



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

26 AUG 2005

REPLY TO THE ATTENTION OF

CERTIFIED MAIL – 7001 0320 0006 1448 8538
RETURN RECEIPT REQUESTED

DE-9J

Jack Logan, CEO and President
Minnesota Metal Finishing, Incorporated
909 Winter Street, Northeast
Minneapolis, Minnesota 55413

Re: Administrative Complaint and Compliance Order
Minnesota Metal Finishing, Incorporated
Minneapolis, Minnesota
MND 982 625 915

Dear Mr. Logan:

Enclosed please find an Administrative Complaint and Compliance Order (Complaint), which the United States Environmental Protection Agency, Region 5 (U.S. EPA) has filed against Minnesota Metal Finishing, Incorporated (MMF) for violations of the Resource Conservation and Recovery Act (RCRA) as amended, 42 U.S.C. § 6901 *et seq.* The allegations set forth in the Complaint are based on MMF's failure to comply with Minnesota's RCRA hazardous waste regulations; specifically, the generator conditions for a permit exemption of Minnesota Rules (Minn. R.) 7045.0292, the permitting requirement of Minn. R. Chapter 7001, and the training, contingency plan, and prevention requirements for hazardous waste storage facilities, of Minn. R. 7045.0454, 7045.0462, and 7045.0466.

Also enclosed is a copy of 40 C.F.R. Part 22 - Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits. A copy of the Revised (June 2003) RCRA Civil Penalty Policy (RCPP) will be made available to you upon request. You can also find the RCPP on the internet at:

<http://www.epa.gov/Compliance/resources/policies/civil/rcra/rcpp2003-f nl.pdf>

Should you wish to contest the Complaint, you must file a written Answer and in the Answer request a hearing with the Regional Hearing Clerk within thirty (30) days of the date of this Complaint. You must file the Answer and request for hearing with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. You must also send a copy of your Answer and request to Michael J. McClary, Associate Regional Counsel, Office of Regional Counsel (C-14J), at the above address.

Please include the docket number on all documents submitted to the Regional Hearing Clerk and Mr. McClary.

Regardless of whether you choose to request a hearing within the prescribed time limit following the filing of this Complaint, U.S. EPA extends to you the opportunity to request an informal settlement conference. The settlement conference discussions may include the mitigation of the proposed penalty in accordance with U.S. EPA guidance on supplemental environmental projects. A request for an informal settlement conference with U.S. EPA will not affect or extend the thirty (30) day deadline to file an Answer in order to avoid a Finding of Default on the Complaint.

If you have any questions or want to request an informal settlement conference with Waste, Pesticides and Toxics Division staff, please contact Michael Valentino, United States Environmental Protection Agency, RCRA Enforcement and Compliance Assurance Branch (DE-9J), 77 West Jackson Boulevard, Chicago, Illinois 60604. He may also be reached at (312) 886-4582. Please contact Mr. McClary at (312) 886-7163 if you have any legal questions.

Sincerely yours,

A handwritten signature in cursive script that reads "Joseph M. Boyle".

Joseph M. Boyle, Chief
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division

Enclosures (2)

cc: Robert Dullinger, Minnesota Pollution Control Agency (w/Encls)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)

Minnesota Metal Finishing, Incorporated)
909 Winter Street NE)
Minneapolis, Minnesota 55413)

U.S. EPA ID #: MND 982 625 915)

Respondent)

DOCKET NO. ~~RCRA-05-~~ 2005 0013

US ENVIRONMENTAL
PROTECTION AGENCY
REGION V

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COMPLAINT AND COMPLIANCE ORDER

I. COMPLAINT

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 and 22.37 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance or Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("Consolidated Rules"), 64 Fed. Reg. 40137 (July 23, 1999) (to be codified at 40 C.F.R. Part 22).
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 Chief, Enforcement & Compliance Assurance Branch, Waste, Pesticides & Toxics Division, Region 5, United States Environmental Protection Agency (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. The base program of Minnesota's state hazardous waste regulations, including Minn. R. Chapter 7001, Minn. R. 7045.0292, and relevant provisions of Minn. R. 7045.0450 through 7045.0551, became effective in Minnesota on May 22, 1984. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Minnesota final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective on February 11, 1985. 50 Fed. Reg. 3756 (January 28, 1985). The Administrator of U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective

September 18, 1987, 52 Fed. Reg. 27199 (July 20, 1987); June 23, 1989, 54 Fed. Reg. 16361 (April 24, 1989) (corrected effective June 23, 1989, 54 Fed. Reg. 27169 (June 28, 1989)); August 14, 1990, 55 Fed. Reg. 24232 (June 15, 1990); August 23, 1991, 56 Fed. Reg. 28709 (June 24, 1991); May 18, 1992, 57 Fed. Reg. 9501 (March 19, 1992); May 17, 1993, 58 Fed. Reg. 14321 (March 17, 1993); March 21, 1994, 59 Fed. Reg. 2998 (January 20, 1994) and May 25, 2000, 65 Fed. Reg. 33774 (August 23, 2000). The U.S. EPA-authorized Minnesota regulations are codified in Minnesota Rules Chapter 7001, and at 7045.0001 *et seq.* See also 40 C.F.R. § 272.1200 *et seq.*.

7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), requirements imposed pursuant to HSWA take effect immediately in all States.
8. U.S. EPA has provided notice of commencement of this action to the State of Minnesota pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
9. From on or about May 22, 1984, through August 25, 2005, Respondent, its facility, and the hazardous wastes generated and stored by Respondent were subject to the provisions of Minn. R. 7045.0292; Minn. R. 7045.0454 through Minn. R. 7045.0551; and Minn. R. Chapter 7001 [40 C.F.R Parts 262, 264, and 270.]

At all times relevant to this Complaint, unless otherwise indicated:

General Allegations:

10. The Respondent is Minnesota Metal Finishing, Incorporated (MMF).
11. Respondent is a firm, corporation, partnership, association, or other business organization.
12. Respondent is the owner or operator of contiguous land and structures, other

appurtenances, and improvements on the land, located at 909 Winter Street NE, Minneapolis, Minnesota (hereinafter the "Facility").

13. Respondent uses the Facility to hold discarded material for temporary periods, before the material is shipped from the Facility site for treatment, storage, or disposal elsewhere.
14. The discarded material referenced in paragraph 13, above, includes waste hydrochloric acid.
15. Respondent characterized its waste hydrochloric acid as D002, D006 and D007 hazardous waste.
16. The discarded material referenced in paragraph 13 above includes waste sodium hydroxide solution.
17. Respondent characterized its waste sodium hydroxide solution as D002 and D007 hazardous waste.
18. The discarded material referenced in paragraph 13 above, includes waste corrosive liquid sulfuric acid.
19. Respondent characterized its waste corrosive liquid sulfuric acid as D002, D007 and D008 hazardous waste.
20. The discarded material referenced in paragraph 13 above, includes waste corrosive liquid nitric acid.
21. Respondent characterized its waste corrosive liquid nitric acid as D002 and D007 hazardous waste.
22. The discarded material referenced in paragraph 13 above, includes listed, solid plating waste.

