



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

SEP 24 2007

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

REPLY TO THE ATTENTION OF:  
LR-8J

Ashok Patel, President  
Sunrise Electronics, Incorporated  
130 Martin Lane  
Elk Grove Village, Illinois 60007

Re: Administrative Complaint and Compliance Order  
Sunrise Electronics, Incorporated  
Elk Grove Village, Illinois  
ILD 984 767 129 **RCRA-05-2007-0013**

Dear Mr. Patel:

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 Sunrise Electronics, Incorporated (Sunrise) 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 Sunrise's failure to comply with Illinois' RCRA hazardous waste regulations; specifically, the generator conditions for a permit exemption of Illinois Rules 35 IAC 722.134, the permitting requirement of 35 IAC § 703.121, the training, contingency plan and tank systems requirements of 35 IAC Part 725.

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-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 Erik H. Olson, Associate Regional Counsel, Office of Regional Counsel (C-14J), to the aforementioned address. Please include the docket number on all documents submitted to the Regional Hearing Clerk and Mr. Olson.

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 Land and Chemicals Division staff, please contact Bradley R. Grams, United States Environmental Protection Agency, RCRA Branch (LR-8J), 77 West Jackson Boulevard, Chicago, Illinois 60604. He may also be reached at (312) 886-7747. Please contact Mr. Olson at (312) 886-6829 if you have any legal questions.

Sincerely,



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: )  
Sunrise Electronics Incorporated )  
130 Martin Lane )  
Elk Grove Village, Illinois 60007 )  
ILD 984 767 129 )  
Respondent )

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DOCKET NO.: **RCRA-05-2007-0013**

RECEIVED  
REGIONAL HEARING CLERK  
US EPA REGION V  
2007 SEP 24 AM 10:39

**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), 42 U.S.C. §§ 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), 40 C.F.R. §§ 22.1(a)(4), 22.13, and 22.37.
2. Jurisdiction for this action is conferred upon the United States Environmental Protection Agency (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 Director, Land and Chemicals Division, Region 5, U.S. EPA (Complainant).
4. The Respondent is Sunrise Electronics, 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, located at 120 Martin Lane, Elk Grove Village, Illinois, 60007.
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 U.S.C. § 6928(a)(2) on or about September 22, 2006.

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

6. 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, including used oil.
7. Under 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 under Subchapter III (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939(e)) or of any state provision authorized under Section 3006 of RCRA, 42 U.S.C. § 6926, 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.
8. Under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA

granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective on January 31, 1986. 51 Fed. Reg. 3778 (January 30, 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 IAC Part 702 *et seq.* See also 40 C.F.R. § 272.700 *et seq.*

9. Section 3008(a) of RCRA, 42 U.S.C. § 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 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.
11. Section 3005(a) of RCRA, 42 U.S.C. § 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 C.F.R. 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 U.S.C. § 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 C.F.R. 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. Under 35 IAC § 720.110, a “person” means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.
14. Under 35 IAC § 720.110, a “generator” means any person, by site, whose act or process produces hazardous waste identified or listed in 35 IAC § 721 [40 C.F.R. § 261] or whose act first causes a hazardous waste to become subject to regulation.
15. Under 35 IAC § 720.110, a “large quantity generator” means a generator who generates more than 1000 kilograms of hazardous waste in a calendar month.
16. Under 35 IAC § 720.110, “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.
17. Facilities that treat, store, or dispose of hazardous waste must obtain a permit or interim status pursuant to 35 IAC § 703.121(a), and Sections 3005 and 3006 of RCRA, 42 U.S.C. §§ 6925-6926. See also, 40 C.F.R. § 270.1.
18. Under 35 IAC § 722.134(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).

### **General Allegations**

19. Respondent is a person as defined under 35 IAC § 720.110.
20. Respondent has a North American Industry Classification System (NAICS) code of 334415.
21. Respondent is a manufacturer of printed circuit boards.
22. Respondent generated and/or stored "solid wastes" at the facility, as defined in 35 IAC § 721.102, at all times relevant to this Complaint.
23. As a result of the operation of a manufacturing process, Respondent generated and stored "hazardous waste" at this facility, as defined in 35 IAC § 721.103, at all times relevant to this Complaint.
24. Respondent characterizes this "hazardous waste" as D002, a waste corrosive liquid, in its manifests and annual reports.
25. Respondent notified the Illinois Environmental Protection Agency (IEPA) on or about April 15, 1997, that it generates these hazardous wastes in an amount greater than 1000 kilograms a month.
26. Respondent notified the U.S. EPA on or about April 15, 1997 that it generates these hazardous wastes in an amount greater than 1000 kilograms a month.
27. 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.
28. Respondent has never operated under interim status, pursuant to 35 IAC § 703.121(a), for the storage of RCRA hazardous waste.
29. Respondent is a "generator" of hazardous waste under 35 IAC § 720.110, and is subject to regulation under 35 IAC Part 722.
30. On or about November 16, 2004, U.S. EPA conducted a compliance evaluation inspection at

