



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

DEC 29 2008

REPLY TO THE ATTENTION OF:

LR-8J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Thomas R. O'Donnel  
Calfee, Halter & Griswold LLP  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, Ohio 44114-2688

Re: Consent Agreement and Final Order  
Cleveland Steel Container Corporation.  
U.S. EPA ID: IL0000245381  
Docket No: **RCRA-05-2008-0003**

Dear Mr. O'Donnel:

Please find enclosed a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on December 29, 2008 with the Regional Hearing Clerk (RHC). The agreement contains the terms previously discussed to resolve this matter.

Please pay the civil penalty in the amount of \$45,000 in the manner prescribed in paragraph 67 of the CAFO, and reference all checks with the number BD 2750942R001 and docket number RCRA-05-2008-. Also, enclosed is a *Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings*.

Thank you for your cooperation in resolving this matter.

Sincerely,

Willie H. Harris, P.E.  
Chief, RCRA Branch  
Land and Chemicals Division

Enclosure

## **NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF: )  
)  
**Cleveland Steel Container Corporation** )  
**117 East Lincoln Street** )  
**Peotone, Illinois 60468** )  
)  
U.S. EPA ID #: IL0000245381 )  
)  
Respondent: )  
\_\_\_\_\_ )

DOCKET NO. **RCRA-05-2009-0003**

**Consent Agreement and  
Final Order**

**RECEIVED**  
DEC 29 2008

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

**CONSENT AGREEMENT AND FINAL ORDER**

The United States Environmental Protection Agency (“U.S. EPA” or “Complainant”) and Cleveland Steel Container Corporation, 117 East Lincoln, Peotone, Illinois, 60468, (“Cleveland Steel” or “Respondent”) have agreed to a settlement of this action before filing of a complaint and, thus, this action is simultaneously commenced and concluded pursuant to Sections 22.13(b), and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”) by the filing of this Consent Agreement and Final Order (“CAFO”). 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3).

**I. Preliminary Statement and Jurisdiction**

1. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act of 1976, as amended (“RCRA”), 42 U.S.C. § 6928(a). RCRA was amended in 1984 by the Hazardous and Solid Waste Amendments of 1984 (“HSWA”). This action is also instituted pursuant to

Sections 22.01(a)(4), 22.13(b), 22.18(b)(2) and (3), and 22.37 of the Consolidated Rules. 40 C.F.R. §§ 22.01(a)(4), 22.13(b), 22.18(b)(2) and (3), and 22.37.

2. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

3. The Complainant is, by lawful delegation, the Director, Land and Chemicals Division, Region 5, U.S. EPA.

4. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste.

5. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or of any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986). The Administrator of U.S. EPA granted Illinois final authorization to administer certain HSWA and additional RCRA requirements effective March 5,

1988, 53 Fed. Reg. 126 (January 5, 1988); April 30, 1990, 55 Fed. Reg. 7320 (March 1, 1990); June 3, 1991, 56 Fed. Reg. 13595 (April 3, 1991); August 15, 1994, 59 Fed. Reg. 30525 (June 14, 1994); May 14, 1996, 61 Fed. Reg. 10684 (March 15, 1996); and October 4, 1996, 61 Fed. Reg. 40520 (August 5, 1996). The U.S. EPA-authorized Illinois regulations are codified at 35 Illinois Administrative Code (IAC) Part 703 *et seq.* See also 40 CFR §§ 272.700 *et seq.*

7. U.S. EPA has provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

## **II. General Allegations**

8. The Respondent is Cleveland Steel, which is and was at all times relevant to this CAFO a corporation incorporated under the laws of the State of Ohio that is and was qualified to do business in the State of Illinois.

9. Respondent is a manufacturing entity that owns and is responsible for the overall operation of a facility at 117 West Lincoln Street in Peotone, Illinois (the Facility).

10. Respondent is a "person" as defined by 35 IAC § 720.110 [40 CFR § 260.10] and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

11. At the Facility, Respondent manufactures 2.5 to 6 gallon steel pail containers.

12. At the Facility, Respondent generates, among other things, liquid waste paint from the painting of the steel pail containers and rags saturated with solvents generated from the facility cleaning operations.

13. At all times relevant to this CAFO, Respondent's wastes are a waste and a solid waste as defined by 35 IAC § 721.102 [40 CFR § 261.2].

