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1957 - 2007

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YEARS OF
PROVIDING
QUALITY
LEGAL
REPRESENTATION

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November 15, 2007

VIA CERTIFIED MAIL

Regional Hearing Clerk (E-13J)
US EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

**RE: In the matter of SUNRISE ELECTRONICS INC.
RCRA-05-2007-0013**

To Whom It May Concern:

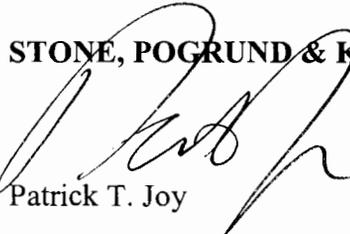
This office represents Sunrise Electronics Inc. in the above referenced matter. Enclosed herewith, please find:

- Answer to Complaint and Compliance Order (1 original + 3 copies)
- Certificate of Service by Mail (1 Original + 3 copies)
- One self-addressed-stamped envelope

Please file the enclosed documents and return the extras to our office in the enclosed envelope. Thank you in advance for your consideration please call if you have any questions.

Very truly yours,

STONE, POGRUND & KOREY



Patrick T. Joy

PTJ/pj
Enclosure(s)

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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)

DOCKET NO.: RCRA-05-2007-0013

ANSWER TO
COMPLAINT AND COMPLIANCE ORDER

NOW COMES, Sunrise Electronics, Incorporated, an Illinois corporation, by and through its attorneys, Stone Pogrund & Korey LLC, and for its Answer to Complaint and Compliance order states:

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

3. The Complainant is, by lawful delegation, the Director, Land and Chemicals Division, Region 5, U.S. EPA (Complainant).

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: Respondent admits the allegations of paragraph 4.

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.

ANSWER: Respondent admits the allegations of paragraph 5.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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. § 2611 or whose act first causes a hazardous waste to become subject to regulation.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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).

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

General Allegations

19. Respondent is a person as defined under 35 IAC § 720.110.

ANSWER: Respondent admits the allegations of paragraph 19.

20. Respondent has a North American Industry Classification System (NAICS) code of 334415.

ANSWER: Respondent admits the allegations of paragraph 20.

21. Respondent is a manufacturer of printed circuit boards.

ANSWER: Respondent admits the allegations of paragraph 21.

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.

ANSWER: Respondent admits the allegations of paragraph 22.

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.

ANSWER: Respondent admits the allegations of paragraph 23.

24. Respondent characterizes this “hazardous waste” as D002, a waste corrosive liquid, in its manifests and annual reports.

ANSWER: Respondent admits the allegations of paragraph 24.

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.

ANSWER: Respondent admits the allegations of paragraph 25.

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.

ANSWER: Respondent admits the allegations of paragraph 26.

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.

ANSWER: Respondent admits the allegations of paragraph 27.

28. Respondent has never operated under interim status, pursuant to 35 IAC § 703.121(a), for the storage of RCRA hazardous waste.

ANSWER: Respondent admits the allegations of paragraph 28.

29. Respondent is a “generator” of hazardous waste under 35 IAC § 720.110, and is subject to regulation under 35 IAC Part 722.

ANSWER: Respondent admits the allegations of paragraph 29.

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.

ANSWER: Respondent admits the allegations of paragraph 30.

31. On February 28, 2005, U.S. EPA issued a Notice of Violation (NOV) to Respondent.

ANSWER: Respondent admits the allegations of paragraph 31.

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.

ANSWER: That the Respondent has insufficient knowledge to respond to allegations contained in paragraph 32 of Petitioner's Complaint and neither admits nor denies same but demands strict proof thereof.

33. As a result of the November 16, 2004 and November 28, 2005 inspections at Respondent's facility, U.S. EPA determined the following:

ANSWER: That the Respondent has insufficient knowledge to respond to allegations contained in paragraph 33 of Petitioner's Complaint and neither admits nor denies same but demands strict proof thereof.

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.

ANSWER: Respondent incorporates the answers to paragraphs 1 through 33 by reference as though set forth here in full.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

36. 35 IAC § 725.116(a) requires facility personnel to complete hazardous waste management training, and describes minimum requirements for that training.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

42. 35 IAC § 725.11 6(d)(4) requires that a facility maintain at that facility, records documenting the training or job experience given to and completed by facility personnel.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: Respondent denies the allegations of paragraph 43 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 44 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 45 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 46 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 47 and each of them.

