



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

MAR 10 2010

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas W. Daggett
Daggett Law Firm
Chicago Title Tower, Suite 4590
161 North Clark Street
Chicago, Illinois 60604

Re: Consent Agreement and Final Order
Metal Impact Corporation
1501 Oakton Street
Elk Grove Village, Illinois 60007
EPA I.D. No.: ILR 000 026 328
Docket No.: RCRA-05-2010-~~6009~~ **RCRA-05-2010-0009**

Dear Mr. Daggett:

Enclosed, please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original CAFO was filed on MAR 10 2010 with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$5,000 in the manner prescribed in paragraph 80 of the CAFO, and reference payment with the number BD 2751042R009 and Docket Number RCRA-05-2010-0009. Also enclosed is a *Notice of Securities and Exchange Commission registrant's Duty to Disclose Environmental Legal Proceedings*. Your payment is due within 30 calendar days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

Sincerely,

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

Enclosures (2)

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 Office of Chief Counsel in the SEC's Division of Corporation Finance. The phone number is (202) 942-2900.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

| | | |
|--|---|--|
| In the Matter of: |) | Docket No. RCRA-05-2010-0009 |
| |) | |
| Metal Impact Corporation |) | |
| 1501 Oakton Street |) | Proceeding to Commence and Conclude |
| Elk Grove Village, Illinois 60007 |) | an Action to Assess a Civil Penalty |
| |) | Under Section 3008(a) of the Resource |
| |) | Conservation and Recovery Act, |
| Respondent. |) | 42 U.S.C. § 6928(a) |
| <hr/> | | |

RECEIVED
MAR 10 2010

Consent Agreement and Final Order

Preliminary Statement

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

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA 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).

4. Respondent is Metal Impact Corporation, a corporation doing business in the State of Illinois.

5. Where the parties agree to settle one or more causes of action before the filing of a

complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction, Waiver of Right to Hearing and Certification

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006(b) and 3008 of RCRA, 42 U.S.C. §§ 6926(b) and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. §§ 260.1 – 279.82.

Statutory and Regulatory Background

12. 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 and used oil, pursuant to Sections 3002, 3003, 3004, and 3006 of RCRA, 42 U.S.C. §§ 6922, 6923, 6924 and 6926.

13. 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 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.

14. 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).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. 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 \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009.

General Allegations

16. Respondent was and is a "person" as defined by 35 IAC § 720.110, 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. On July 30, 2007, U.S. EPA conducted an inspection of the facility located at 1501 Oakton Street, Elk Grove Village, Illinois, 60007 (the Facility).

18. The Facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

19. Respondent manufactures tools, special dies and fixtures at the Facility.

20. At all times relevant to this CAFO, Respondent created solid wastes including used oil.

21. Respondent's processes at the facility produce several hazardous wastes identified or listed in 35 IAC §§ 721.120 - 721.131 or cause a hazardous waste to become subject to regulation under 35 IAC Parts 720-729 [40 C.F.R. Parts 260-270].

22. Respondent is a "generator," as that term is defined in 35 IAC § 720.110 [40 C.F.R. § 260.10].

23. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Illinois regulations as part of the applicable state hazardous waste management program for the state of Illinois, or both.

24. Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste each calendar month in the year 2007 prior to the inspection, and was a large quantity generator.

Count 1 – Storage of Hazardous Waste Without a Permit

25. Complainant incorporates paragraphs 1 through 24 of this Complaint as though set forth in this paragraph.

26. Except as otherwise provided, a large quantity generator may, for 90 days or less, accumulate and/or conduct treatment of hazardous waste that is generated on-site without an Illinois hazardous waste permit, provided that the conditions of 35 IAC § 722.134 [40 C.F.R. § 262.34] are met.

27. If the conditions of 35 IAC § 722.134 [40 C.F.R. § 262.34] are not met, then the generator must apply for an operating permit under 35 IAC § 703.180 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

28. Under 35 IAC § 722.134 [40 C.F.R. § 262.34], a generator of hazardous waste must ensure that the date, upon which each period of accumulation begins is clearly marked and visible for inspection on each container of hazardous waste and while being accumulated on-site, each container of hazardous waste must be labeled or marked clearly with the words “Hazardous Waste.”