14. Solid waste which exhibits the characteristic of ignitability as defined in 35 IAC § 721.121 [40 CFR § 261.21] is a hazardous waste and is assigned the hazardous waste code number D001.

15. Liquid waste paint and rags saturated with solvents exhibit the characteristic of ignitability and at all times relevant to this CAFO, Respondent identified its liquid waste paint and rags saturated with solvents as hazardous waste code number D001.

16. At all times relevant to this CAFO, Respondent's liquid waste paint and rags saturated with solvents are hazardous wastes as defined in 35 IAC § 720.110 [40 CFR § 260.10] and 35 IAC § 721.103 [40 CFR § 261.3].

17. The 55-gallon drums used to contain liquid waste paint and rags saturated with solvents at the Facility are "containers" within the definition of 35 IAC § 720.110 [40 CFR § 260.10].

18. Respondent accumulates D001 characteristic hazardous waste in containers at the Facility.

19. On or about April 28, 1994, Respondent notified U.S. EPA of its hazardous waste activities at the facility pursuant to Section 3010 of RCRA, 42 U.S.C. 6930.

20. In its April 28, 1994, Hazardous Waste Notification, Respondent identified itself as a generator of hazardous waste.

21. Respondent is a "generator" as that term is defined under 35 IAC § 720.110 [40 CFR § 260.10].

22. According to its biennial reports and hazardous waste manifests, Respondent generates in excess of 1000 kg of hazardous waste per month at the Facility.

23. Storage is defined in 42 USC §6903(33) and in promulgated regulations 35 IAC § 720.110 [40 CFR § 260.10] as “the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or treated elsewhere.”
24. Respondent’s holding of liquid waste paint and rags saturated with solvents in containers constitutes storage of hazardous waste at the Facility.
25. Pursuant to 35 IAC § 720.110 [40 CFR § 260.10] “facility” means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
26. Pursuant to 35 IAC § 720.110 [40 CFR § 260.10] “owner” means the person who owns a facility or part of a facility.
27. Pursuant to 35 IAC § 720.110 [40 CFR § 260.10] “operator” means the person responsible for the overall operation of a facility.
28. Respondent is the operator of a facility located at 117 East Lincoln Street in Peotone, Illinois.
29. Respondent is the owner of a facility located at 117 East Lincoln Street in Peotone, Illinois.
30. At all times relevant to this CAFO, Respondent had not obtained a RCRA permit to treat, store, or dispose of hazardous waste at its Facility as a result of its practices of holding hazardous waste for only a temporary period.
31. On December 20, 2006, a U.S. EPA inspector conducted an inspection of the Facility with Respondent’s consent.

32. On March 23, 2007, U.S. EPA issued Respondent a Notice of Violation (NOV) identifying several violations of RCRA requirements.

33. On December 20, 2007, U.S. EPA issued Respondent a Pre-filing Notice and Opportunity to Confer regarding the violations identified in the March 23, 2007, U.S. EPA NOV.

34. On February 27, 2008, March 12, 2008, May 21, 2008, and June 10, 2008, Respondent held conference telephone calls with representatives of U.S. EPA to discuss the violations.

### **III Specific Allegations**

#### **Count One - Storage of Hazardous Waste**

35. Paragraphs 1 through 33 of this CAFO are hereby incorporated by reference as if set forth in full.

36. A RCRA Permit Exempt Status facility may store hazardous waste at its facility for ninety (90) days or less. 35 IAC § 722.134(a) and (b) [40 C.F.R. § 262.34(a) and (b)].

37. Respondent stored approximately 26-55 gallon containers of hazardous waste at its facility for an average of 126 days, beginning in August of 2006, and continuing to the middle of September of 2006.

38. Respondent failed to comply with the RCRA Permit Exemption condition of 35 IAC § 722.134(a) and (b) [40 C.F.R. § 262.34(a) and (b)].

39. Respondent stored hazardous waste at its facility without a RCRA Permit, or RCRA Interim Status, or RCRA Permit Exempt Status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and the regulations at 35 IAC § 703.121 [40 C.F.R. § 270.1].



