



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

OCT 24 2007

REPLY TO THE ATTENTION OF:

LR-8J

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

Robert Meagher, President  
South Holland Metal Finishing Company, Inc.  
26100 South Whiting Way  
Monee, Illinois 60449

Re: First Amended Administrative Complaint and Compliance Order **RCRA-05-2007-0014**  
South Holland Metal Finishing Company, Inc.  
Monee, Illinois  
ILR 000 107 334

Dear Mr. Meagher:

Enclosed please find a First Amended Administrative Complaint and Compliance Order (Complaint), which the United States Environmental Protection Agency, Region 5 (U.S. EPA) has filed against South Holland Metal Finishing Company, Inc. (SHMFC) 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 SHMFC's failure to comply with Illinois' RCRA hazardous waste regulations; specifically, the generator conditions for a permit exemption of 35 IAC § 722.134 [40 CFR § 262.34]; the permitting requirement of 35 IAC § 703.121 [40 CFR § 270.1(c)]; the aisle space, container suitability and maintenance requirements of 35 IAC Part 724 [40 CFR Part 264]; and the used oil containment requirements of 35 IAC Part 739 [40 CFR Part 279].

Also, enclosed is a copy of 40 CFR 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:

Regional Hearing Clerk (E-13J)  
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:

Thomas J. Kenney  
Senior Attorney  
United States Environmental Protection Agency, Region 5  
Office of Regional Counsel (C-14J)  
77 West Jackson Boulevard  
Chicago, IL 60604

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

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 technical questions or want to request an informal settlement conference with Land and Chemicals Division staff, please contact:

Bradley R. Grams  
Environmental Scientist  
United States Environmental Protection Agency, Region 5  
Land and Chemicals Division  
RCRA Branch (LR-8J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604

He may also be reached at (312) 886-7747.

Please contact Mr. Kenney at (312) 886-0708 if you have any legal questions.

Sincerely,

A handwritten signature in cursive script that reads "Willie H. Harris".

Willie H. Harris, P.E.

Chief

RCRA Branch

Land and Chemicals Division

Enclosures (2)

cc: Todd Marvel, Illinois Environmental Protection Agency (w/Encls)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF: )  
 ) DOCKET NO.: RCRA-05-2007-0014  
**South Holland Metal Finishing Co., Inc.** )  
**26100 South Whiting Way** )  
**Monee, Illinois 60449** )  
 )  
**ILR 000 107 334** )  
 )  
Respondent )  
\_\_\_\_\_ )

**FIRST AMENDED 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 USC Section 6928(a). RCRA was amended in 1984 by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 USC §§ 6921-6939. This action is also instituted under Sections 22.1(a)(4), 22.13 and 22.37 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" (Consolidated Rules), codified at 40 CFR 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 USC §§ 6912(a)(1), 6926(b), and 6928.

3. The Complainant is, by lawful delegation, the Director, Land and Chemicals Division, Region 5, United States Environmental Protection Agency (U.S. EPA).
4. The Respondent is South Holland Metal Finishing Company, Inc. ("Respondent"), which is and was at all times relevant to this Complaint, a corporation incorporated under the laws of Illinois, and the owner and operator of a facility as defined at 35 Illinois Administrative Code (IAC) Section 720.110 [40 CFR § 260.10], located at 26100 South Whiting Way, Monee, Illinois, 60449.
5. U.S. EPA has provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 USC § 6928(a)(2).

#### **Statutory and Regulatory Background**

6. U.S. EPA has promulgated regulations, codified at 40 CFR Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste, including used oil.
7. Under Section 3006 of RCRA, 42 USC § 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 under Subchapter III (Sections 3001-3023 of RCRA, 42 USC §§ 6921-6939(e)) or of any state provision authorized under 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 USC § 6928.
8. Under Section 3006(b) of RCRA, 42 USC § 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 on January 31, 1986.

