same	Paragraphs 27.a, 28	Respondent	Within ten (10) calendar days of the date this CAFO becomes final <sup>2</sup>
Penalty payment 2 (\$22,450) and notice of same	Paragraphs 27.b, 28	Respondent	Within ten (10) calendar days of the date this CAFO becomes final
Penalty payment 3 (\$45,768) and notice of same	Paragraphs 27.c, 28	Respondent	Within one hundred (100) calendar days of the date this CAFO becomes final
Penalty payment 4 (\$403,000) and notice of same	Paragraphs 27.d, 28	Respondent	Within one hundred ninety (190) calendar days of the date this CAFO becomes final
Stipulated penalty payments, if any, and notice of same	Paragraph 22.c	Respondent	Within thirty days of receipt from EPA of a written demand for payment of stipulated penalties

<sup>1</sup> Note that while all payments require specific language to be included on the face of the check (see CAFO paragraph 27), the payment referenced in paragraph 27.a requires additional specific language that is not required for other payments (see CAFO paragraph 27.a).

<sup>2</sup> In accordance with paragraph 46 of the CAFO, the CAFO will become final thirty (30) days from the date it is signed by the Regional Judicial Officer.

Requirement	CAFO Provision	Responsible Party	Deadline
Submit updated SPCC plan for the Facility and a copy of the CommTank Outcome Report for aboveground oil storage tanks at the Facility	Paragraph 18	Respondent	April 30, 2013
Submit written personnel training plan designed to ensure compliance with hazardous waste training requirements	Paragraph 7	Respondent	April 30, 2013
Certify via email that updated process safety information for all covered RMP processes has been prepared	Paragraph 10	Respondent	April 30, 2013
Certify via email that updated process hazards analyses for all covered RMP processes have been completed	Paragraph 11	Respondent	May 31, 2013
Certify via email that updated written operating procedures for all covered RMP processes have been prepared	Paragraph 12	Respondent	June 14, 2013

Requirement	CAFO Provision	Responsible Party	Deadline
Certify via email that an updated mechanical integrity program has been established and implemented	Paragraph 13	Respondent	July 1, 2013
Properly train all employees involved in operating a covered process at the Facility	Paragraph 14	Respondent	July 31, 2013
Prepare and submit via the RMP*eSubmit system an updated RMP for all covered processes at the Facility	Paragraph 15	Respondent	July 31, 2013
Submit to EPA specified documentation relating to the RMP update work	Paragraph 16	Respondent	July 31, 2013