## **Count Two - Failure to Manage Container**

40. Paragraphs 1 through 33 of this CAFO are hereby incorporated by reference as if set forth in full.

41. A RCRA Permit Exempt Status facility may accumulate hazardous waste on-site for 90 days or less without a hazardous waste storage permit if the conditions of 35 IAC § 722.134 [40 CFR § 262.34] are met.

42. If the conditions of IAC § 722.134 [40 CFR § 262.34] are not met, then the facility must apply for a hazardous waste storage permit under 35 IAC § 703.180 [40 CFR Part 270].

43. 35 IAC § 722.134(a)(3) [40 CFR § 262.34(a)(3)] requires a facility, that accumulates hazardous waste on site without obtaining a permit or interim status for hazardous waste storage, to label or mark each container or tank of hazardous waste with the words, "Hazardous Waste."

44. At the time of the December 20, 2006, inspection, two 5-gallon containers located inside the lithograph press room and one 55-gallon container located just outside the lithograph press room contained waste (U.S. EPA Hazardous Waste Number D001) and were not marked with the words, "Hazardous Waste" as required by 35 IAC § 722.134(a)(3) [40 CFR § 262.34(a)(3)].

45. Respondent failed to comply with the hazardous waste permit exemption conditions of 35 IAC § 722.134(a)(3) [40 CFR § 262.34(a)(3)] by not labeling or marking each container clearly with the words, "Hazardous Waste" as alleged in Paragraph 44, above.

46. 35 IAC § 722.134(a)(2) [40 CFR § 262.34(a)(2)] requires a facility, that accumulated hazardous waste on site without obtaining a permit or interim status for hazardous waste storage,

to mark each container with, and make visible for inspection, the date upon which each period of accumulation begins.

47. At the time of the December 20, 2006, inspection, three 55-gallon drums located in the less than 90-day hazardous waste storage area contained liquid paint waste (U.S. EPA Hazardous Waste Number D001) and were not labeled with the date upon which accumulation of hazardous waste begun as required by 35 IAC § 722.134(a)(2) [40 CFR § 262.34(a)(2)].

48. Respondent failed to comply with the conditions of 35 IAC § 722.134(a)(2) [40 CFR § 262.34(a)(2)] by not labeling and making visible for inspection the date upon which each period of accumulation began.

49. Respondent has not met the conditions for an exemption from the requirement for a hazardous waste storage permit found in 35 IAC § 722.134 [40 CFR § 262.34].

50. At all times relevant to this CAFO, Respondent had not applied for or obtained a RCRA permit to treat, store, or dispose of hazardous waste at its Facility.

51. Respondent is not exempt from the requirement for a hazardous waste storage permit and has failed to submit an application for a hazardous waste permit.

52. Respondent is in violation of 35 IAC § 703.180 [40 CFR § 270] and is subject to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

### **Count Three - Failure to Update the Contingency Plan**

53. Paragraphs 1 through 33 of this Complaint are hereby incorporated by reference as if set forth in full.

54. A RCRA Permit Exempt Status facility must have a contingency plan with an up-to-date list of names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinators. 35 IAC § 722.134 (a)(4) [40 CFR § 262.34(a)(4)] requires that Cleveland Steel comply with Subpart D of 35 IAC 725, § 725.152(d) [40 CFR Part 265, Subpart D, § 265.52(d)].

55. At the time of the inspection, Respondent's contingency plan did not have: an up-to-date primary emergency coordinator name list; and the home addresses of the primary and alternate emergency coordinators listed in the contingency plan.

56. Respondent failed to comply with the RCRA permit Exemption of 35 IAC § 722.134 (a)(4) [40 CFR § 262.34(a)(4)].

57. Respondent stored hazardous waste at its facility without a RCRA Permit, or RCRA Interim Status, or RCRA Permit Exempt Status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. 6925(a) and (e), and the regulations at 35 IAC § 725.152(d) [40 CFR § 265.52(d)].

#### **IV. TERMS OF SETTLEMENT**

58. Complainant and the Respondent agree that the settlement of this matter pursuant to 22.13(b) of the Consolidated Rules, 40 C.F.R. § 22.13(b), is in the public interest and that the entry of this CAFO without engaging in litigation is the most appropriate means of resolving this matter.

59. Respondent admits the jurisdictional allegations set forth in this CAFO.
60. Respondent neither admits nor denies the factual allegations set forth in this CAFO.
61. Respondent consents to the issuance of this CAFO and the assessment of the civil penalty as outlined in Section III of this CAFO.