23. Respondent characterized its listed, solid plating waste as F006 hazardous waste.
24. The discarded material referenced in Paragraphs 13 - 23 are wastes or waste materials.
25. The discarded materials referenced in Paragraphs 13 - 23 above are a refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form.
26. The Respondent's wastes referenced in Paragraphs 13 - 23 above are hazardous wastes.
27. The Respondent's hazardous wastes referenced in Paragraphs 13 - 23 above, are a type or types of hazardous waste that is or are identified or listed in Minn. R. 7045.0135.
28. Respondent's acts or processes at the Facility produce the discarded material referenced in paragraphs 13 - 23 above.
29. Respondent's Facility first began generating and managing hazardous waste after November 19, 1980, and prior to July 16, 1984.
30. On or about August 24, 1981, Respondent submitted its initial hazardous waste generator license application to the Hennepin County Department of Environment and Energy.
31. On or about August 24, 1981, Respondent's hazardous waste being generated at the Facility included trichloroethylene, sulfuric acid and nitric acid.
32. On or about March 21, 1989, Respondent submitted a Hazardous Waste Notification, dated March 21, 1989, to U.S. EPA for the Facility.
33. The March 21, 1989, Hazardous Waste Notification specified in paragraph 32 above, indicates that MMF, generates, treats, stores, and disposes of hazardous waste.
34. From on or about September 1, 1998, to August 25, 2005, the Facility generated during each calendar month more than 1,000 kilograms of hazardous waste.

35. On or about May 17, 2001, U.S. EPA conducted an inspection at the Facility (“the inspection”).
36. During the inspection, Respondent allowed the U.S. EPA inspector to observe plant operations related to the handling of hazardous waste, and provided records to the inspectors related to the management of hazardous waste, including training records and manifests, for their review.
37. On or about June 12, 2001, inspectors from the Hennepin County, Minnesota, Department of Environmental Services, Environmental Protection Division (“Hennepin inspectors”) performed an inspection at MMF’s facility (the “first Hennepin inspection”).
38. During the first Hennepin inspection, Respondent allowed Hennepin inspectors to make observations of the Facility flooring and take waste samples from wastes at the Facility.
39. During the first Hennepin inspection, Hennepin inspectors took samples of waste materials found on the Facility floor.
40. On or about July 13, 2001, MMF received in the mail from U.S. EPA, a “Request for Information” dated July 11, 2001 (hereinafter referred to as the “First Information Request”), which requested from MMF information relating to hazardous waste management at its facility.
41. On or about August 7, 2001, Hennepin inspectors performed an inspection at MMF’s facility (the “second Hennepin inspection”).
42. During the second Hennepin inspection, Respondent allowed Hennepin inspectors to view and take photographs of the Facility floor.
43. On or about September 7, 2001, MMF submitted to U.S. EPA its responses to the First

Information Request.

44. On August 9, 2002, Respondent received in the mail from U.S. EPA, another Information Request, dated August 7, 2002 ("Second Information Request"), which requested from MMF information relating to hazardous waste management at its facility.
45. On or about October 9, 2002, MMF submitted to U.S. EPA its response to the Second Information Request.
46. Respondent has never had a Closure Plan for the Facility of the type, and with the contents, specified in Minn. R. 7045.0594.
47. Respondent has never had financial assurance for the Facility of the type, and with the contents, specified in Minn. R. 7045.0612.

COUNT 1:

Personnel Training and Training Records Violations

48. Complainant incorporates paragraphs 1 through 47 of this Complaint as though set forth fully in this paragraph.
49. Subparts 1 and 4 of Minn. R. parts 7045.0454 and 7045.0558 [40 C.F.R. §§ 264.16(a)(1) and (b), and 265.16(a)(1) and (b)], require that within 6 months after the effective date of the regulation or six months after the date of their employment or assignment to a facility, or to a new position at the Facility, hazardous waste 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 the requirements of Minn. R. Chapter 7045.

50. Subpart 4 of Minn. R. parts 7045.0454 and 7045.0558, [40 CFR §§ 264.16(b) and 265.16(b)], require that employees in unsupervised positions related to hazardous waste management complete hazardous waste personnel training prior to beginning unsupervised work.
51. Subpart 2 of Minn. R. parts 7045.0454 and 7045.0558 [40 C.F.R. §§ 264.16(a)(2) and 265.16(a)(2)], require that hazardous waste personnel training programs be directed by a person trained in hazardous waste management procedures.
52. Subpart 3 of Minn. R. parts 7045.0454 and 7045.0558 [40 C.F.R. §§ 264.16(a)(3) and 265.16(a)(3)] require that the hazardous waste training program include instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed, including contingency plan implementation procedures, and be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.
53. Subpart 5 of Minn. R. parts 7045.0454 and 7045.0558 [40 C.F.R. §§ 264.16(c) and 265.16(c)] require the owner or operator of a hazardous waste management facility to provide to the Facility personnel employed in positions related to hazardous waste management, annual review of the initial hazardous waste training.
54. Subparts 6.B, 6.C, and 6.D of Minn. R. parts 7045.0454 and 7045.0558 [40 C.F.R. §§ 264.16(d)(2), (3), (4); and 265.16(d)(2), (3), and (4)], require the owner or operator of a hazardous waste management facility to maintain at the Facility a written job description for each position at the Facility related to hazardous waste; a written description of the

- type and amount of both introductory and continuing training that will be given to each person in a position related to hazardous waste management; and records that document that the hazardous waste personnel training or job experience has been given to, and completed by, facility personnel.
55. Minn. R. 7045.0292, Subpart 1.G [40 CFR § 262.34(a)(4)] provides that a large quantity generator may accumulate hazardous waste on site without obtaining a permit or interim status for hazardous waste storage, provided that it complies with, *inter alia*, the personnel training requirements of Minn. R. Part 7045.0558, Subparts 1- 6].
 56. Pursuant to Minn. R.7045.0292, subpart 1.G; 7045.0552, subpt. 2; and 7045.450, subpts. 1.A and 2, a large quantity generator facility that comes into existence after November 19, 1980, and that accumulates hazardous waste on site but does not comply with the personnel training and recordkeeping requirements of Minn. R. 7045.0558, is the owner or operator of a hazardous waste storage facility, and subject to the hazardous waste personnel training and recordkeeping requirements of Minn. R. 7045.0454.
 57. From on or about June 1, 1987, to August 25, 2005, Respondent employed Dave Fisher at the Facility.
 58. On or about August 23, 1993, Dave Fisher attained at the Facility the position of Hazardous Waste Handler/Waste Treatment System Monitor.
 59. From on or about August 23, 1993, to August 25, 2005, David Fisher's position of Hazardous Waste Handler/Waste Treatment System Monitor at Respondent's Facility, included hazardous waste management responsibilities.
 60. Beginning on or about August 23, 1993, and continuing to August 25, 2005, Dave Fisher

performed his duties as Hazardous Waste Handler/Waste Treatment System Monitor without supervision.