51 Fed. Reg. 3778 (January 31, 1986). The Administrator of U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective March 5, 1988, 53 Fed. Reg. 126 (January 5, 1988); April 30, 1990, 55 Fed. Reg. 7320 (March 1, 1990); June 3, 1991, 56 Fed. Reg. 13595 (April 3, 1991); August 15, 1994, 59 Fed. Reg. 30525 (June 14, 1994); May 14, 1996, 61 Fed. Reg. 10684 (March 15, 1996); October 4, 1996, 61 Fed. Reg. 40520 (August 5, 1996). The U.S. EPA-authorized Illinois regulations are codified at Title 35 Illinois Administrative Code (IAC) Part 703 *et seq.* See also 40 CFR § 272.700 *et seq.*

9. Section 3008(a) of RCRA, 42 USC § 6928(a), provides U.S. EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program.
10. Under Section 3008(a) of RCRA, 42 USC § 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.
11. Section 3005(a) of RCRA, 42 USC § 6925(a), prohibits the treatment, storage, or disposal of hazardous waste except in accordance with a permit. It requires each person owning or operating a facility at which hazardous waste is treated, stored or disposed (TSD facility or TSDF) to have a permit issued by U.S. EPA or the authorized state. U.S. EPA has promulgated regulations at 40 CFR Part 270 that establish permitting requirements and procedures. The federally-authorized Illinois regulations that govern (in lieu of analogous federal regulations) the issuance of permits are codified at 35 IAC Parts 702 and 703.
12. Section 3005(e) of RCRA, 42 USC § 6925(e) includes a provision for "interim status" which

allows TSD facilities to operate in certain circumstances pending receipt of a permit. U.S. EPA promulgated standards at 40 CFR Part 265 that are applicable to facilities subject to interim status requirements. The federally-authorized Illinois regulations that govern (in lieu of analogous federal regulations) the interim status standards for owners and operators of hazardous waste TSD facilities are codified at 35 IAC Part 725.

13. Section 3004 of RCRA, 42 USC § 6924 includes standards for TSD facilities and hazardous waste generators who began operation after November 19, 1980. U.S. EPA promulgated standards at 40 CFR Part 264 that are applicable to these aforementioned facilities. The federally-authorized Illinois regulations that govern (in lieu of analogous federal regulations) the standards for owners and operators of hazardous waste TSD facilities and hazardous waste generators operating after November 19, 1980 are codified at 35 IAC Part 724.
14. TSD facilities that began operation after November 19, 1980 are required to operate in accordance with promulgated standards found at 40 CFR Part 264. The federally-authorized Illinois regulations that govern (in lieu of analogous federal regulations) these post-1980 hazardous waste TSD facilities are codified at 35 IAC Part 724.
15. Facilities that treat, store, or dispose of hazardous waste must obtain a permit or interim status pursuant to 35 IAC § 703.121(a) [40 CFR § 270.1(a)], and Sections 3004, 3005 and 3006 of RCRA, 42 USC §§ 6924-6926.
16. Any violation of regulations promulgated pursuant to Subchapter III, Sections 3001-3023 of RCRA, 42 USC §§ 6921-6039, or any State program authorized by U.S. EPA pursuant to Section 3006 of RCRA, 42 USC § 6926, constitutes a violation of RCRA, subject to the assessment of civil or criminal penalties and compliance orders as provided in Section 3008

of RCRA, 42 USC § 6928.

17. Under 35 IAC § 720.110 [40 CFR § 260.10], a “generator” means any person, by site, whose act or process produces hazardous waste identified or listed in 35 IAC Part 721 [40 CFR Part 261] or whose act first causes a hazardous waste to become subject to regulation.
18. Under 35 IAC § 720.110 [40 CFR § 260.10], a “large quantity generator” means a generator who generates more than 1000 kilograms of hazardous waste in a calendar month.
19. Under 35 IAC § 720.110 [40 CFR § 260.10] “storage” means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
20. 35 IAC § 703.121 states that each person owning or operating a hazardous waste storage facility must have a permit or have applied for a permit [40 CFR § 270.1].
21. However, under 35 IAC § 722.134(a) [40 CFR § 262.34(a)], generators of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the following provisions:  
35 IAC §§ 722.134 (a)(1)(A), (a)(1)(B), (a)(2), (a)(3) and (a)(4)  
[40 CFR §§ 262.34 (a)(1)(i), (a)(1)(ii), (a)(2), (a)(3) and (a)(4)].