62. Respondent has demonstrated and certifies that it is now in compliance with the requirements that formed the basis of the allegations in Section III of this CAFO. Respondent has submitted information to U.S. EPA showing that it has taken the following steps. Respondent hereby verifies that it: a.) removed the 26 55-gallon drums of hazardous waste; b.) labeled its containers with accumulation dates; c.) labeled its containers with the words "Hazardous Waste"; and a description that clearly identifies their contents to employees and emergency personnel; and d) updated its Contingency Plan to include the up-to-date names, addresses, and office and home telephone number of all person qualified to act as emergency coordinator.

63. Respondent consents to the issuance of this CAFO and payment of a civil penalty, as set forth below.

#### **V. CIVIL PENALTY**

64. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty

Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$27,500 per day for each violation of Subtitle C of RCRA occurring between January 30, 1997 and March 15, 2004 and \$32,500 per day for each violation of Subtitle C of RCRA occurring on or after March 16, 2004.

65. Complainant determined the proposed civil penalty according to RCRA Section 3008, 42 U.S.C. § 6928. In assessing a civil penalty, the Administrator of U.S. EPA must consider “the seriousness of the violation and any good faith efforts to comply with applicable requirements.” Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). Complainant has considered the facts and circumstances of this case with specific reference to U.S. EPA’s 2003 RCRA Civil Penalty Policy. This policy provides a consistent method of applying the statutory penalty factors to this case.

66. Based on an analysis of the applicable statutory penalty factors, as well as the penalty policy, and based on the foregoing, the nature and seriousness of the violations alleged in Counts One through Three of this CAFO, the potential harm to human health and the environment, Respondent’s willfulness/negligence or lack thereof, Respondent’s compliance history, the ability of Respondent to pay penalties, information exchanged by the parties, consideration of the steps Respondent has taken and has agreed to take to achieve and maintain compliance, Respondent’s good faith efforts to comply, and other relevant factors, U.S. EPA has determined that an appropriate civil penalty to settle Counts One through Three of this CAFO is **\$45,000**, and the parties have agreed to a civil penalty in that amount, to be paid as

specified below. Complainant accordingly has assessed a civil penalty against Respondent in the amount of **\$45,000**.

67. Within 30 days following the effective date of this CAFO, Respondent shall pay a civil penalty in the amount of \$45,000. Payment shall be made by certified or cashier's check, payable to "Treasurer, the United States of America," and remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
P.O. Box 979077  
St. Louis, MO 63197-9000

The check shall reference the name of the Respondent and the Docket Number of this CAFO.

Interest and late charges shall be paid as specified below.

68. Upon payment of the civil penalty, Respondent shall send to each of the persons listed below a copy of the check and a transmittal letter referencing the name of Respondent and the docket number of this CAFO:

Regional Hearing Clerk  
U.S. EPA Region 5  
77 West Jackson Blvd. (E-13J)  
Chicago, Illinois 60604-3590

Jose C. de Leon  
Office of Regional Counsel (C-14J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

and

Spiros Bourgikos  
Land and Chemicals Division (LR-8J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard

Chicago, Illinois 60604-3590

69. Pursuant to 31 U.S.C. § 3717, Respondent shall pay the following amounts on any amount overdue under this CAFO:

(a) **Interest.** Any unpaid portion of a civil penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

(b) **Monthly Handling Charge.** Respondent shall pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar day period over which an unpaid balance remains.

(c) **Non-Payment Penalty.** On any portion of a civil penalty more than 90 calendar days past due, Respondent shall pay a non-payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b) above.

The penalty specified in this CAFO shall represent a civil penalty assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.

## **VI. GENERAL TERMS OF SETTLEMENT**

70. Respondent consents to all of the conditions in this CAFO.

71. This CAFO constitutes the entire agreement and settlement between the parties.

72. Respondent waives any right to contest or appeal the allegations contained in this CAFO and any right to appeal the CAFO.

73. If Respondent fails to comply with any provision contained in this CAFO, Respondent

waives any rights it may possess in law or equity to challenge the authority of U.S. EPA to bring a civil action in the appropriate United States District Court to compel compliance with this CAFO.