61. Respondent did not provide Dave Fisher with hazardous waste personnel training that included instruction in procedures for using, inspecting, repairing or replacing emergency equipment.
62. Respondent did not provide Dave Fisher with hazardous waste personnel training that included instruction in emergency communications or alarm systems.
63. Respondent did not provide Dave Fisher with hazardous waste personnel training that included instruction in procedures for shutdown of operations.
64. From August 23, 1993, to August 25, 2005, Respondent did not provide Dave Fisher with hazardous waste personnel training that taught him to perform his duties in a way that ensured the Facility's compliance with the requirement of Minn. R. 7045.0566 to minimize the possibility of releases of hazardous waste to land or water, or with other requirements of Minn. R. Chapter 7045 relevant to his position.
65. From August 23, 1993, to August 25, 2005, Respondent did not provide Dave Fisher with hazardous waste personnel training directed by a person fully trained in hazardous waste management procedures.
66. On or about November 11, 1981, Respondent hired Roy Barclay to work at the Facility.
67. On or about December 28, 1993, Roy Barclay attained the position of Hazardous Waste Handler/Waste Treatment System Monitor at the Facility.
68. From on or about December 28, 1993, to August 25, 2005, Roy Barclay's position of Hazardous Waste Handler/Waste Treatment System Monitor included hazardous waste

- management responsibilities.
69. Beginning on or about December 28, 1993, and continuing to August 25, 2005, Roy Barclay worked as a Hazardous Waste Handler/Waste Treatment System Monitor without supervision.
 70. Respondent did not provide Roy Barclay with hazardous waste personnel training that included instruction in procedures for using, inspecting, repairing or replacing emergency equipment.
 71. Respondent did not provide Roy Barclay with hazardous waste personnel training that included instruction in emergency communications or alarm systems.
 72. Respondent did not provide Roy Barclay with hazardous waste personnel training that included instruction in procedures for shutdown of operations.
 73. Respondent did not provide Roy Barclay with hazardous waste personnel training that taught him to perform his duties in a way that ensured the Facility's compliance with the requirement of Minn. R. 7045.0566 to minimize the possibility of releases of hazardous waste to land or water, or with other requirements of Minn. R. Chapter 7045 relevant to his position.
 74. From on or about December 28, 1993, to August 25, 2005, Respondent did not provide Roy Barclay with hazardous waste personnel training directed by a person fully trained in hazardous waste management procedures.
 75. On or about January 3, 1996, Respondent hired Michael Logan to work at the Facility.
 76. On or about August 22, 1997, Michael Logan attained the position of Hazardous Waste Handler/Waste Treatment System Monitor.

77. From on or about August 22, 1997, to August 25, 2005, Michael Logan's position of Hazardous Waste Handler/Waste Treatment System Monitor included hazardous waste management responsibilities.
78. Beginning on or about August 22, 1997, and continuing to August 25, 2005, Michael Logan worked as a Hazardous Waste Handler/Waste Treatment System Monitor without supervision.
79. Respondent did not provide Michael Logan with hazardous waste personnel training that included instruction in procedures for using, inspecting, repairing or replacing emergency equipment.
80. Respondent did not provide Michael Logan with hazardous waste personnel training that included instruction in emergency communications or alarm systems.
81. Respondent did not provide Michael Logan with hazardous waste personnel training that included instruction in procedures for shutdown of operations.
82. Respondent did not provide Michael Logan with hazardous waste personnel training that taught him to perform his duties in a way that ensured the Facility's compliance with the requirements of Minn. R. 7045.0566 to minimize the possibility of releases of hazardous waste to land or water.
83. Respondent did not provide Michael Logan with hazardous waste personnel training directed by a person fully trained in hazardous waste management procedures.
84. In or about November 1981, Respondent hired William Ludwig to work at the Facility.
85. From on or about November 24, 1981, to on or about September 14, 2001, William Ludwig was an Emergency Coordinator at the Facility.

86. From the date upon which William Ludwig became Emergency Coordinator at the Facility, to on or about September 14, 2001, the position of Emergency Coordinator at the Facility included hazardous waste management responsibilities.
87. From the date upon which William Ludwig became Emergency Coordinator at the Facility, to on or about September 14, 2001, William Ludwig worked at the Facility as Emergency Coordinator without supervision.
88. Respondent did not provide William Ludwig with hazardous waste personnel training that taught him to perform his duties in a way that ensured the Facility's compliance with the requirements of Minn. R. Chapter 7045.
89. Respondent did not provide William Ludwig with hazardous waste personnel training directed by a person fully trained in hazardous waste management procedures.
90. Respondent did not provide William Ludwig with hazardous waste personnel training that taught him hazardous waste management procedures relevant to his position, including contingency plan implementation procedures; and that was designed to ensure that he was able to respond effectively to emergencies by familiarizing him with emergency procedures, emergency equipment, and emergency systems.
91. On or about May 31, 1994, Respondent hired Rochelle Rougier-Maas to work at the Facility.
92. In or about January, 1995, Rochelle Rougier-Maas attained a position of, or responsibilities as, Emergency Coordinator and Hazardous Waste Management Trainer at the Facility.
93. From on or about January 1, 1995, to August 25, 2005, the positions of Emergency

- Coordinator and Hazardous Management Trainer at Respondent's Facility, included hazardous waste management responsibilities.
94. From on or about July 1, 1995, to August 25, 2005, Rochelle Rougier-Maas worked at the Facility as Emergency Coordinator and Hazardous Waste Management Trainer without supervision.
 95. Respondent did not provide Rochelle Rougier-Maas with hazardous waste personnel training that taught her to perform her duties in a way that ensured the Facility's compliance with the requirements of Minn. R. Chapter 7045.
 96. Respondent did not provide Rochelle Rougier-Maas with hazardous waste personnel training directed by a person fully trained in hazardous waste management procedures.
 97. Respondent did not provide Rochelle Rougier-Maas with hazardous waste personnel training that was designed to ensure that she was able to respond effectively to emergencies by familiarizing her with emergency procedures, emergency equipment, and emergency systems.
 98. On October 10, 2000, Respondent employed James Wilson at the Facility in a supervisory position related to hazardous waste management.
 99. On October 10, 2000, Respondent allowed James Wilson to work unsupervised in his supervisory position related to hazardous waste management.
 100. On October 10, 2000, James Wilson signed on behalf of the Facility a hazardous waste manifest, numbered MN 8034016, and an accompanying LDR notification.
 101. Respondent did not provide James Wilson with hazardous waste personnel training that taught him hazardous waste management procedures relevant to his position, including

- contingency plan implementation procedures; and that was designed to ensure that he was able to respond effectively to emergencies by familiarizing him with emergency procedures, emergency equipment, and emergency systems.
102. Respondent did not provide James Wilson with hazardous waste personnel training that taught him to perform his duties in a way that ensured the Facility's compliance with the requirements of Minn. R. Chapter 7045.
 103. Respondent did not provide James Wilson with hazardous waste personnel training directed by a person fully trained in hazardous waste management procedures.
 104. Respondent did not provide Dave Fisher with annual review hazardous waste training that met the requirements of Minn. R. 7045.0558, subpt.5, or 7045.0454, subpt. 5.
 105. Respondent did not provide Roy Barclay with annual review hazardous waste training that met the requirements of Minn. R. 7045.0558, subpt.5, or 7045.0454, subpt. 5.
 106. Respondent did not provide Michael Logan with annual review hazardous waste training that met the requirements of Minn. R. 7045.0558, subpt.5, or 7045.0454, subpt. 5.
 107. Respondent did not provide Rochelle Rougier-Maas with annual review hazardous waste training that met the requirements of Minn. R. 7045.0558, subpt.5, or 7045.0454, subpt. 5.
 108. From on or about October 30, 2000, to on or about August 1, 2001, Respondent did not maintain at the Facility the job title for each position, and the name of the employee filling each job, related to hazardous waste management.
 109. From on or about October 30, 2000, to on or about August 1, 2001, Respondent maintained its records for the job title for each position at the Facility related to hazardous

waste management, and the name of the employee filling each job, at Rochelle Rougier-Maas's home.