#### **General Allegations**

22. The Respondent is South Holland Metal Finishing Company, Incorporated (SHMFC).
23. Respondent is a firm, corporation, partnership, association or other business organization.
24. Respondent is the owner or operator of contiguous land and structures, other appurtenances and improvements on the land, located at 26100 South Whiting Way, Monee, Illinois.



25. Respondent has a North American Industry Classification System (NAICS) code of 332813.
26. Respondent is a manufacturer of finished metal products.
27. Respondent generates and/or stores “solid wastes” at the facility as defined in 35 IAC § 721.102 [40 CFR § 261.2].
28. As a result of the operation of a manufacturing process, Respondent generates and stores “hazardous waste” at this facility, as defined in 35 IAC § 721.103 [40 CFR § 261.3].
29. Respondent characterized this “hazardous waste” as F006, a waste filter cake sludge.
30. Respondent notified the Illinois Environmental Protection Agency (IEPA) on or about July 30, 2001, that it generates these hazardous wastes in an amount greater than 1000 kilograms a month.
31. Respondent notified the U.S. EPA on or about July 30, 2001 that it generates these hazardous wastes in an amount greater than 1000 kilograms a month.
32. Respondent has never filed, with the U.S. EPA or with the IEPA, a RCRA Part A Permit Application for the storage of hazardous waste at the facility.
33. Respondent has never operated under interim status, pursuant to 35 IAC § 703.121(a) [40 CFR § 270.1(a)], for the storage of RCRA hazardous waste.
34. Therefore, Respondent’s facility is a “generator” of hazardous waste and is subject to regulation under 35 IAC Part 722 [40 CFR Part 262].
35. This includes specific management requirements for generators who generate hazardous waste greater than 1000 kilograms in a calendar month which are found at 35 IAC § 722.134 [40 CFR § 262.34].
36. On or about April 7, 2004, U.S. EPA conducted a compliance evaluation inspection (CEI) at

Respondent's facility.

37. The CEI was performed to determine compliance with Illinois hazardous waste management regulations.
38. During the CEI, Respondent allowed the U.S. EPA inspector to observe plant operations related to the handling of hazardous waste.
39. Respondent also provided various records to the U.S. EPA inspector related to the management of hazardous waste for review.
40. On or about July 12, 2004, Respondent received in the mail from U.S. EPA a 42 USC § 6927 Request for Information (IR), dated July 12, 2004 which requested from Respondent information relating to hazardous waste management at the facility.
41. On or about August 12, 2004, Respondent submitted to U.S. EPA by mail its response to the IR, dated August 12, 2004.
42. On or about September 20, 2004, Respondent received in the mail from U.S. EPA a Notice of Violation (NOV) dated September 20, 2004.
43. On or about October 18, 2004, Respondent submitted to U.S. EPA by mail its NOV response, dated October 18, 2004.
44. On or about May 26, 2005, U.S. EPA conducted a Case Development Inspection (CDI) in order to follow-up on previous inspection findings.
45. On or about September 30, 2005, Respondent received in the mail from U.S. EPA a second NOV (NOV 2) dated September 30, 2005.
46. On or about October 28, 2005, Respondent submitted to U.S. EPA by mail its NOV 2 response, dated October 28, 2005.