29. During the July 30, 2007 inspection, the U.S. EPA inspector observed that Respondent had not marked at least six containers of hazardous waste with the words “Hazardous Waste” or with other words that identify the contents of the containers.

30. During the July 30, 2007 inspection, the U.S. EPA inspector observed that Respondent had not dated at least six containers of hazardous waste.

31. During the July 30, 2007 inspection, the U.S. EPA inspector observed that Respondent had not marked one satellite accumulation container of hazardous waste in the Hazardous Waste Storage Area with the words, “Hazardous Waste” or with other words identifying the contents of the containers.

32. On July 31, 2007, Respondent shipped 13 drums of hazardous waste, including corrosive solids and liquids containing sulfuric acids, sodium hydroxide solution, corrosive solids containing potassium hydroxide and hazardous waste containing the solvent, perchloroethylene.

33. The unmarked and unlabeled drums observed by the U.S. EPA inspector on July 30, 2007 were shipped out on July 31, 2007 as hazardous waste.

34. As set forth above, Respondent did not meet the conditions of 35 IAC § 722.134 [40 C.F.R. § 262.34] necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste; therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the regulations found at 35 IAC § 703.180 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

**Count 2 – Failing to Comply with Facility Requirements for
Preparedness and Prevention**

35. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.

36. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must comply with the preparedness and prevention standards for treatment, storage, and disposal facilities in Illinois set forth in 35 IAC §724 Subpart C [40 C.F.R. Part 264, Subpart C].

37. 35 IAC §724.135 [40 CFR 264.35] requires that an owner or operator of a hazardous waste facility maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

38. 35 IAC § 724.131 [40 CFR § 264.31] requires that an owner or operator of a hazardous waste facility maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

39. During the July 30, 2007 inspection, the U.S. EPA inspector observed that Respondent had stored containers without any aisle space in the Hazardous Waste Storage Area of the Facility where caustics and acids are stored (Hazardous Waste Storage Area) which would obstruct the free movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

40. During the July 30, 2007 inspection, the U.S. EPA inspector observed that Respondent had accumulated uncontained hazardous waste with a black sludge appearance on the top of three containers in the Hazardous Waste Storage Area.

41. During the July 30, 2007 inspection, the U.S. EPA inspector observed that Respondent had allowed waste with the same black sludge appearance as what was on top of the three containers to also accumulate on the floor of the Hazardous Waste Storage Area adjacent to an exit door leading outdoors.

42. During the July 30, 2007 inspection, the U.S. EPA inspector observed shoe prints tracked in the black sludge waste on the floor of the Hazardous Waste Storage Area adjacent to the exit door where the black sludge waste could be tracked outdoors allowing it to be released into the environment.

43. Respondent reported to U.S. EPA in its response to the Notice of Violation and the EPA Information Request that the black sludge waste the U.S. EPA Inspector had observed accumulated uncontained on top of the three containers in the hazardous waste storage room was Sodium Hydroxide Sludge which is a characteristic hazardous waste for corrosivity.

44. Respondent reported to U.S. EPA that it cleaned the floors of the Hazardous Waste Storage area and chemical storage rooms on December 16, 2007 and that the cleaning solution was disposed of as hazardous waste.

45. Respondent's failure to ensure that aisle space was maintained in the Hazardous Waste Storage Area to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency constitutes a violation of 35 IAC § 724.135 [40 CFR § 264.35].

46. By allowing hazardous waste to accumulate on top of containers and to remain on the floor of the Hazardous Waste Storage Area, Respondent failed to maintain the Facility's Hazardous Waste Storage area, so as to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health and environment in violation of 35 IAC § 724.131 [40 CFR §264.31].

47. Respondent's violation of 35 IAC § 724.131 [40 CFR § 264.31] and 35 IAC § 724.135 [40 CFR § 264.35] subjects Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 3 – Failing to Comply with General Facility Standards

48. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.

49. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must meet the general facility standards for treatment, storage, and disposal facilities in Illinois set forth in 35 IAC §724 Subpart B [40 C.F.R. Part 264, Subpart B].