74. This CAFO constitutes a full and final settlement by U.S. EPA of all claims for civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged herein.

75. Nothing in this CAFO shall be construed to relieve the Respondent from its obligation to comply with all applicable federal, state and local statutes and regulations, including the Subtitle C requirements at 40 C.F.R. Parts 260 through 270.

76. Notwithstanding any other provision of this CAFO, nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law, other than the specific matters resolved herein.

77. Notwithstanding any other provision of this CAFO, U.S. EPA may bring an enforcement action pursuant to Section 7003 of RCRA, or other statutory authority, if any handling, storage, treatment, transportation or disposal of solid or hazardous waste may present an imminent and substantial endangerment to human health or the environment. U.S. EPA also expressly reserves the right: (a) for any matters other than violations alleged in the Complaint, to take any action authorized under Section 3008 of RCRA; (b) to enforce



compliance with the applicable provisions of the Illinois administrative code; and, (c) to enforce compliance with this CAFO, including through a referral to the Department of Justice.

78. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CAFO.

79. Respondent shall submit all reports, submissions, and notifications required by this Order to:

Spiros Bourgikos  
RCRA Branch  
Land and Chemicals Division,  
U.S. EPA  
77 West Jackson Boulevard (LR-8J)  
Chicago, Illinois 60604-3590.

80. The undersigned representative of each Party to this CAFO certifies that he or she is duly authorized by the Party whom he or she represents to enter into the terms and bind that Party to them.

81. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with, or to be served with and reply to, any memorandum or communication addressed to the Director, Land and Chemicals Division, or his superiors, where the purpose of such discussion, memorandum or communication is to persuade such an official to accept and issue the CAFO.

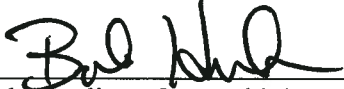
82. Respondent and U.S. EPA agree to the issuance and entry of the accompanying Final Order.

83. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk,

Region 5.


84. This CAFO shall terminate upon payment by Respondent of the civil penalty as required under Section V of this CAFO.

Agreed to this 18 day of NOV, 2008.

  
\_\_\_\_\_  
Bob Harding, General Manager  
Cleveland Steel Container Corporation  
117 East Lincoln Street  
Peotone, Illinois 60468

**RECEIVED**  
DEC 29 2008  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

Agreed to this 18<sup>th</sup> day of Dec, 2008.

  
\_\_\_\_\_  
Margaret Guerriero, Director  
Land and Chemicals Division

**IN THE MATTER OF:  
Cleveland Steel Container Corporation  
117 East Lincoln Street  
Peotone, Illinois 60468**

**RECEIVED**  
DEC 29 2008

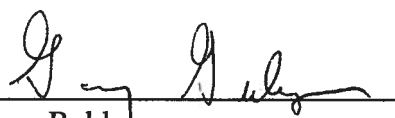
**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

**Docket No.: RCRA-05-2009-0003**

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this FINAL ORDER. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement, effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

Ordered this 23<sup>d</sup> day of December, 2008

By:   
Lynn Buhl  
Regional Administrator

**CASE NAME: Cleveland Steel Container Corporation**  
**DOCKET NO: RCRA-05-2009-0003**

**CERTIFICATE OF SERVICE**

I hereby certify that today I filed the original of this **Consent Agreement and Final Order (CAFO)** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

**RECEIVED**  
DEC 29 2008  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

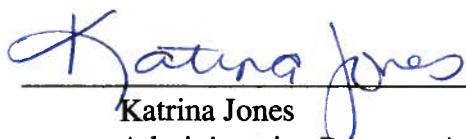
Thomas R. O'Donnel  
Calfee, Halter & Griswold, LLP  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, Ohio 44114-2688

Return Receipt # 7001 0320 0006 1448 7241

And Via 1<sup>st</sup> Class Mail

Todd Marvel  
Hazardous Waste Compliance/Enforcement  
Illinois Environmental Protection Agency  
Post Office Box 19276  
Springfield, Illinois 62702-3998

Dated: 12/29/08

  
\_\_\_\_\_  
Katrina Jones

Administrative Program Assistant  
United States Environmental Protection Agency  
Land and Chemicals Division -RCRA Branch  
77 W. Jackson Boulevard  
Chicago, IL 60604-3590  
(312) 353-5882