47. As a result of the April 7, 2004 CEI and May 26, 2005 CDI at Respondent's facility, August 12, 2004 IR response, October 18, 2004 NOV response, and October 28, 2005 NOV 2 response, U.S. EPA determined the following:

**COUNT 1:**

**Hazardous Waste Storage Container Accessibility Violations**

48. Complainant incorporates paragraphs 1 through 47 of this Complaint as though set forth in this paragraph.
49. 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)] requires generators without a permit or interim status to comply with the applicable requirements of Subpart C of 35 IAC Part 725 [Subpart C of 40 CFR Part 265], Preparedness and Prevention Measures.
50. Subpart C of 35 IAC Part 725 [40 CFR Part 265] includes, among other things, requirements related to the required aisle space required between containers.
51. Under 35 IAC § 725.135 [40 CFR § 265.35], in order to avoid the need for a hazardous waste storage permit, a large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of the facility in an emergency.
52. The parallel post-1980 required aisle space requirement can be found at 35 IAC § 724.135 [40 CFR § 264.35].
53. At the time of the U.S. EPA April 7, 2004 CEI, a U.S. EPA inspector inspected the hazardous waste storage area (HWSA) of the Respondent.
54. On or about April 7, 2004, a U.S. EPA inspector observed that the Respondent's HWSA had approximately 58 tote bags (or hazardous waste storage containers (HWSCs))

containing F006 hazardous waste.

55. On or about April 7, 2004, a U.S. EPA inspector observed that the aforementioned 58 HWSCs were placed in rows of three to four HWSCs wide.
56. On or about April 7, 2004, a U.S. EPA inspector could not observe the interior HWSCs from the row perimeter.
57. On or about April 7, 2004, a U.S. EPA inspector could not inspect the quality of the interior HWSCs from the row perimeter.
58. On or about April 7, 2004, a U.S. EPA inspector could not access the interior HWSCs from the row perimeter.
59. On or about April 7, 2004, several interior HWSCs were not accessible to personnel.
60. At the time of the U.S. EPA May 26, 2005 CDI, a U.S. EPA inspector inspected the hazardous waste storage area of the Respondent.
61. On or about May 26, 2005, a U.S. EPA inspector observed that the Respondent HWSA had approximately 78 HWSCs containing F006 hazardous waste.
62. On or about May 26, 2005, a U.S. EPA inspector observed that the aforementioned 78 HWSCs were placed in rows of three to four HWSCs wide.
63. On or about May 26, 2005, a U.S. EPA inspector could not observe the interior HWSCs from the row perimeter.
64. On or about May 26, 2005, a U.S. EPA inspector could not inspect the quality of the interior HWSCs.
65. On or about May 26, 2005, a U.S. EPA inspector could not access the interior HWSCs from the row perimeter.

66. On or about May 26, 2005, several HWSCs were not accessible to personnel.
67. By failing to arrange HWSCs appropriately to allow for movement of personnel to several HWSCs in the HWSA, Respondent failed to comply with the required aisle space requirements found at 35 IAC § 724.135 [40 CFR § 264.35].
68. In failing to comply with 35 IAC § 724.135 [40 CFR § 264.35], Respondent also failed to meet the interim status aisle space requirements found at 35 IAC § 725.135 [40 CFR § 265.35] which needed to be met in order to obtain a permit exemption under 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)].

**COUNT 2:**

**Hazardous Waste Storage Container Maintenance Violations**

69. Complainant incorporates paragraphs 1 through 68 of this Complaint as though set forth in this paragraph.
70. 35 IAC § 722.134(d)(2) [40 CFR § 262.34 (d)(2)] requires generators without a permit or interim status to comply with the applicable requirements of Subpart I of 35 IAC Part 725 [Subpart I of 40 CFR Part 265], relating to the use and management of containers.
71. 35 IAC § 725.273(a) [40 CFR § 265.173(a)] requires that containers holding hazardous waste must always be closed, except when necessary to add or remove waste.
72. The parallel post-1980 container management requirement can be found at 35 IAC § 724.273(a) [40 CFR § 264.173(a)].
73. On or about April 7, 2005, a U.S. EPA inspector observed that Respondent had left approximately one HWSC uncovered and open to the environment.
74. On or about April 7, 2005, a U.S. EPA inspector also observed that hazardous waste was

not being added to or removed from the aforementioned HWSC.

