



State of Ohio Environmental Protection Agency

Central Files

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February 11, 2009

**Brian Grannon
Industrial Container Services-OH, LLC
1385 Blatt Boulevard
Gahanna Industrial Park
Blacklick, Oh 43004**

**RE: Industrial Container Service (fka Container Recyclers, Inc.)
OHD 004 291 654
Financial Assurance**

Dear Mr. Ward:

On January 29, 2009 Ohio EPA conducted a financial assurance record review for the Industrial Container Service (ICS), formerly Container Recyclers facility. I evaluated the facility for compliance with the financial assurance and liability coverage requirements set forth in Ohio Administrative Code (OAC) rules 3745-55-42, 3745-55-43 and 3745-55-47 and the July 6, 2005 State of Ohio, ex rel. Jim Petro, Attorney General of Ohio v. Container Recyclers, Inc. et al (dba Columbus Steel Drum) Consent Order and Final Judgement.

To demonstrate compliance with the financial assurance requirements for closure care in accordance with OAC rule 3745-55-42 and 3745-55-43 and the July 6, 2005 Consent Order; ICS submitted a Trust Agreement entered into January 13, 2006 by and between Columbus QCB.

To demonstrate compliance with third-party liability coverage in accordance with OAC rule 3745-55-47, a Hazardous Waste Facility Certificate of Liability Insurance (Policy number PLC 3772040-02) was submitted from Steadfast Insurance Company with an effective date May 1, 2006.

To date, ICS. has not updated their financial assurance cost estimate or their financial assurance mechanism, i.e., Schedule A of the trust agreement. In addition, Ohio EPA has not received annual valuation statements as required by Section 10. annual valuation of the Trust Agreement.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

February 10, 2009

GENERAL CONCERN:

Even though the facility submitted a closure certification to Ohio EPA, ICS is required to maintain financial assurance until the owner/operator is notified in writing he is no longer required to maintain financial assurance for closure of the facility.

In a June 3, 2008 letter to Christopher Ward of Calfee Halter & Griswold LLP, I cited **violations of OAC rules 3745-55-42 and 3745-55-43**, because the cost estimate had not increased for inflation, the trust agreement has not been updated to reflect the increased cost and the annual violation statements have not been submitted to Ohio EPA.

To abate the above, documentation was submitted July 21, 2008 which included an updated cost estimate (revised Schedule A), and the current balance of the trust fund. This was adequate to abate OAC rule 3745-55-42. However, the annual valuation statement from the bank, which documents the trust fund balance, has not been submitted as required by the trust agreement OAC rule 3745-55-51(A), Section 10. and there have been drawdowns on the trust fund without prior approval from the Director.

Therefore, **the facility remains in violation of OAC rule 3745-66-43** because the Director has not authorized the release of funds from the trust fund pursuant to OAC rule 3745-66-43 (A)(9). Within sixty days after receiving a request from the owner or operator for release of funds the director can instruct the trustee to release to the owner or operator such funds as the director specifies in writing. To date, the director has not received a request to release funds from the trust fund. But there have been withdrawals from this account. The facility will remain in violation of the OAC rule 3745-66-43 until the closure certification has been submitted and approved.

In addition, annual valuation statements have not been provided as required by Section 10 of the Trust Agreement. Submit an annual valuation statement from the bank to me within thirty (30) days of receipt of this letter

If you have any questions, or need further clarification of any matter mentioned in this letter, please do not hesitate to call me at (614) 644-2951. I will be happy to assist you in any way possible.

Sincerely,



Tina Jennings
Compliance Assurance Section

cc: David Hohmann, DHWM, CDO
Kristina Durnell, DHWM, RIS