Respondent's facility to determine compliance with Illinois hazardous waste management regulations.

31. On February 28, 2005, U.S. EPA issued a Notice of Violation (NOV) to Respondent.
32. On or about November 28, 2005, U.S. EPA conducted a case development inspection at Respondent's facility in order to follow-up on previous findings.
33. As a result of the November 16, 2004 and November 28, 2005 inspections at Respondent's facility, U.S. EPA determined the following:

#### **COUNT 1:**

##### **Storage of Hazardous Waste without a Permit and Personnel Training Records Violations**

34. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.
35. Under 35 IAC § 722.134(a)(4), a generator may accumulate hazardous waste on-site for less than 90 days without obtaining a permit or interim status if the generator complies with, among other things, the applicable requirements of 35 IAC § 725.116: Personnel Training Requirements.
36. 35 IAC § 725.116(a) requires facility personnel to complete hazardous waste management training, and describes minimum requirements for that training.
37. Under 35 IAC § 725.116(b), hazardous waste management training required under 35 IAC § 725.116(a) must be given to new employees within six months of employment.
38. Under 35 IAC § 725.116(c), an annual review of hazardous waste management training required under 35 IAC § 725.116(a) must be provided to employees involved in hazardous waste management.

39. 35 IAC § 725.116(d)(1) requires that a facility maintain at the facility, job titles for each position related to hazardous waste management at the facility.
40. 35 IAC § 725.116(d)(2) requires that a facility maintain at the facility, a written job description (including requisite skill, education and/or other qualifications) of each position related to hazardous waste management at the facility.
41. 35 IAC § 725.116(d)(3) requires that a facility maintain at the facility, a description of the type and amount of initial and continuing training be given to each person filling a position relating to hazardous waste management at the facility.
42. 35 IAC § 725.116(d)(4) requires that a facility maintain at that facility, records documenting the training or job experience given to and completed by facility personnel.
43. During the U.S. EPA's November 16, 2004 inspection, there were no job titles for each position in hazardous waste management maintained at the facility.
44. During the U.S. EPA's November 16, 2004 inspection, there were no job descriptions for each position in hazardous waste management maintained at the facility.
45. During the U.S. EPA's November 16, 2004 inspection, there were no written hazardous waste management training descriptions for each position in hazardous waste management maintained at the facility.
46. During the U.S. EPA's November 16, 2004 inspection, there were no training records documenting the training or job experience completed by facility personnel for hazardous waste management positions maintained at the facility.
47. During the U.S. EPA's November 16, 2004 inspection, there was no other training documentation in regard to hazardous waste management maintained at the facility in lieu of the missing hazardous waste management training information.

48. As noted above in paragraph 31, on or about February 28, 2005, Respondent received by mail from U.S. EPA an NOV addressing, in part, deficiencies in employee training and the training program.
49. During the U.S. EPA's November 28, 2005 inspection, there were no job titles for each position in hazardous waste management maintained at the facility.
50. During the U.S. EPA's November 28, 2005 inspection, there were no job descriptions for each position in hazardous waste management maintained at the facility.
51. During the U.S. EPA's November 28, 2005 inspection, there were no written training descriptions for each position in hazardous waste management maintained at the facility.
52. During the U.S. EPA's November 28, 2005 inspection, there were no training records documenting the training or job experience completed by facility personnel for each position in hazardous waste management maintained at the facility.
53. During the U.S. EPA's November 28, 2005 inspection, there was no training documentation in regard to hazardous waste management maintained at the facility.
54. Through failing to maintain job titles of facility personnel involved in hazardous waste management at the facility, Respondent failed to comply with 35 IAC § 725.116(d)(1).
55. Through failing to maintain at the facility a written job description for each position related to hazardous waste management at the facility, Respondent failed to comply with 35 IAC § 725.116(d)(2).
56. Through failing to maintain at the facility a written description of initial and continuing personnel training to be given to each person filling a position related to hazardous waste management at the facility, Respondent failed to comply with 35 IAC § 725.116(d)(3).
57. Through failing to maintain at the facility records of training given to and completed by

facility personnel employed in each position related to hazardous waste management at the facility, Respondent failed to comply with 35 IAC § 725.116(d)(4).