75. On or about April 7, 2005, Respondent also acknowledged that hazardous waste was not being added to or removed from the aforementioned HWSC.
76. On or about April 7, 2005, Respondent failed to keep one HWSC closed, except when necessary to add or remove waste.
77. On or about May 26, 2005, a U.S. EPA inspector observed that the Respondent had left approximately three HWSCs uncovered and open to the environment.
78. On or about May 26, 2005, a U.S. EPA inspector also observed that hazardous waste was not being added to or removed from the three aforementioned HWSCs.
79. On or about May 26, 2005, Respondent also acknowledged that hazardous waste was not being added to or removed from the three aforementioned HWSCs.
80. On or about May 26, 2005, Respondent failed to keep three HWSCs closed, except when necessary to add or remove waste.
81. In failing to keep three HWSCs closed, except when necessary to add or remove waste; Respondent failed to comply with 35 IAC § 724.273(a) [40 CFR § 264.173(a)].
82. In failing to comply with 35 IAC § 724.273(a) [40 CFR § 264.173(a)], Respondent also failed to meet the interim status container management requirements found at 35 IAC § 725.273(a) [40 CFR § 265.173(a)] which needed to be met in order to obtain a permit exemption under 35 IAC § 722.134(a)(1)(A) [40 CFR § 262.34(a)(1)(i)].

### **COUNT 3:**

#### **Preparedness and Prevention Violations: Container Risk Minimization**

83. Complainant incorporates paragraphs 1 through 82 of this Complaint as though

set forth in this paragraph.

84. 35 IAC § 722.134(a)(1)(A) [40 CFR § 262.34 (a)(1)(i)] requires generators without a permit or interim status to comply with the applicable requirements of Subpart I of Part 725, [Subpart I of 40 CFR Part 265], relating to the use and management of containers.
85. 35 IAC § 725.271 [40 CFR § 265.171] requires that if a HWSC is not in good condition or is leaking, then 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 consistent with the container requirements.
86. The parallel post-1980 container management requirement can be found at 35 IAC § 724.271 [40 CFR § 264.171].
87. On or about April 7, 2004, a U.S. EPA inspector observed that several HWSCs were either leaking or in poor condition at Respondent's facility.
88. On or about April 7, 2004, Respondent acknowledged the presence of the aforementioned HWSCs that were either leaking or in poor condition.
89. On or about April 7, 2004, Respondent had not transferred the hazardous waste from the aforementioned HWSCs into new HWSCs of quality condition.
90. On or about May 26, 2005, a U.S. EPA inspector observed that several HWSCs were either leaking or in poor condition at the Respondent's facility.
91. On or about May 26, 2005, Respondent acknowledged the presence of the aforementioned HWSCs that were either leaking or in poor condition.
92. On or about May 26, 2005, Respondent had not transferred the hazardous waste from the aforementioned several HWSCs into new HWSCs of quality condition.

aforementioned several HWSCs into new HWSCs of quality condition.

93. On or about April 7, 2004, Respondent failed to comply with 35 IAC § 724.271 [40 CFR § 264.171], by failing to transfer or manage waste from HWSCs that were either leaking or in poor condition.
94. On or about May 26, 2005, Respondent failed to comply with 35 IAC § 724.271 [40 CFR § 264.171], by failing to transfer or manage waste from HWSCs that were either leaking or in poor condition.
95. Therefore, Respondent failed to comply with 35 IAC § 724.271 [40 CFR § 264.171], by failing to transfer or manage waste from HWSCs that were either leaking or in poor condition in multiple instances.
96. In failing to comply with 35 IAC § 724.271 [40 CFR § 264.171], Respondent also failed to meet the interim status container management requirements found at 35 IAC § 725.271 [40 CFR § 265.171] which needed to be met in order to obtain a permit exemption under 35 IAC § 722.134(a)(1)(A) [40 CFR § 262.34(a)(1)(i)].