50. 35 IAC § 724.116(a)-(e) [40 CFR § 264.16(a)(1)-(3),(b),(c),(d)(1)-(4) and (e)] require that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's

compliance with applicable storage facility performance standards and that they review such training annually.

51. 35 IAC §§ 724.115, 724.174 [40 CFR §§ 264.15, 264.174] require that the owner or operator of a hazardous waste facility must at a minimum inspect areas where hazardous waste containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

52. During the July 30, 2007 inspection, the U.S. EPA inspector noted that Respondent had not been inspecting areas of hazardous waste containers, at least weekly.

53. During the July 30, 2007 inspection, the U.S. EPA inspector noted that Respondent identified two alternate emergency coordinators, Tom O'Leary, Vice President of Manufacturing, and Tom Ostrom, President and Chief Executive Officer, in the Facility's hazardous waste contingency plan.

54. During the July 30, 2007 inspection, the U.S. EPA inspector noted that Respondent had not ensured that the Facility's alternate emergency coordinators Mr. O'Leary and Mr. Ostrom had completed a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the Facility's compliance with applicable storage facility performance standards and that they review such training annually.

55. Respondent's failure to ensure that the alternate emergency coordinators had completed a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the Facility's compliance with applicable storage facility performance standards and that they review such training annually constitutes a violation of 35 IAC § 724.116(a)-(e) [40 CFR § 264.16(a)(1)-(3),(b),(c),(d)(1)-(4) and (e)].

56. Respondent's failure to inspect areas where containers were stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors, constitutes a violation of 35 IAC § 724.274 [40 CFR § 264.174].

57. Respondent's violations of the general facility standards set forth in 35 IAC § 724.116(a)-(e) [40 CFR § 264.16(a)(1)-(3),(b),(c),(d)(1)-(4) and (e)] and 35 IAC §§ 724.115, 724.174; [40 CFR §§ 264.15, 264.174] subjects Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 4 - Land Disposal Determination

58. Complainant incorporates paragraphs 1 through 33 of this complaint as though set forth in this paragraph.

59. 35 IAC §§ 722.111(c) and 728.107 [40 CFR §§ 262.11 (c) and 268.7] require that generators determine whether all their wastes were hazardous wastes for purposes of compliance with the land disposal restrictions.

60. At the time of the July 30, 2007 inspection, the U.S. EPA inspector determined that Respondent failed to determine whether the hazardous wastes shipped offsite in three manifests in 2006 and one manifest in 2007 were in compliance with the land disposal restrictions in violation of 35 IAC §§ 722.111(c) and 728.107 [40 CFR §§ 262.11 (c) and 268.7].

61. Respondent's failure to determine whether all their wastes were hazardous wastes for purposes of compliance with the land disposal restrictions constitutes a violation of 35 IAC §§ 722.111(c) and 728.107 [40 CFR §§ 262.11 (c) and 268.7].

62. The Respondent's violation of 35 IAC §§ 722.111(c) and 728.107 [40 CFR §§ 262.11 (c) and 268.7] subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 5 - Failure to Comply with Manifest Recordkeeping and Reporting

63. Complainant incorporates paragraphs 1 through 33 of this complaint as though set forth in this paragraph.

64. At the time of the July 30, 2007 inspection, the U.S. EPA inspector determined that Respondent failed to submit exception reports for three manifests in 2005 and one in 2007 when Respondent had not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter in violation of 35 IAC § 722.142 (a)(2) [40 CFR § 262.42 (a)(2)].

65. Respondent's failure to submit exception reports for three manifests in 2005 and one in 2007 when they had not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter constitutes a violation of 35 IAC § 722.142 (a)(2) [40 CFR § 262.42 (a)(2)].

66. The Respondent's violation of 35 IAC § 722.142 (a)(2) [40 CFR § 262.42 (a)(2)] subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 6 – Used Oil Standards

67. Complainant incorporates paragraphs 1 through 33 of this complaint as though set forth in this paragraph.

68. 35 IAC § 739.122(a) [40 C.F.R. § 279.22(a)] require that used oil generators store used oil only in tanks, containers, or other units subject to regulation under parts 264 or 265.