58. Through failing to maintain facility training records required under 35 IAC § 725.116(d)(1)-(4) at the facility until closure of the facility and those of former employees for at least 3 years from the date of employment, Respondent failed to comply with 35 IAC § 725.116(e).
59. Respondent did not meet all of the requirements of 35 IAC § 725.116; therefore, Respondent did not satisfy the conditions at IAC § 722.134(a)(4) necessary to exempt it from the requirement to obtain a permit or interim status for the storage of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

## **COUNT 2:**

### **Storage of Hazardous Waste without a Permit and Contingency Plan Violations**

60. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.
61. Under 35 IAC § 722.134(a)(4) a generator may accumulate hazardous waste on-site for less than 90 days without obtaining a permit or interim status if the generator complies with, among other things, the applicable requirements of Subpart D of 35 IAC Part 725.
62. Subpart D of 35 IAC Part 725 includes, among other things, 35 IAC § 725.151: Purpose and Implementation of Contingency Plan Requirements.
63. 35 IAC § 725.151(a) requires, among other things, that owners or operators of a facility have a contingency plan for the facility designed to minimize hazards to human health or

the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water.

64. 35 IAC § 725.153(a) requires that a copy of the contingency plan be maintained at the facility.
65. During the U.S. EPA's November 16, 2004 inspection, no contingency plan was maintained at the facility.
66. During the U.S. EPA's November 28, 2005 inspection, no contingency plan was maintained at the facility.
67. Through failing to maintain a contingency plan at the facility on the inspection dates of November 16, 2004 and November 28, 2005, Respondent failed to comply with 35 IAC § 725.153(a).
68. Respondent did not meet all of the requirements of 35 IAC § 725.153(a), and therefore Respondent did not satisfy the conditions at IAC § 722.134(a)(4) necessary to exempt it from the requirement to obtain a permit or interim status for the storage of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

### **COUNT 3:**

#### **Storage of Hazardous Waste without a Permit and Preparedness and Prevention**

##### **Violations: Tank Labeling Violations**

69. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.
70. Under 35 IAC § 722.134(a) a generator may accumulate hazardous waste on-site for less

than 90 days without obtaining a permit or interim status if the generator complies with among other things, the applicable requirements of 35 IAC § 722.134(a)(3).

71. 35 IAC § 722.134(a)(3) requires that at facilities without a permit or interim status, hazardous waste storage tanks be labeled with the words, "Hazardous Waste."
72. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.
73. During the U.S. EPA's November 16, 2004 inspection, the two hazardous waste storage tanks were not labeled with the words, "Hazardous Waste."
74. By failing to label the tanks with the words, "Hazardous Waste," Respondent failed to comply with 35 IAC § 722.134(a)(3).
75. Respondent did not meet all of the requirements of 35 IAC § 722.134(a)(3), and therefore Respondent did not satisfy the conditions at 35 IAC § 722.134(a) necessary to exempt it from the requirement to obtain a permit or interim status for the storage of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

#### **COUNT 4:**

##### **Storage of Hazardous Waste without a Permit and Preparedness and Prevention**

##### **Violations: Tank Assessment Violations**

76. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.
77. Under 35 IAC § 722.134(a)(1)(B) a generator may accumulate hazardous waste on-site for less than 90 days without obtaining a permit or interim status if the generator complies

with among other things, the applicable requirements of Subpart J of 35 IAC Part 725.

