



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

FEB 13 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED 7009 1680 0000 7663 5073**

Ms. Elizabeth S. Harvey, Esq.  
Swanson, Martin & Bell, LLP  
330 North Wabash Avenue  
Suite 3300  
Chicago, Illinois 60611

Re: Consent Agreement and Final Order  
South Holland Metal Finishing  
Docket No.: **RCRA-05-2013-0003**

Dear Ms. Harvey:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on February 13, 2013, with the Regional Hearing Clerk (RHC).

Please have your client pay the civil penalty in the amount of \$20,764 in the manner prescribed in paragraphs 50 and 51 of the CAFO, and reference all checks with the docket number RCRA-05-2013-0003. The payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Gary J. Victorine".

Gary J. Victorine  
Chief  
RCRA Branch

Enclosures

cc: Todd Marvel, Illinois Environmental Protection Agency ([todd.marvel@illinois.gov](mailto:todd.marvel@illinois.gov))

## **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: )  
South Holland Metal Finishing )  
Company, Inc. )  
Monee, Illinois )  
Respondent. )  
\_\_\_\_\_ )

Docket No. RCRA-05-2013-0003  
Proceeding to Commence and Conclude  
an Action to Assess a Civil Penalty  
Under Section 3008(a) of the Resource  
Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

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FEB 13 2013

Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK  
USEPA  
REGION 5

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 South Holland Metal Finishing Company, Inc., 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 and Waiver of Right to Hearing**

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 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. Parts 260 - 279.

#### **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 or used oil, pursuant to Sections 3001 – 3007, 3013, and 3014, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934, and 6935.

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). The U.S. EPA-authorized Illinois RCRA regulations are codified at 35 Illinois Administrative Code (IAC) Part 703 *et seq.* See also 40 C.F.R. § 272.700 *et seq.*

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 note (1996), 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 \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

#### **Factual Allegations and Alleged Violations**

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. Respondent is the “owner” or “operator,” as those terms are defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10, of a facility located at 26100 Whiting Way, in Monee, Illinois.

18. On March 16, 2010, the Illinois Environmental Protection Agency (IEPA) conducted an inspection of the facility.

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

20. Respondent conducts metal finishing operations at its facility, which include the application of zinc, nickel, cadmium and phosphate coatings onto metal substrates.

21. At all times relevant to this CAFO, Respondent created solid wastes including waste water treatment sludge, plating bath residues, and quench oil.

22. Respondent’s manufacturing processes at the facility produce several hazardous wastes identified or listed in 35 IAC §§ 721.120 - 721.133 [40 C.F.R. § 261.20 – 261.33].

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

24. At all times relative to this CAFO, Respondent’s operations produced more than 1,000 kilograms (2,205 pounds) of hazardous waste in a calendar month, and therefore, Respondent was a large quantity generator of hazardous waste.

25. 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.

26. At all times relevant to this CAFO, the State of Illinois had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at the facility.

27. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

28. On April 9, 2010, the IEPA issued a Violation Notice to Respondent based on the findings of its inspection.

29. Respondent submitted a written response to the Violation Notice to IEPA on May 10, 2010.

30. On August 24, 2010, the IEPA referred the matter to the U.S. EPA for formal enforcement.

### **Count 1**

#### **Storage of Hazardous Waste without a Permit**

31. Complainant incorporates paragraphs 1 through 30 of this CAFO as though set forth in this paragraph.

32. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a), 35 IAC § 703.121(a), and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

33. Pursuant to 35 IAC § 722.134 [40 C.F.R. § 262.34], and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions of 35 IAC § 722.134 [40 C.F.R. § 262.34].

34. 35 IAC § 722.134(a)(1)(A) [40 C.F.R. § 262.34(a)(1)(i)] requires generators storing hazardous waste in containers without a permit to comply with 35 IAC Part 725, Subpart I [40 C.F.R. Part 265, Subpart I] including, 35 IAC § 725.271 [40 C.F.R. 265.171].

35. 35 IAC § 725.271 [40 C.F.R. § 265.171] requires that if a container holding

hazardous waste is not in good condition or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that it complies with the requirements of 35 IAC Part 725 [40 C.F.R. Part 265].

36. At the time of the inspection, several bags of hazardous waste plating bath residues were leaking their contents onto the floor of the facility, and Respondent had not transferred the waste to containers in good condition or managed the waste in some other manner that complied with the requirements of 35 IAC Part 724 [40 C.F.R. Part 264].

37. Therefore, Respondent was not in compliance with 35 IAC § 725.271 [40 C.F.R. § 265.171].

38. Therefore, Respondent was not in compliance with the generator permit exemption conditions of 35 IAC § 722.134 [40 C.F.R. § 262.34].

39. 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 apply for and obtain a permit for the storage of hazardous waste; therefore, Respondent stored hazardous waste without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and 35 IAC § 703.121(a) [40 C.F.R. § 270.1(c)].