110. On or about August 1, 1992, Dan Olson began employment by Respondent at the Facility in the position of Hazardous Waste Manager.
111. From on or before October 26, 2000, to August 25, 2005, Olson's responsibilities included signing hazardous waste manifests for the Facility.
112. From on or about October 30, 2000, to on or about August 1, 2001, Respondent's written job descriptions for each position referenced in paragraphs 58, 67, 76, 85, 92, 98, and 110 above, were not maintained at the Facility.
113. From May 17, 2001, to on or about September 1, 2001, Respondent did not have written job descriptions for the jobs held by Dave Fisher, Roy Barclay, or Michael Logan.
114. From May 17, 2001, to on or about April 2, 2004, Respondent did not have written job descriptions for the jobs held by Rochelle Rougier-Maas or Dan Olson.
115. From August 25, 2000, to on or about September 7, 2001, Respondent did not have a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management at the Facility.
116. From on or about October 30, 2000, to on or about August 1, 2001, the records for the written description of the type and amount of both introductory and continuing training to be given to each person filling each position was kept at Rochelle Rougier-Maas's home rather than at the Facility.
117. From at least June 1, 1984, to August 25, 2005, Respondent failed to comply with the

- condition in Minn. R.7045.0292, Subpart 1.G for an exemption from the hazardous waste storage permit requirement, that it provide hazardous waste training to its personnel pursuant to Minn. R. 7045.0558, Subparts 1-4.
118. From on or about October 30, 2000, to April 29, 2005, Respondent periodically failed to comply with the condition in Minn. R.7045.0292, Subpart 1.G for an exemption from the hazardous waste storage permit requirement, that it have and maintain at the Facility training records at the Facility, as required by Subparts 6.A, 6.B, and 6.C of Minn. R. part 7045.0558.
 119. From on or about May 22, 1984, to August 25, 2005, Respondent's facility failed to qualify for a conditional generator exemption from regulation as a storage facility, and was a hazardous waste storage facility subject to the hazardous waste personnel training and recordkeeping requirements of Minn. R. 7045.0454.
 120. From August 25, 2000, to August 25, 2005, Respondent's failures to train its employees, as referenced in paragraphs 57 to 107 above, violated Minn. R. 7045.0454, Subparts 1, 2, 3 and 5 [40 C.F.R. §§ 264.16(a)(1)-(3), (b), and (c)].
 121. Respondent's failures to have, and maintain at the Facility, job titles for each position, and the name of the employee filling each job at the Facility, related to hazardous waste management, violated Minn. R. 7045.0454, Subpart 6.A [40 C.F.R. § 264.16(d)(1)].
 122. Respondent's failures to have, and maintain at the Facility, a written job description for each position at the Facility related to hazardous waste, violated Minn. R. 7045.0454, Subpart 6.B [40 C.F.R. § 264.16(d)(2)].
 123. Respondent's failures to have, and maintain at the Facility, a written description of the

type and amount of training for each person employed in each position at the Facility related to hazardous waste management, violated Minn. R. 7045.0454, Subpart 6.C [40 C.F.R. § 264.16(d)(3)].

COUNT 2:

Contingency Plan Violations

124. Complainant incorporates paragraphs 1 through 123 of this Complaint as though set forth in this paragraph.
125. Minn. R. parts 7045.0466, Subp. 2, and 7045.0572, Subp 2 [40 C.F.R. §§ 264.51 and 265.51] require an owner or operator of a hazardous waste storage facility to have a written contingency plan.
126. Subpart 4.C of Minn. R. parts 7045.0466 and 7045.0572 [40 C.F.R. §§ 264.52(c) and 265.52(c)], require that a contingency plan describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services.
127. Subpart 4.D of Minn. R. parts 7045.0466 and 7045.0572 [40 C.F.R. § 264.52(d) and 265.52(d)] require that a contingency plan contain an up-to-date list of the names, addresses, and office and home telephone numbers of all persons qualified to act as emergency coordinator; and that if more than one person is listed, one person be named as primary emergency coordinator and others listed in the order in which they will assume responsibility as alternates.
128. Subpart 4.E of Minn. R. parts 7045.0466 and 7045.0572 [40 C.F.R. § 264.52(e)] require

that a contingency plan include an up-to-date list of all emergency equipment at the Facility such as fire extinguishing systems, spill control equipment, internal and external communications and alarm systems, and decontamination equipment, where this equipment is required; and include the location and a physical description of each item on the list and a brief outline of its capabilities.

129. Subpart 4.F of Minn. R. parts 7045.0466 and 7045.0572 [40 C.F.R. § 264.52(f) and 265.52(f)] require that a contingency plan include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. The evacuation plan must describe the signal or signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes in cases where the primary routes could be blocked by the release of hazardous waste or fire.
130. Pursuant to Minn. R. 7045.0292, Subpart 1.G [40 CFR § 262.34(a)(4)], a large quantity generator is conditionally exempt from the requirement to obtain a hazardous waste storage permit and from regulation as a storage facility, provided that it complies with the contingency plan requirements in Minn. R. 7045.0572 [40 CFR Part 265, Subpart D].
131. Pursuant to Minn. R. 7045.0292, Subpart 1.G; 7045.0450; and 7045.0552, Subps. 1-2 [40 CFR § 262.34(a)(4), 264.1(b), (g)(3); 264.3, and 265.1(b), (c)(7)], a large quantity generator facility that came into existence after November 19, 1980, and that accumulates hazardous waste on site but does not comply with a requirement for a contingency plan in Minn. R. 7045.0572 [40 CFR Part 265, Subpart D], is the operator of a hazardous waste storage facility and subject to the storage facility contingency plan requirements of Minn. R. 7045.0466 [40 CFR part 264, Subpart D].

132. From June 11, 2000 to May 17, 2001, Respondent had a Contingency Plan for the Facility.
133. From on or before November 24, 1981, to August 25, 2005, there was a possibility that evacuation from the Facility could be necessary.
134. From June 11, 2000, to September 7, 2001, Respondent's Contingency Plan did not have an evacuation plan.
135. Respondent failed to provide Complainant a Contingency Plan for the Facility containing an evacuation plan until on or about September 7, 2001.
136. From June 11, 2000, to September 7, 2001, Respondent's Contingency Plan contained a list with more than one Emergency Coordinator.
137. From June 11, 2000, to September 7, 2001, Respondent's Contingency Plan for the Facility did not name a Primary Emergency Coordinator.
138. From June 11, 2000, to September 7, 2001, Respondent's Contingency Plan for the Facility did not provide the office telephone numbers of the Emergency Coordinators listed in the Contingency Plan.
139. From June 11, 2000 to September 7, 2001, Respondent's Contingency Plan for the Facility did not contain the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services.
140. From June 11, 2000 to September 7, 2001, Respondent's Contingency Plan for the Facility did not include a brief outline of the capabilities of each piece of emergency equipment on the emergency equipment list in the Contingency Plan.

141. From June 11, 2000 to September 7, 2001, Respondent failed to comply with the condition in Minn. R.7045.0292, Subpart 1, Item G for an exemption from the hazardous waste storage permit requirement, that it maintain a contingency plan containing the information referenced in paragraphs 134, and 137 to 140, above.
142. From June 11, 2000 to September 7, 2001, Respondent failed to qualify for a conditional generator exemption to regulation as a storage facility, and owned or operated a hazardous waste storage facility subject to the requirement of Minn. R. 7045.0466 to create and maintain at the Facility a Contingency Plan that contained the information specified in Minn. R. 7045.0466 [264.52].
143. Respondent's failure to provide an evacuation plan in its Contingency Plan violated Minn. R. 7045.0466, Subpart 4.F [40 C.F.R. § 264.52(f)].
144. Respondent's failure to provide in its Contingency Plan the name of a Primary Emergency Coordinator and the office telephone numbers of the Emergency Coordinators, violated Minn. R. 7045.0466, Subpart 4.D [40 C.F.R. § 264.52(d)].
145. Respondent's failure to have in its Contingency Plan the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency, violated Minn. R. 7045.0466, Subpart 4.C [40 C.F.R. § 264.52(c)].
146. Respondent's failure to provide in its Contingency Plan a brief outline of the capabilities of each piece of emergency equipment on the emergency equipment list in the Contingency Plan, violated Minn. R. 7045.0466, Subpart 4.E [40 C.F.R. § 264.52(e)].