78. Subpart J of 35 IAC Part 725 includes, among other things, 35 IAC § 725.292: New Tank System and Component Design and Installation Requirements.
79. 35 IAC § 725.292(a) requires that owners and operators of a hazardous waste storage tank system obtain a written tank assessment attesting that the system has sufficient structural integrity and is acceptable for the storage and treatment of hazardous waste.
80. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.
81. At all times relevant to this Complaint, Respondent did not have a written tank assessment attesting that the system has sufficient structural integrity and is acceptable for the storage and treatment of hazardous waste.
82. By failing to obtain a full assessment of the tank system attesting that the system has sufficient structural integrity and is acceptable for the storage and treatment of hazardous waste, Respondent failed to comply with 35 IAC §§ 722.134(a)(1)(B) and 725.292(a).
83. Respondent did not meet all of the requirements of 35 IAC § 725.292(a), and therefore Respondent did not satisfy the conditions at 35 IAC § 722.134(a)(1)(B) and 722.134(a)(3) necessary to exempt it from the requirement to obtain a permit or interim status for the storage and treatment of hazardous waste. Respondent stored and treated hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

**COUNT 5:**

**Storage of Hazardous Waste without a Permit and Preparedness and Prevention**

**Violations: Secondary Containment Design, Installation and Operation Violations**

84. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.
85. Under 35 IAC § 722.134(a)(1)(B), a generator may accumulate hazardous waste on-site for less than 90 days without obtaining a permit or interim status if the generator complies with, among other things, the applicable requirements of Subpart J of 35 IAC Part 725.
86. Subpart J of 35 IAC Part 725 includes 35 IAC § 725.293: Tank Release Containment and Detection Requirements.
87. 35 IAC § 725.293(a) requires that each hazardous waste storage tank system include secondary containment.
88. 35 IAC § 725.293(b)(1) requires that secondary containment be designed, installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system.
89. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.
90. At all times relevant to this Complaint, the two hazardous waste storage tanks were enclosed, along with two other tanks, in secondary containment consisting of unlined cement blocks.
91. Secondary containment consisting of unlined cement blocks is inadequate to prevent migration of wastes or accumulated liquid out of the system.
92. At all times relevant to this Complaint, the secondary containment was not designed,

installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system.

93. By failing to ensure that the secondary containment was designed, installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system, Respondent failed to comply with 35 IAC §§ 722.134(a)(1)(B) and 725.293(b)(1).
94. Respondent did not meet all of the requirements of 35 IAC § 725.293(b)(1), therefore, Respondent did not satisfy the conditions at 35 IAC § 722.134(a)(1)(B) and 722.134(a)(3) necessary to exempt it from the requirement to obtain a permit or interim status for the storage of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

#### **COUNT 6:**

#### **Storage of Hazardous Waste without a Permit and Preparedness and Prevention**

##### **Violations: Secondary Containment Detection Violations**

95. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.
96. Under 35 IAC § 722.134(a)(1)(B) a generator may accumulate hazardous waste on-site for less than 90 days without obtaining a permit or interim status if the generator complies with, among other things, the applicable requirements of Subpart J of 35 IAC Part 725.
97. Subpart J of 35 IAC Part 725 also includes 35 IAC § 725.293: Tank Release Containment and Detection Requirements.

98. 35 IAC § 725.293(a) requires that each hazardous waste storage tank system include secondary containment.
99. 35 IAC § 725.293(b)(2) requires that secondary containment be capable of detecting and collecting releases and accumulated liquids until the collected material is removed.
100. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.
101. At all times relevant to this Complaint, the two hazardous waste storage tanks were enclosed, along with two other tanks, in secondary containment consisting of unlined cement blocks.
102. At all times relevant to this Complaint, Respondent's secondary containment was not equipped with a mechanism capable of detecting releases.
103. At all times relevant to this Complaint, Respondent's secondary containment was not capable of detecting releases.
104. By failing to ensure that the secondary containment was capable of detecting releases, Respondent failed to comply with 35 IAC §§ 722.134(a)(1)(B) and 725.293(b)(2).
105. Respondent did not meet all of the requirements of 35 IAC § 725.293(b)(2), and therefore Respondent did not satisfy the conditions at 35 IAC § 722.134(a)(1)(B) and 722.134(a)(3) necessary to exempt it from the requirement to obtain a permit or interim status for the storage of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