## Count 2

### **Failure to Transfer Hazardous Waste from Leaking Containers**

40. Complainant incorporates paragraphs 1 through 30 of this CAFO as though set forth in this paragraph.

41. 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 standards for treatment,



storage, and disposal facilities at 35 IAC Part 724 [40 C.F.R. Part 264]. See, 35 IAC §§ 724.101(b) and (g)(3) [40 C.F.R. §§ 264.1(b) and (g)(3)].

42. 35 IAC § 724.271 [40 C.F.R. § 264.171] requires that if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects, etc.) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of 35 IAC Part 724 [40 C.F.R. Part 264].

43. At the time of the inspection, several bags of hazardous waste plating bath residues were leaking their contents onto the floor of the facility, and Respondent had not transferred the waste to containers in good condition or managed the waste in some other manner that complied with the requirements of 35 IAC Part 724 [40 C.F.R. Part 264].

44. Therefore, Respondent violated 35 IAC § 724.271 [40 C.F.R. § 264.171].

### **Count 3**

#### **Failure to Properly Complete a Hazardous Waste Manifest**

45. 35 IAC § 722.120(a) [40 C.F.R. § 262.20(a)] requires that a generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR Part 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions), incorporated by reference in 35 IAC § 720.111(b).

46. The instructions in the appendix to 40 CFR Part 262 require generators of hazardous waste to enter their U.S. EPA identification number onto the manifest.

47. At the time of the inspection, manifest records pertaining to the shipment of

hazardous waste to Enviroite of Illinois did not contain Respondent's U.S. EPA Identification Number.

48. Therefore, Respondent violated 35 IAC § 722.120(a) [40 C.F.R. § 262.20(a)].

**Civil Penalty**

49. 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 \$20,764. 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. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

50. Within 30 days after the effective date of this CAFO, Respondent must pay a \$20,764 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

The check must state the case title and the docket number of this CAFO.

51. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address, and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604,

Todd C. Brown (LR-8J)  
RCRA Branch  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604,

and

Thomas Kenney (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604

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

53. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

54. 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**

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

56. 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.

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

58. Respondent certifies that it is complying with 42 U.S.C. § 6922 and 35 IAC Part 722 [40 C.F.R. Part 262].

59. Immediately upon the effective date of this CAFO, Respondent will ensure that when containers of hazardous waste are leaking at its facility, Respondent will promptly transfer the waste to a container in good condition or manage the waste in a manner that is otherwise compliant with RCRA.

60. Immediately upon the effective date of this CAFO, Respondent will ensure that it enters its correct U.S. EPA Identification Number on hazardous waste manifests.

61. 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).

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

63. 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.

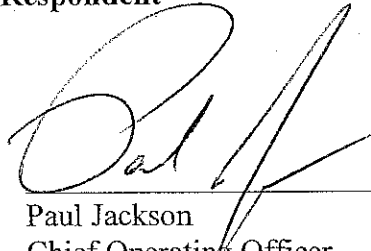
64. Each party agrees to bear its own costs and attorney's fees in this action.

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

**South Holland Metal Finishing Company, Inc., Respondent**

1/23/13

Date

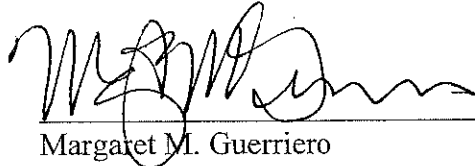


Paul Jackson  
Chief Operating Officer  
South Holland Metal Finishing Company, Inc.

**United States Environmental Protection Agency, Complainant**

2/8/2013

Date



Margaret M. Guerriero  
Director  
Land and Chemicals Division

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U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**In the Matter of:**  
**South Holland Metal Finishing Company, Inc.**  
**Docket No.**

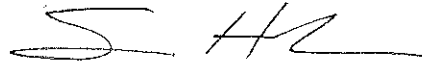
**RCRA-05-2013-0003**

**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.

2-12-13

Date



Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

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**FEB 13 2013**

**REGIONAL HEARING CLERK  
USEPA  
REGION 5**

CASE NAME: South Holland Metal Finishing Company, Inc.  
DOCKET NO: RCRA-05-2013-0003

CERTIFICATE OF SERVICE

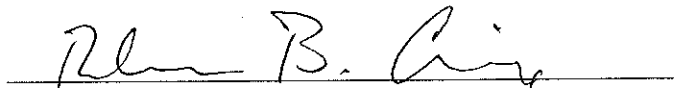
I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604-3590.

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested to:

Ms. Elizabeth S. Harvey, Esq.  
Swanson, Martin & Bell, LLP  
330 North Wabash Avenue  
Suite 3300  
Chicago, IL 60611

Certified Mail Receipt #

Dated: 2/13, 2013



Ruben B. Aridge  
Administrative Program Assistant  
United States Environmental Protection Agency  
Region 5  
Land and Chemicals Division LM-8J  
RCRA Branch  
77 W. Jackson Blvd, Chicago, IL 60604-3590

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