COUNT 3:

Preparedness and Prevention Violations: Risk Minimization

147. Complainant incorporates paragraphs 1 through 146 of this Complaint as though set forth in this paragraph.
148. Subpart 2 of Minn. R. parts 7045.0462 and 7045.0566 [40 C.F.R. §§ 264.31 and 265.31] provide that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release to air, land, or water of hazardous waste or hazardous waste constituents which could threaten human health or the environment.
149. Pursuant to Minn. R. 7045.0292, Subpart 1.G [40 CFR § 262.34(a)(4)], a large quantity generator is exempt from the requirement to obtain a permit or interim status for the storage of hazardous waste, provided that it complies with, *inter alia*, the requirements for preparedness and prevention in Minn. R. 7045.0566 [40 CFR Part 265, Subpart C].
150. Pursuant to Minn. R. 7045.0292, Subpart 1.G; 7045.0450; and 7045.0552, Subps. 1-2 [40 CFR § 262.34(a)(4), 264.1(b), (g)(3); 264.3, and 265.1(b), (c)(7)], a large quantity generator facility that came into existence after November 19, 1980, and that accumulates hazardous waste on site but does not comply with a requirement for preparedness and prevention in Minn. R. 7045.0566 [40 CFR Part 265, Subpart C], is the operator of a hazardous waste storage facility and is subject to the storage facility requirements of Minn. R. 7045.0450 to 7045.0550 [40 CFR Part 264].
151. From on or about to May 17, 2001 to August 7, 2001, the floor of the Facility was degraded and had cracks in it.

152. Respondent's anodize tanks at the Facility contain sulfuric acid.
153. The pH of the sulfuric acid held in the anodize tanks at the Facility was less than 2.
154. Respondent's sulfuric acid had a hazardous waste code of D002.
155. Respondent's sulfuric acid contained chromium.
156. Respondent's sulfuric acid and chromium waste has a hazardous waste code of D007.
157. On May 17, 2001, Respondent's Facility floor did not have floor coating in an area near the nickel seal tank.
158. On June 12, 2001, Respondent's Facility floor between tanks 10 and 11 on the anodize line was heavily cracked and corroded.
159. On June 12, 2001 the Facility floor next to tank 8 was corroded and stained.
160. Respondent's Tank 8 at the Facility is a Hardcoat Tank that contains sulfuric acid.
161. The pH of the sulfuric acid held in tank 8 was less than 2.
162. Respondent's sulfuric acid in tank 8 had a hazardous waste code of D002.
163. Respondent's sulfuric acid in tank 8 contained chromium
164. The sulfuric acid and chromium in Respondent's tank 8 had a hazardous waste code of D007.
165. Respondent's Tank 9 at the Facility contained sulfuric acid.
166. The pH of the sulfuric acid held in Tank 9 was less than 2.
167. Respondent's sulfuric acid in Tank 9 had a hazardous waste code of D002.
168. Respondent's Tank 9 contained chromium.
169. The sulfuric acid and chromium in Respondent's Tank 9 had a hazardous waste code of D007.

170. On or about June 12, 2001, the floor near tank 8 and 9 of the anodize line was cracked and its coating was peeling.
171. On or about June 12, 2001, the flooring of Respondent's facility was degraded with a 6 to 10 inch hole near Tank 9.
172. On or about June 12, 2001, liquid was trickling into the hole in the floor near tank 9 of the anodize line.
173. On or about June 12, 2001, the floor at the Facility between Tanks 10 and 11 on the Anodize line was cracked and corroded.
174. The floor at the Facility underneath the zinc line is provided with an asphalt coating.
175. The asphalt coating on the floor at the Facility under the zinc line is permeable.
176. Portions of the floor coating of the Facility in the area between Anodize tanks 8 and 9 were missing or peeling.
177. On or about August 7, 2001, there was peeling floor coating between the nickel acetate seal tank and the rinse tank on the anodize line at the Facility.
178. On or about August 7, 2001, there was peeling floor coating near tank 30 on the anodize line.
179. On or about August 7, 2001, there were cracks in the concrete flooring between tanks 25 and 26 of the anodize line.
180. On or about August 7, 2001, there was peeling floor coating and corroded flooring between tanks 7 and 8 of the anodize line at the Facility.
181. On or about August 7, 2001, there was corroded flooring next to tank 7 of the anodize line at the Facility.

182. On or about August 7, 2001, there was cracked concrete and coating between tanks 10 and 11 of the anodize line at the Facility.
183. On or about August 7, 2001, there was corroded flooring between tanks 12 and 13 of the anodize line at the Facility.
184. Respondent's Tank 12 at the Facility contained nitric acid.
185. The pH of the nitric acid in Tank 12 was less than 2.
186. The nitric acid held in Tank 12 at the Facility has a hazardous waste code of D002.
187. The nitric acid held in Tank 12 at the Facility contains chromium.
188. The nitric acid held in Tank 12 at the Facility also has a hazardous waste code of D007.
189. On or about August 7, 2001, there was corroded flooring near tank 23 of the zinc line.
190. Respondent's Tank 23 at the Facility contains chromate (black)
191. The chromate in Respondent's Tank 23 contains chromic acid and sulfuric acid.
192. Respondent's chromate (black) has hazardous waste codes of D002 for corrosivity and D007 for chromium.
193. On or about April 29, 2005, the floor of Respondent's Facility was still corroded and compromised.
194. From May 17, 2001, through August 25, 2005, the floor of Respondent's Facility was corroded, cracked, and compromised.
195. From May 17, 2001, through August 25, 2005, the conditions referenced in paragraphs 153 through 196 above created the possibility of an unplanned sudden or nonsudden release to the land of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

196. From May 17, 2001, through August 25, 2005, the conditions referenced in paragraphs 151 to 194 above did not minimize the possibility of an unplanned sudden or nonsudden release to the land of hazardous waste or hazardous waste constituents which could threaten human health or the environment.
197. Respondent's failure to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release to air, land, or water of hazardous waste or hazardous waste constituents which could threaten human health or the environment, failed to comply with the condition in Minn. R. 7045.0292, Subpart 1.G [40 C.F.R. § 262.34(a)(4)], for exemption from the hazardous waste storage permit requirement.
198. From May 17, 2001, through August 25, 2005, Respondent failed to qualify for a conditional generator exemption from regulation of the Facility as a storage facility, and was operating a hazardous waste storage facility at the Facility, and was subject to the requirements of Minn. R. 7045.0462, Subpart 2 [40 CFR § 264.31].
199. Respondent's failure to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release to air, land, or water of hazardous waste or hazardous waste constituents which could threaten human health or the environment, constituted violations of Minn. R. 7045.0462, Subpart 2 [40 C.F.R. § 264.31].

COUNT 4:

Preparedness and Prevention Violations: Communication Devices

200. Complainant incorporates paragraphs 1 through 199 of this Complaint as though set forth

in this paragraph.