**COUNT 7:**

**Storage of Hazardous Waste without a Permit and Preparedness and Prevention**

**Violations: Tank Inspection Violations**

106. Complainant incorporates paragraphs 1 through 33 of this Complaint as though set forth in this paragraph.
107. Under 35 IAC § 722.134(a)(1)(B) a generator may accumulate hazardous waste on-site for less than 90 days without obtaining a permit or interim status if the generator complies with, among other things, the applicable requirements of Subpart J of 35 IAC Part 725.
108. Subpart J of 35 IAC Part 725 also includes 35 IAC § 725.295: Tank Inspection Requirements.
109. 35 IAC § 725.295 requires, among other things, that a comprehensive daily inspection be performed on each hazardous waste storage tank and that such inspections be documented in the facility operating record.
110. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.
111. At all times relevant to this Complaint, Respondent did not document in the facility operating record daily inspections of the hazardous waste tanks.
112. By failing to document daily inspections of the hazardous waste tanks in the facility operating record Respondent failed to comply with 35 IAC §§ 722.134(a)(1)(B) and 725.295.
113. Respondent did not meet all of the requirements of 35 IAC § 725.295, and therefore Respondent did not satisfy the conditions at 35 IAC § 722.134(a)(1)(B) and 722.134(a)(3) necessary to exempt it from the requirement to obtain a permit or interim status for the

storage of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

## **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 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. Under 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 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 each violation of Subtitle C of RCRA occurring after March 15, 2004.

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 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 that the Administrator assesses a civil penalty of \$134,124 for the violations alleged in this Complaint, as further explained in Attachment A, “Penalty Summary Sheet.” Respondent may resolve this proceeding at any time by paying the proposed penalty by

sending a certified or cashier's check payable to the "Treasurer, United States of America," to:

U.S. EPA, Region 5  
P.O. Box 371531  
Pittsburgh, PA 15251-7531

A copy of the check shall be sent to:

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

and

Bradley R. Grams  
Enforcement and Compliance Assurance Branch  
Land and 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 U.S.C. § 6928(a), and 40 C.F.R. § 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 training program records requirements under 35 IAC § 725.116(b)-(e).
2. Respondent shall immediately achieve and maintain compliance with the contingency plan requirements under 35 IAC § 725.151(a) and ensure that the contingency plan will be immediately available to implement with the resources necessary under 35 IAC §

725.151(b).

3. Respondent shall immediately achieve and maintain compliance with the hazardous waste tank and/or system inspection requirements under 35 IAC §§ 722.134(a)(1)(B) 725.293(b)(1), 725.293(b)(2), 725.293(c) and 725.295.
4. Respondent shall immediately achieve and maintain compliance by completing any and all repairs required to achieve compliance with 35 IAC Part 725.
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 C.F.R. Parts 260 through 279.
6. Respondent shall submit all reports, submissions, and notifications required by this Order to the United States Environmental Protection Agency, Region 5, Land and Chemicals Division, Enforcement and Compliance Assurance Branch, Attention: Bradley R. Grams (LR-8J), 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 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 upon which the Complaint is based, or the appropriateness the amount of the proposed penalty, or to contend**

that you are entitled to judgment as a matter of law, as provided in Section 3008(b) of RCRA, 42 U.S.C. § 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, as required by 40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 Erik H. Olson, Office of Regional Counsel (C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. Mr. Olson may be telephoned at (312) 886-6829.

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 C.F.R. § 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 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 40 C.F.R. § 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.

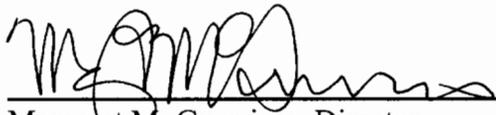
A hearing upon the issues raised in the Complaint and Answer shall be held (upon the request of Respondent in the Answer) and conducted according to the Administrative Procedures Act, 5 U.S.C. § 551 *et seq.* The hearing will be in a location determined under 40 C.F.R. § 22.21(d).

#### **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, Enforcement and Compliance Assurance Branch (DE-9J), 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. Complainant will not, however, 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, Land and Chemicals 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.



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

**RCRA-05-2007-0013**

Attachment A  
**PENALTY SUMMARY SHEET**  
 Sunrise Electronics, Inc. RCRA-05-2007-0013