#### **COUNT 4:**

##### **Permitting Violations**

97. Complainant incorporates paragraphs 1 through 96 of this Complaint as though set forth in this paragraph.
98. Pursuant to Section 3005(a) of RCRA, 42 USC §§ 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.
99. Pursuant to 35 IAC § 722.134(a)[40 CFR § 262.34(a)], a large quantity generator of



hazardous waste may accumulate hazardous waste for a limited time period without acquiring or obtaining a permit, if the generator complies with the conditions for a storage permit exemption set forth in 35 IAC Parts 722, 724 and 725 [40 CFR Parts 262, 264 and 265].

100. Pursuant to 35 IAC § 722.134(a) [40 CFR § 262.34(a)], a large quantity generator that accumulates hazardous waste for 90 days or less but does not comply with the hazardous waste personnel training or records requirements, or the contingency plan requirements, or preparedness and prevention requirements in 35 IAC Parts 722, 724 and 725 [40 CFR Parts 262, 264 and 265] is required to hold either a hazardous waste treatment, storage and/or disposal permit or have interim status.
101. Under 35 IAC § 703.121(a)(1) [40 CFR Part 270], no person may person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation without a RCRA permit for the facility.
102. On or about April 7, 2004 and/or May 26, 2005, Respondent failed to comply with the conditions for an exemption from the hazardous waste storage permit requirement as specified in counts one through three above.
103. On or before April 7, 2004 and/or on or before May 26, 2005, Respondent stored hazardous waste at the facility.
104. On or about April 7, 2004 and/or on or about May 26, 2005, Respondent's facility failed to qualify for a conditional generator exemption from a hazardous waste storage facility permit and operational requirements and was a hazardous waste management facility storing hazardous waste.

105. Respondent never submitted a Part A permit application to the IEPA for the storage of hazardous waste at the facility.
106. Respondent never had a permit from the State of Illinois for the storage of hazardous waste at the facility.
107. Respondent never applied for or obtained a permit from the U.S. EPA for the storage of hazardous waste at the facility.
108. Respondent's failure to obtain a permit for the storage of hazardous waste at the facility violated 35 IAC § 703.121(a)(1) [40 CFR Part 270].

**COUNT 5:**

**Used Oil Violations**

109. Complainant incorporates paragraphs 1 through 108 of this Complaint as though set forth in this paragraph.
110. 35 IAC § 739.122(c)(1) [40 CFR § 279.22(c)(1)] requires that a generator of solid waste must label or mark clearly all containers used to store used oil with the words, "Used Oil."
111. On or about April 7, 2004, a U.S. EPA inspector observed that 11 used oil storage containers (UOSCs) were not labeled or marked clearly with the words, "Used Oil," at the Respondent's facility.
112. On or about April 7, 2004, Respondent acknowledged the lack of "Used Oil" labeling or marking on the aforementioned 11 UOSCs.
113. On or about April 7, 2004, Respondent had not labeled or marked clearly on the 11 aforementioned UOSCs the words, "Used Oil."

114. On or about May 26, 2005, a U.S. EPA inspector observed that 14 UOSCs were not labeled or marked clearly with the words, "Used Oil," at the Respondent's facility.
115. On or about May 26, 2005, Respondent acknowledged the lack of "Used Oil" labeling or marking on the aforementioned 14 UOSCs.
116. On or about May 26, 2005, Respondent had not labeled or marked clearly on the aforementioned 14 UOSCs the words, "Used Oil."
117. On or about April 7, 2004, Respondent failed to comply with 35 IAC § 739.122(c)(1) [40 CFR § 279.22(c)(1)], by failing to label or mark clearly on the UOSCs the words, "Used Oil."
118. On or about May 26, 2005, Respondent failed to comply with 35 IAC § 739.122(c)(1) [40 CFR § 279.22(c)(1)], by failing to label or mark clearly on the UOSCs the words, "Used Oil."
119. Therefore, Respondent failed to comply with 35 IAC § 739.122(c)(1) [40 CFR § 279.22(c)(1)], by failing to keep UOSCs labeled or marked clearly with the words, "Used Oil," in multiple instances.