201. Subpart 3.B of Minn. R. parts 7045.0462 and 7045.0566 [40 C.F.R. §§ 264.34(b) and 265.32(b)], requires that hazardous waste storage facilities be equipped with a device, such as a telephone or a hand-held two-way radio, which is immediately available at the scene of operations and which is capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams, unless it can be demonstrated to the commissioner that none of the hazards posed by waste handled at the Facility could require such equipment specified.
202. Subpart 5 of Minn. R. parts 7045.0462 and 7045.0566, [40 C.F.R. §§ 264.34(a) and 265.34(a)], requires that an owner or operator of a hazardous waste storage facility provide all personnel involved in an operation in which hazardous waste is being poured, mixed, spread, or otherwise handled, with immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the commissioner has ruled that such a device is not required.
203. Pursuant to Minn. R. 7045.0292, Subpart 1.G [40 CFR § 262.34(a)(4)], a large quantity generator is exempt from the hazardous waste storage permit requirement, if it complies with the external and internal emergency communication requirements in Minn. R. 7045.0566, Subparts 3 and 5 [40 CFR Part 265, Subpart C, §§ 265.34(a) and (b)].
204. Pursuant to Minn. R. 7045.0292, Subpart 1.G, 7045.0450; and 7045.0552, Subps. 1-2 [40 CFR § 262.34(a)(4), 264.1(b), (g)(3); 264.3, and 265.1(b), (c)(7)], a large quantity generator facility that came into existence after November 19, 1980, and that accumulates hazardous waste on site but does not comply with an emergency communication

requirement in Minn. R. 7045.0566, Subparts 3 and 5 [40 CFR Part 265, Subpart C], is the operator of a hazardous waste storage facility and subject to the storage facility emergency communication requirements of Minn. R. 7045.0462, Subparts 3 and 5 [40 CFR §§ 264.34(a) and (b)].

205. From May 17, 2001, to on or about August 17, 2001, Respondent did not have a device such as a telephone or a hand-held two-way radio immediately available at the scene of Facility operations, capable of summoning external emergency assistance from local police department, fire departments or state or local emergency response teams.
206. From May 17, 2001 to on or about August 17, 2001, Respondent failed to comply with the condition for a hazardous waste storage permit exemption in Minn. R 7045.0292, Subpart 1.G [40 C.F.R. § 262.34(a)(4), 40 CFR Part 265, Subpart C], that it provide a telephone or two-way radio to its facility employees for summoning external emergency assistance pursuant to Minn. R. 7045.0566, Subpart 3.B. [40 CFR § 265.34(b)] .
207. From May 17, 2001 to on or about August 17, 2001, Respondent did not provide all personnel involved in an operation in which hazardous waste was being poured, mixed, spread, or otherwise handled, with immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee.
208. From May 17, 2001 to on or about August 17, 2001, Respondent failed to comply with the condition for a hazardous waste storage permit exemption in Minn. R 7045.0292, Subpart 1.G [40 C.F.R. § 262.34(a)(4)], that it provide immediate access to an internal alarm or emergency communication device to its hazardous waste employees pursuant to

Minn. R. 7045.0566, Subpart 5 [40 CFR part 265, Subpart C, § 265.34(a)].

209. From May 17, 2001 to August 17, 2001, Respondent's Facility failed to qualify for a conditional exemption from regulations as a storage facility, and was a hazardous waste storage facility subject to the requirements of Minn. R. 7045.0462, Subparts 3.B and 5 [40 C.F.R. § 264.34(a) and (b)], to have a telephone or hand-held two way radio immediately available at the scene of the operations, capable of summoning external emergency assistance; and an internal alarm or emergency communication device.
210. Respondent's failure, from May 17, 2001 to August 17, 2001, to have a device such as a telephone or hand-held two way radio immediately available at the scene of the operations at the Facility, capable of summoning emergency assistance from local police department, fire departments or state or local emergency response teams, violated Minn. R. 7045.0462, Subpart 3.B [40 C.F.R. § 264.32(b)].
211. Respondent's failure, from on or before May 17, 2001 to August 17, 2001, to provide all personnel involved in an operation, in which hazardous waste is being poured, mixed, spread, or otherwise handled, with immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, violated Minn. R. 7045.0462, Subpart 5 [40 C.F.R. § 264.34(a)].

COUNT 5:

Permitting Violation

212. Complainant incorporates paragraphs 1 through 211 of this Complaint as though set forth in this paragraph.

213. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. §§ 6925(a), the storage of hazardous waste by a facility in existence on or after November 19, 1980, or on the effective date of regulations requiring a permit, is prohibited except in accordance with a permit.
214. Pursuant to Minn. R. parts 7001.0030; 7001.0050; 7001.0520, Subpart 1.A; 7001.0530; and 7045.0450, Subpart 2; no person may store hazardous waste without applying for and having a permit from the Minnesota Pollution Control Agency.
215. Pursuant to Minn. R. 7045.0292, Subparts 1 and 8 [40 CFR §§ 262.34(a) and (c)], a large quantity generator of hazardous waste may accumulate hazardous waste for a limited time period without obtaining a permit, if the generator complies with the conditions for a storage permit exemption set forth in Minn. R. 7045.0292, Subparts 1 and 8 [40 C.F.R. § 262.34(a) and (c)].
216. Pursuant to Minn. R. parts 7001.0030; 7001.0050; 7001.0520, Subpart 1.A; 7001.0530; 7045.0450, Subpart 2; and 7045.0292, Subpart 1.G [40 CFR § 262.34(a)(4)], a large quantity generator that accumulates hazardous on site for 90 days or fewer but does not comply with the hazardous waste personnel training and training records requirements, or the contingency plan requirements, or the preparedness and prevention requirements, in Minn. R. parts 7045.0558, 7045.0572, and 7045.0566 [40 CFR § 265.16; 40 CFR Part 265, Subpart D; and 40 CFR part 265, Subpart C], is the operator of a hazardous waste storage facility and must apply for and obtain a hazardous waste storage permit.
217. From on or about May 22, 1984, to August 25, 2005, Respondent failed to comply with the conditions for an exemption from the hazardous waste storage permit requirement in Minn. R. 7405.0292, Subpart 1.G, and Minn. R. parts 7045.0558, 7045.0572, and

7045.0566, as specified in Counts 1 - 4 above.

218. From on or before November 24, 1981, through August 25, 2005, Respondent stored hazardous waste at the Facility.
219. From on or about May 22, 1984, to August 25, 2005, Respondent's Facility failed to qualify for a conditional generator exemption from the hazardous waste storage facility permit and operational requirements, and was a hazardous waste management facility storing hazardous waste, and was subject to the operating requirements of Minn. R. 7045.0450 through 7045.0551 and the permitting requirements of Minn. R. parts 7001.0030; 7001.0050; 7001.0520, Subpart 1.A; and 7001.0530.
220. Respondent never submitted a Part A permit application for the storage of hazardous waste at the Facility, to the Minnesota Pollution Control Agency, pursuant to Minn. R. 7001.0050 and 7001.0530.
221. Respondent never had a permit from the state of Minnesota for the storage of hazardous waste at the Facility.
222. Respondent never applied for or obtained a permit from the United States Environmental Protection Agency for the storage of hazardous waste at the Facility.
223. Respondent's failure to obtain a permit for the storage of hazardous waste at the Facility violated Minn. R. 7001.0030, and 7001.0520, Subpart 1.A.

II. PROPOSED CIVIL PENALTY

Complainant proposes to assess Respondent a civil penalty of \$300,000, plus interest, for the violations alleged in this Complaint:

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 or continuing on or after January 31, 1997.