NATURE OF VIOLATION	CITATION OF REGULATION OR	HARM/ DEVIATION	GRAVITY-BASED	MULTI-DAY PENALTY	ECONOMIC BENEFIT	ADJUSTMENTS	TOTAL PENALTY
<b>COUNT ONE:</b> Storage of HW w/o Permit and Personnel Training Records Violations: (A) No documentation of new employee training; (B) No documentation of training annual reviews; (C) No training documentation available at facility and (D) No complete employee records	[II] 40 CFR 262.34(a)(4) and (A) 265.16(b); (B) 265.16(c);(C) 265.16(d)(1)-(4) and (D) 265.16(e)	MODERATE/ MODERATE	\$6,448	\$322 * 1 = \$322	Negligible	To 0-th Percentile	\$6,770
<b>COUNT TWO:</b> Storage of HW w/o Permit and Contingency Plan Violations: There was no contingency plan available on-site	[III] 40 CFR 262.34(a)(4), 265.51(a) and (b), 265.53(a)	MODERATE/ MODERATE	\$6,448	\$322 * 1 = \$322	Negligible	To 0-th Percentile	\$6,770
<b>COUNT THREE:</b> Storage of HW w/o Permit and Prevention/Preparedness Violations - Tank Labeling: Two unmarked hazardous waste storage tanks (Tanks 1 & 2)	40 CFR 262.34(a)(3) & 40 CFR 262.34(a)(1)(ii)	MODERATE/ MODERATE	\$6,448	None	Negligible	To 0-th Percentile	\$6,448
<b>COUNT FOUR:</b> Storage of HW w/o Permit and Prevention/Preparedness Violations - Tank Assessment: No written tank assessment available for hazardous waste storage tanks 1 & 2	40 CFR 262.34(a)(3), 40 CFR 262.34(a)(1)(ii) & 265 Subpart J (265.192(a) & 265.192(g))	MINOR/ MAJOR	\$1,934	\$129 * 179 = \$23,091	Negligible	To 0-th Percentile	\$25,025

<p><b>COUNT FIVE:</b> Storage of HW w/o Permit and Prevention/Preparedness Violations - Secondary Containment Design, Installation and Operation: (A) Secondary containment not properly installed, designed and/or operating; (B) Secondary containment for ancillary equipment not properly installed, designed and/or operating; (C) Unknown external liner condition</p>	<p>40 CFR 262.34(a)(1)(ii), 262.34(a)(3) &amp; 265 Subpart J (265.193(a)) &amp; 265.193(b)(1));</p>	<p>MODERATE/ MODERATE</p>	<p>Batched with Count Five</p>	<p>Batched with Count Five</p>	<p>Negligible</p>	<p>To 0-th Percentile</p>	<p>Batched with Count Five</p>
<p><b>COUNT SIX:</b> Storage of HW w/o Permit and Prevention/Preparedness Violations - Tank Secondary Containment Detection and Collection: Two unmarked hazardous waste tanks (Tanks 1 &amp; 2) lack leak detection equipment</p>	<p>40 CFR 262.34(a)(1)(ii), 262.34(a)(3) &amp; 265 Subpart J (265.193(a) &amp; (b)(2))</p>	<p>MODERATE/ MODERATE</p>	<p>Batched with Count Five</p>	<p>Batched with Count Five</p>	<p>Negligible</p>	<p>To 0-th Percentile</p>	<p>Batched with Count Five</p>
<p><b>COUNT SEVEN:</b> Storage of HW w/o Permit and Prevention/Preparedness Violations - Tank Inspection Violations: (A) Two unmarked hazardous waste tanks (Tanks 1 &amp; 2) and their tank system components were not regularly inspected;</p>	<p>40 CFR 262.34(a)(1)(ii), 262.34(a)(3) &amp; 265 Subpart J (265.195)</p>	<p>MINOR/ MAJOR</p>	<p>Batched with Count Five</p>	<p>Batched with Count Five</p>	<p>Negligible</p>	<p>To 0-th Percentile</p>	<p>Batched with Count Five</p>
<p><b>Subtotals</b></p>	<p>\$29,660</p>	<p>\$1,934</p>	<p>\$129 * 179 = \$23,091</p>	<p>\$104,464</p>	<p>\$0</p>	<p>\$0</p>	<p>\$134,124</p>

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:** Sunrise Electronics, Incorporated

**DOCKET NO:** RCRA-05-2007-0013

**CERTIFICATE OF SERVICE**

I hereby certify that today I filed the original of this **Complaint** 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:

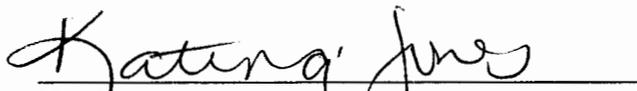
Ashok Patel, President  
Sunrise Electronics, Incorporated  
130 Martin Lane  
Elk Grove Village, IL 60007

Return Receipt # **7001 0320 0006 1448 5759**

And via First Class Mail to:

Todd Marvel  
Illinois EPA  
1021 North Grand Avenue East  
Springfield, IL 62702-3998

Dated: 9/24/07



Katrina 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

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