## **II. PROPOSED CIVIL PENALTY**

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 USC § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 USC § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Under the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 CFR 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 that occurred between January 31, 1997 and March 15, 2004 and the U.S. EPA may assess a civil penalty of up to \$32,500 per day for the violation of Subtitle C of RCRA occurring after March 15, 2004.

Complainant determined the proposed civil penalty according to RCRA Section 3008, 42 USC § 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 USC § 6928(a)(3). Complainant has considered the facts and circumstances of this case with specific reference to U.S. EPA’s 2003 RCRA Civil Penalty Policy. 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 assesses a civil penalty of \$33,780.00 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, payable to “Treasurer, the United States of America,” and remit to:

U.S. Environmental Protection Agency, Region 5  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

A copy of the check shall be sent to:

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

and

Bradley R. Grams  
RCRA Branch  
Land & Chemicals Division (LR-8J)  
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. PROPOSED COMPLIANCE ORDER**

Based on the foregoing, Respondent is hereby ordered, under the authority in 3008(a) of RCRA, 42 USC § 6928(a), and 40 CFR § 22.37(b), to comply with the following requirements immediately upon the effective date of this Order:

1. Respondent shall immediately achieve and maintain compliance with the aisle space and accessibility requirements under 35 IAC § 724.135 [40 CFR § 264.35] and 35 IAC § 725.135 [40 CFR § 265.35].
2. Respondent shall immediately achieve and maintain compliance with the hazardous waste storage container closure requirements under 35 IAC § 724.723(a) [40 CFR § 264.173(a)] and 35 IAC § 725.723(a) [40 CFR § 265.173(a)].
3. Respondent shall immediately achieve and maintain compliance with the hazardous waste storage container maintenance requirements in 35 IAC § 724.271 [40 CFR § 264.171] and 35 IAC § 725.271 [40 CFR § 265.171].
4. Respondent shall immediately achieve and maintain compliance with the used oil storage container labeling requirements under 35 IAC § 739.122(c)(1) [40 CFR § 279.22(c)(1)].
5. Respondent shall immediately achieve and maintain compliance with all other

requirements and prohibitions governing the storage, treatment and disposal of hazardous waste, codified at or incorporated by 35 IAC Part 703 *et seq.*, and 40 CFR Parts 260 through 279.

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

Bradley R. Grams  
RCRA Branch  
Land & Chemicals Division (LR-8J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

7. 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.

#### **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 USC § 6928(b), and in accordance with the Consolidated Rules. 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 calendar days of receiving the Complaint, 40 CFR § 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. 40 CFR § 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 the following:

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. 40 CFR § 22.15.

Respondent must file its Answer with the Regional Hearing Clerk (E-13J), 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 Thomas Kenney, Office of Regional Counsel (C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. Mr. Kenney may be telephoned at (312) 886-0708.

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

under 40 CFR § 22.17. 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 USC § 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 40 CFR § 22.27(c). In addition, default will preclude Respondent from obtaining adjudicative review of any of the provisions contained in the Proposed 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 USC § 551 *et seq.* The hearing will be in a location determined under 40 CFR § 22.21(d).

#### **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 Bradley R. Grams, RCRA Branch (LR-8J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or telephone Mr. Grams at (312) 886-7747.

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 Regional Administrator, 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 23 day of October, 2007,



Margaret M. Guerriero  
Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region 5

Complaint Docket No.: **RCRA-05-2007-0014**

Attachment A  
**PENALTY SUMMARY SHEET**  
 South Holland Metal Finishing Co., Inc.