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 1990 RCRA Civil Penalty Policy. A copy of the penalty policy is available upon request. This policy provides a consistent method of applying the statutory penalty factors to this case.

The Complainant proposes, subject to the receipt and evaluation of further relevant information from Respondent, that the Administrator assess a civil penalty of \$300,000, plus interest, with payments to be made in four installments over a three-year period starting 30 days after issuance of the Administrator's Initial Order, for the violations alleged in this Complaint, as further explained in Attachment A, "Penalty Summary Sheet."

Respondent may pay this penalty by certified or cashier's check(s), payable to "Treasurer, the United States of America," and remit to:

U.S. Environmental Protection Agency, Region 5

P.O. Box 70753
Chicago, Illinois 60673

A copy of the check(s) shall be sent to:

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

and

Michael Valentino
Waste, Pesticides & Toxics Division (DE-9J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

A transmittal letter identifying this Complaint shall accompany the remittance and the copy of the check.

III. COMPLIANCE ORDER

Based on the foregoing, Respondent is hereby ordered-- pursuant to authority in 3008(a) of RCRA, 42 U.S.C. § 6928(a), and § 22.37(b) of the Consolidated Rules-- to comply with the following requirements immediately upon the effective date of this Order:

1. Respondent shall maintain on-site, and ensure that they be made easily available for agency inspection, the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job; the written job description for each position; and a written description of the type and amount of both introductory and continuing training that will be given to each person filling each position as required by Minn. R. 7045.0294, Subpart 5.
2. Respondent shall maintain the job title for each position at the Facility related to

- hazardous waste management and the name of the employee filling each job as required by Minn. R. 7045.0454 and 7045.0558 (Subparts 6, Items A) [40 C.F.R. §§ 264.16(d)(1) and 265.16(d)(1)].
3. Respondent shall provide a written job description for each position at the Facility related to hazardous waste, which must include the requisite skill, education or other qualification, and duties of facility personnel assigned to each position, as required by Minn. R. 7045.0454 and 7045.0558 (Subparts 6, Items B) [40 C.F.R. §§ 264.16(d)(2) and 265.16(d)(2)].
 4. Respondent shall provide a written description of the type and amount of both the introductory and continuing training that will be given to each person filling each position, as required by Minn R. 7045.0454 and 7045.0558 (Subparts 6, Items C) [40 C.F.R. §264.16(d)(3), and 265.16(d)(3)].
 5. Respondent shall provide records that document that the training or job experience has been given to, and completed by, facility personnel and have a training program directed by a person trained in hazardous waste management procedures as required by Minn. R. 7045.0454 and 7045.0558 (Subparts 6, Items D) [40 C.F.R. §§ 264.16(d)(4), 265.16(d)(4)].
 6. Respondent shall demonstrate that its personnel training program is directed by a person trained in hazardous waste management procedures, and that its training program includes instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed, including contingency plan implementation procedures, as required by Minn R. 7045.0454 and 7045.0558

(Subparts 2 and 3) [40 C.F.R. §§ 264.16(a)(2), 265.16(a)(2)].

7. Respondent shall ensure, at a minimum, its training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable: (a) procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; (b) key parameters for automatic waste feed cut-off systems; (c) communications or alarm systems; (d) response to fires or explosions; (e) response to ground-water contamination; and (f) shutdown of operations, as required by Minn R. 7045.0454 and 7045.0558 (Subparts 3) [40 C.F.R. §§ 264.16(a)(3), 265.16(a)(3)].
8. Respondent shall incorporate an evacuation plan, including primary and secondary evacuation routes, in its Contingency Plan as required by Minn. R. 7045.0466 and 7045.0572 (Subparts 4, Items F) [40 C.F.R. §§ 264.52(f), 265.52(f)].
9. Respondent shall identify the Primary Emergency Coordinator and any Alternate Emergency Coordinator(s) and provide the addresses and office and home telephone numbers for all Emergency Coordinators in its Contingency Plan, and keep this information up-to-date as required by Minn. R. 7045.0466 and 7045.0572 (Subparts 4, Items D) [40 C.F.R. §§ 264.52(d) and 265.52(d)].
10. Respondent shall describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams in its contingency plan as required by Minn. R. 7045.0466 and 7045.0572 (Subparts 4, Items C) [40 C.F.R. §§ 264.52(c), 265.52(c)].

11. Respondent shall provide the locations of and a brief outline of the capabilities of each piece of emergency equipment on the emergency equipment list in the Contingency Plan as required by Minn. R. 7045.0466 and 7045.0572 (Subparts 4, Items E) [40 C.F.R. §§ 264.52(e), 265.52(e)].
12. Respondent shall provide documentation of the existence of a telephone or a hand-held two-way radio immediately available at the scene of the operations which is capable of summoning emergency assistance from local police department, fire departments or state or local emergency response teams as required in Minn. R. 7045.0462 and 7045.0566 (Subparts 3, Items B) [40 C.F.R. §§ 264.32(b), 265.32(b)].
13. Respondent shall maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release to the air, land, or water of hazardous waste or hazardous waste constituents which could threaten human health or the environment as required by Minn. R. 7045.0462 and 7045.0566 (Subparts 2) [40 C.F.R. §§ 264.31, 265.31].
14. Respondent shall:
 - A. Hire an independent engineering consulting company to:
 - i. Identify areas of deteriorated flooring (especially cracks and unsealed seams),
 - ii. Make recommendations as to repairs that need to be made,
 - iii. Identify all areas of flooring that are likely to come into contact with releases from process and waste tanks and containers and recommend appropriate impermeable coatings and sealers,
 - iv. Identify areas where soil samples from below the floor are necessary to determine whether soil has been impacted by mismanagement of releases,

- v. Make recommendations as to options available to remediate subsurface contamination, as necessary and appropriate to the circumstances, subject to the Minnesota Pollution Control Agency's approval; and review processes to determine mechanisms and procedural changes that can be put in place to minimize spillage to the floor and to enable clean up of releases as they occur (such changes might include prompt maintenance of leaking tanks, pipes, pumps and valves, installation of high level alarms and auto shut-off valves, positioning and configuring flooring and tanks to make it easier to clean and inspect underneath them, installation of drain boards between tanks, longer hang times before transfer of work to the next tank, and installation of automated systems where feasible).
 - vi. Identify areas where flooring is still used as a conduit or storage mechanism for wastewater, and wastewater treatment, and make recommendations as to alternatives; and develop a work plan and timetable to implement recommendations.
- B. Submit the engineering company's report/work plan to U.S. EPA or surrogate for review and comment and make changes as necessary to address the concerns of the reviewing authorities.
 - C. Begin cleaning up significant releases immediately, as they occur. Conduct daily inspections of the Facility to ascertain that releases are being recovered. Document the inspections.
 - D. Develop a cleaning schedule and log to ensure that floors are cleaned regularly as needed to avoid accumulation of solids, liquids and debris.
 - E. Develop an inspection schedule and log for flooring to identify corrosion, cracks, compromised floor coatings and other problems for repair.
 - F. Annually inspect fire extinguishers by a qualified technician.
14. Respondent shall **immediately** achieve compliance with all generator conditions for a hazardous waste storage license/permit exemption in Minn. R. 7045.0292, and shall submit written certification of its compliance to U.S EPA **within 15 calendar days of the effective date of this Order.**
15. Respondent shall notify U.S. EPA in writing upon achieving compliance with this Order

within 15 calendar days after the date it achieves compliance. If Respondent has not taken or completed any requirement of this Order, Respondent shall notify U.S. EPA of the failure, its reasons for the failure, and the proposed date for compliance within 10 calendar days after the due date set forth in this Order.