69. At the time of the July 30, 2007 inspection, the U.S. EPA inspector observed that Respondent was storing used oil on top of containers, on floors, on pallets, in a grate in the parking lot and on the surface of a parking lot.

70. At the time of the July 30, 2007 inspection, the U.S. EPA inspector observed tire marks in the used oil on the surface of the parking lot.

71. Respondent reported to U.S. EPA that Respondent removed used oil from the Facility parking lot on or about January 14, 2008, 164 days following U.S. EPA's inspection of July 30, 2007.

72. Respondent's failure to store used oil in tanks or containers as required by 35 IAC § 739.122(a) [40 C.F.R. § 279.22(a)] constitutes a violation of 35 IAC § 739.122(a) [40 CFR § 279.22].

73. 35 IAC § 739.122(b)(1) and (2) [40 C.F.R. § 279.22(b)(1)] require used oil generators to store used oil in containers and tanks that are in good condition and not leaking.

74. At the time of the July 30, 2007 inspection, Respondent was storing used oil in containers and tanks that were not in good condition and that were leaking in violation of 35 IAC § 739.122(b)(1) and (2) [40 C.F.R. § 279.22(b)(1)].

75. At the time of the July 30, 2007 inspection, Respondent failed to comply with 35 IAC § 739.122(b)(1) and (2) [40 C.F.R. § 279.22(b)(1)].

76. 35 IAC § 739.122(c)(1) [40 C.F.R. § 279.22(c)(1)] requires that used oil generators mark or label containers of used oil with the words, "Used Oil."

77. At the time of the July 30, 2007 inspection, Respondent had not labeled or marked clearly 11 containers with the words, "Used Oil" in violation of 35 IAC § 739.122(c)(1) [40 C.F.R. § 279.22(c)(1)].

78. Respondent's failure to label or mark clearly 11 containers with the words, "Used Oil" in violation of 35 IAC § 739.122(c)(1) [40 C.F.R. § 279.22(c)(1)] constitutes a violation of 35 IAC § 739.122(c)(1) [40 C.F.R. § 279.22(c)(1)].

79. The Respondent's violation of 35 IAC § 739.122(a), (b)(1) and (c)(1) [40 C.F.R. § 279.22(a), (b)(1) and (c)(1)] subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Civil Penalty

80. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$5,000. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements, and Respondent's ability to pay a civil penalty. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

81. Within 30 days after the effective date of this CAFO, Respondent must pay a \$5,000 civil penalty for the RCRA violations by electronic funds transfer, payable to "treasurer, United States of America," and remit to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state "Metal Impact Corporation," the docket number of this CAFO, and the billing document number.

82. This civil penalty is not deductible for federal tax purposes.

83. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

84. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

85. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

86. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

87. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

88. The terms of this CAFO bind Respondent, its successors, and assigns.

89. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

90. Each party agrees to bear its own costs and attorney's fees in this action.

91. This CAFO constitutes the entire agreement between the parties.

Metal Impact Corporation, Respondent


2/8/2010
Date


Name

GENERAL MANAGER
Title

United States Environmental Protection Agency, Complainant

March 5, 2010
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

**In the Matter of: Metal Impact Corporation
Docket No.**

RCRA-05-2010-0009

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3/8/10
Date

Walter W. Karalich
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

RECEIVED
MAR 10 2010

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

CASE NAME: Metal Impact Corporation

DOCKET NO: RCRA RCRA-05-2010-0009

CERTIFICATE OF SERVICE

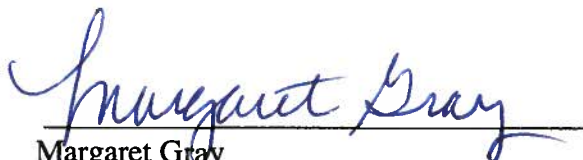
I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

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:

Mr. Thomas W. Daggett
Daggett Law Firm
Chicago Title Tower, Suite 4590
161 North Clark Street
Chicago, Illinois 60604

Return Receipt # **7001 0320 0005 8915 4858**

Dated: 3/10/10



Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division - RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5028

RECEIVED
MAR 10 2010

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