NATURE OF VIOLATION	CITATION OF REGULATION OR LAW	HARM/ DEVIATION	GRAVITY-BASED PENALTY	MULTI-DAY PENALTY	ECONOMIC BENEFIT	ADJUSTMENTS	TOTAL PENALTY
<p><b>COUNT ONE: Non-Compliance w/ Aisle Space &amp; Accessibility</b>                      HWSP Requirements: The hazardous waste storage area containing one-cubic-yard tote bags did not have aisle space that would allow the movement of personnel or spill control equipment in order to inspect the hazardous waste storage containment quality or to allow accessibility in the case of a sudden or non-sudden hazardous waste and/or constituent release</p>	40 CFR 262.34(a)(4) & 264.35	MODERATE/ MINOR	\$7,738.00 (from 2 days * \$3,869.00/day)	N/A	Negligible	\$0	\$7,738
<p><b>COUNT TWO: Non-Compliance w/ Hazardous Waste Storage Containment Protocol HWSP</b>                      Exemption Requirements:                      Hazardous Waste storage tote bags were left open to the environment</p>	40 CFR 262.34(d)(2) & 264.173(a)	MODERATE/ MODERATE	\$12,896.00 (from 2 days * \$6,448.00/day)	N/A	Negligible	\$0	\$12,896
<p><b>COUNT THREE: Non-Compliance w/ Hazardous Waste Containment HWSP</b>                      Requirements: Failure to use containment suitable for the hazardous waste stored and/or failure to manage the container properly</p>	262.34(a)(1)(i) & 264.171	MODERATE/ MODERATE	\$12,896.00 (from 2 days * \$6,448.00/day)	N/A	Negligible	\$0	\$12,896

<b>COUNT FOUR: (VIOLATION - FAILURE TO HAVE HWSP OR INTERM STATUS)</b> Failure to obtain a permit while not complying with the HWSP Exemption Requirements listed above in <i>Sections I-III</i>	<b>40 CFR 262.34(a) via 40 CFR 262.34(a)(1)(i), 262.34(a)(2), &amp; 262.34(d)(2)</b> seen in Non-Compliance w/ HWSP Exemption Requirements in 40 CFR Parts 264 & 265 (see <i>Sections I-III</i> )	MINOR/ MINOR	INCORPORATED ABOVE	INCORPORATED ABOVE	INCORPORATED ABOVE	INCORPORATED ABOVE	\$0
<b>COUNT FIVE: (VIOLATION - FAILURE TO PROPERLY MAINTAIN USED OIL WASTE)</b> Failure to mark used oil containers with the words "Used Oil" (11 were found at the CEL, 14 at CDD)	<b>40 CFR 279.22(c)(1)</b>	MINOR/ MINOR					\$0
<b>Subtotals</b>			\$33,659	\$129	<i>Negligible</i>	\$0	\$0
							\$33,788

Note: The gravity-based penalty amount is determined using the Revised Penalty Matrices for the RCRA Civil Penalty Policy, dated January 11th, 2005. The multi-day component of the gravity-based civil penalty is determined using the multi-day matrix outlined in the Revised Penalty Matrices for the RCRA Civil Penalty Policy, dated January 11th, 2005. Policy adjustments and economic benefit (BEN) are as explained in the 2003 RCRA Civil Penalty Policy. Finally, the gravity based policy is adjusted for inflation (where appropriate) in order to implement the Civil Monetary Penalty Inflation Rule pursuant to the Debt Collection Improvement Act of 1996.

**CASE NAME:** South Holland Metal Finishing Company, Inc.  
**DOCKET NO:** RCRA-05-2007-0014

**CERTIFICATE OF SERVICE**

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

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

Robert Meagher  
President  
South Holland Metal Finishing Company, Inc.  
26100 Whiting Way  
Monee, Illinois 60449

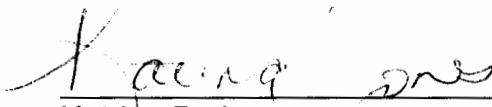
Return Receipt # 70010320 00061448 5360

And via First Class Mail to:

Todd Marvel  
RCRA Coordinator  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Edward W. Dwyer  
Hodge Dwyer Zeman, Attorneys at Law  
3150 Roland Avenue  
P.O. Box 5776  
Springfield, Illinois 62705

Dated: 10/24/07



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