16. Respondent shall submit all reports, submissions, and notifications required by this Order to the United States Environmental Protection Agency, Region 5, Waste, Pesticides & Toxics Division, Enforcement and Compliance Assurance Branch, Attention: Michael Valentino (DE-9J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

IV. OPPORTUNITY TO REQUEST A HEARING

You have the right to request a hearing to contest any material fact in this Complaint, or to contest the amount of the proposed penalty, or both, as provided in Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with 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," codified at 40 C.F.R. Part 22. A copy of these rules accompanies this Complaint. To request a hearing, Respondent must specifically make the request in a written Answer to this Complaint. Respondent must file its written Answer with the Regional Hearing Clerk within 30 days of the date this Complaint is filed with the Regional Hearing Clerk. Consolidated Rules at § 22.15(a). In counting the 30-day time period, the actual date of receipt is not included. Saturdays, Sundays, and federal legal holidays are included in the computation. If the 30-day period expires on a Saturday, Sunday or federal legal holiday, the time period is extended to

include the next day which is not a Saturday, Sunday or federal legal holiday. Consolidated Rules at § 22.7(a).

The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with respect to which Respondent has any knowledge, or clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. The Answer shall also state:

1. The circumstances or arguments alleged to constitute the grounds of defense;
2. the facts Respondent intends to place at issue; and
3. **whether Respondent requests a hearing.**

Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material fact in the Complaint constitutes an admission of that allegation. Consolidated Rules at § 22.15.

Respondent must file its Answer with the Regional Hearing Clerk (R-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the Answer and any subsequent documents filed in this action should be sent to Michael McClary, Office of Regional Counsel (C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. Mr. McClary may be telephoned at (312) 886-7163.

If Respondent fails to file a timely written Answer to the Complaint, with or without a request for a hearing, the Regional Administrator or Presiding Officer may issue a Default Order pursuant to § 22.17 of the Consolidated Rules. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on the factual allegations under Section 3008 of RCRA, 42

U.S.C. § 6928. Default will also result in the penalty proposed in the Complaint becoming due and payable by Respondent without further proceedings 30 days after issuance of a final order upon default under § 22.27(c) of the Consolidated Rules. In addition, default will preclude Respondent from obtaining adjudicative review of any of the provisions contained in the Compliance Order section of the Complaint.

A hearing upon the issues raised in the Complaint and Answer shall be held (upon the request of Respondent in the Answer) and conducted according to the Administrative Procedures Act, 5 U.S.C. §§ 551 *et seq.*. The hearing will be in a location determined pursuant to § 22.21(d) of the Consolidated Rules.

V. SETTLEMENT CONFERENCE

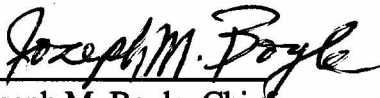
Whether or not you as Respondent request a hearing, you may request an informal conference to discuss the facts of this case and to arrive at a settlement. To request a settlement conference, Respondent should write to Michael Valentino, Enforcement and Compliance Assurance Branch (DE-9J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or telephone him at (312) 886-4582.

Your request for an informal settlement conference does not extend the 30-day period during which you must submit a written Answer and Request for Hearing. Respondent may pursue the informal conference procedure simultaneously with the adjudicatory hearing procedure.

U.S. EPA encourages all parties for whom a civil penalty is proposed to pursue the possibilities of settlement through an informal conference. U.S. EPA, however, will not reduce

the penalty simply because the parties hold a conference. The parties will embody any settlement that they may reach as a result of the conference in a written Consent Agreement and Final Order (CAFO) issued by the Director, Waste, Pesticides and Toxics Division, U.S. EPA, Region 5. The issuance of a CAFO shall constitute a waiver of Respondent's right to request a hearing on any stipulated matter in the CAFO.

Dated this 25th day of August, 2005.


Joseph M. Boyle, Chief
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
Region 5

Complaint Docket No. RCRA-05- 2005 0010

ATTACHMENT A

MINNESOTA METAL FINISHING
RCRA PENALTY SUMMARY SHEET — AUGUST 23, 2005

COUNT	MATRIX CELL	CELL %	GRAVITY COMPONENT	MULTI-DAY COMPONENT	COMBINED GRAVITY AND MULTI-DAY	ADJUSTMENT FACTORS	ECONOMIC BENEFIT	TOTAL
(A)	(B)	(D)	(E)	(F)	(G)	(H)	(I)	(J)
1 Training violations	MOD-MAJ	55%	\$10,615	\$42,460 ¹	\$53,075	+\$7961 - \$27,350 (-37% ability to pay)	\$12,096	\$45,782
2 Contingency plan deficiencies	MIN-MIN	50%	\$330	N/A ²	\$330	+\$17 - \$82 (-25% ability to pay)	N/A	\$265
3 Failure to immediately recover spills	MOD-MAJ	60%	\$10,780	\$291,412 ³	\$302,192	+\$15,110 - \$87,051 (-27% ability to pay)	N/A	\$230,251

¹Multi-day component based on four additional annual training violations (initial violation in 2000, followed by violations for years 2001 through 2004). $\$10,615 \times 4 = \$42,460$.

²Multi-day component is waived, per EPA discretion.

³Multi-day component = $\$1628/\text{day} \times 179$ days of additional non-compliance.

ATTACHMENT A

MINNESOTA METAL FINISHING
RCRA PENALTY SUMMARY SHEET — AUGUST 23, 2005

4	Failure to have communication device	MIN-MOD	40%	\$990	\$18,216 ⁴	\$19,206	- \$4801 (- 25% ability to pay)	N/A	\$14,405
5	Failure to obtain a H.W. permit	MOD-MAJ	60%	\$10,780 ⁵	N/A	\$10,780	+\$1617 - \$3100 (- 25% ability to pay)	N/A ⁶	\$9,297
Σ 1 - 5			—	\$33,495	\$352,088	\$385,583	- \$97,679	\$12,096	\$300,000

⁴Multi-day component based = \$198/day X 92 days of additional non-compliance (May 18, 2001 through August 17, 2001).

⁵Region is seeking a one-time gravity penalty for this violation.

⁶Economic benefit for failure to have a RCRA permit will not be sought, as it will not be included as an element of injunctive relief for this violation.

CASE NAME: Minnesota Metal Finishing, Incorporated
DOCKET NO: RCRA-05- 2005 0013

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Complaint and Compliance 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, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed on 8.26.05 Via Certified U.S. Mail, Return Receipt Requested to the following:

7001 0320 0006 1448 8538

Jack Logan
CEO and President
Minnesota Metal Finishing, Incorporated
909 Winter Street Northeast
Minneapolis, Minnesota 55413

I also certify that I sent copies of the letter by first class mail to:

Robert Dullinger
Hazardous Waste Compliance & Enforcement
Industrial Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155 Division

Mike Risse
Environmental Protection Division
Department of Environmental Services
Hennepin County
417 North Fifth Street
Minneapolis, Minnesota 55401-1397

Dated: 8.26.05

RECEIVED
REGIONAL HEARING
CLERK

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US ENVIRONMENTAL
PROTECTION AGENCY
REGION V

Ronza J. Jordan
for Ronza J. Jordan
Administrative Program Asst.
Waste, Pesticides and Toxics
Division
United States Environmental
Protection Agency
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-0849