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.

ANSWER: Respondent admits the allegations of paragraph 48.

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.

ANSWER: Respondent denies the allegations of paragraph 49 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 50 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 51 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 52 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 53 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 54 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 55 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 56 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 57 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 58 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 59 and each of them.

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.

ANSWER: Respondent incorporates the answers to paragraphs 1-33 by reference as though set forth in full.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

62. Subpart D of 35 IAC Part 725 includes, among other things, 35 IAC § 725.151: Purpose and Implementation of Contingency Plan Requirements.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

64. 35 IAC § 725.153(a) requires that a copy of the contingency plan be maintained at the facility.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

65. During the U.S. EPA's November 16, 2004 inspection, no contingency plan was maintained at the facility.

ANSWER: Respondent denies the allegations of paragraph 65 and each of them.

66. During the U.S. EPA's November 28, 2005 inspection, no contingency plan was maintained at the facility.

ANSWER: Respondent denies the allegations of paragraph 66 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 67 and each of them.

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 § 722.1 34(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).

ANSWER: Respondent denies the allegations of paragraph 68 and each of them.

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.

ANSWER: Respondent incorporates the answers to paragraphs 1-33 by reference as though set forth in full.

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).

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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."

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

72. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.

ANSWER: Respondent admits the allegations of paragraph 72.

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."

ANSWER: Respondent denies the allegations of paragraph 73 and each of them

74. By failing to label the tanks with the words, "Hazardous Waste," Respondent failed to comply with 35 IAC § 722.134(a)(3).

ANSWER: Respondent denies the allegations of paragraph 74 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 75 and each of them.

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.

ANSWER: Respondent incorporates the answers to paragraphs 1-33 by reference as though set forth in full.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

80. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.

ANSWER: Respondent admits the allegations of paragraph 80.

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.

ANSWER: Respondent admits the allegations of paragraph 81.

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).

ANSWER: Respondent denies the allegations of paragraph 82 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 83 and each of them.

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.

ANSWER: Respondent incorporates the answers to paragraphs 1-33 by reference as though set forth in full.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

86. Subpart J of 35 IAC Part 725 includes 35 IAC § 725.293: Tank Release Containment and Detection Requirements.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

87. 35 IAC § 725.293(a) requires that each hazardous waste storage tank system include secondary containment.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

89. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.

ANSWER: Respondent admits the allegations of paragraph 89.

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.

ANSWER: Respondent denies the allegations of paragraph 90 and each of them.

91. Secondary containment consisting of unlined cement blocks is inadequate to prevent migration of wastes or accumulated liquid out of the system.

ANSWER: Respondent denies the allegations of paragraph 91 and each of them.

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.

ANSWER: Respondent denies the allegations of paragraph 92 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 93 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 94 and each of them.

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.

ANSWER: Respondent incorporates the answers to paragraphs 1-33 by reference as though set forth in full.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

97. Subpart J of 35 IAC Part 725 also includes 35 IAC § 725.293: Tank Release Containment and Detection Requirements.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

98. 35 IAC § 725.293(a) requires that each hazardous waste storage tank system include secondary containment.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

100. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.

ANSWER: Respondent admits the allegations of paragraph 100.

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.

ANSWER: Respondent denies the allegations of paragraph 101 and each of them.

102. At all times relevant to this Complaint, Respondent's secondary containment was not equipped with a mechanism capable of detecting releases.

ANSWER: Respondent denies the allegations of paragraph 102 and each of them

103. At all times relevant to this Complaint, Respondent's secondary containment was not capable of detecting releases.

ANSWER: Respondent denies the allegations of paragraph 103 and each of them

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).

ANSWER: Respondent denies the allegations of paragraph 104 and each of them

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).

ANSWER: Respondent denies the allegations of paragraph 105 and each of them.

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.

ANSWER: Respondent incorporates the answers to paragraphs 1-33 by reference as though set forth in full.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

108. Subpart J of 35 IAC Part 725 also includes 35 IAC § 725.295: Tank Inspection Requirements.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

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.

ANSWER: This paragraph states legal conclusions that do not require an answer from Respondent.

110. At all times relevant to this Complaint, two hazardous waste storage tanks were present at Respondent's facility.

ANSWER: Respondent admits the allegations of paragraph 110.

111. At all times relevant to this Complaint, Respondent did not document in the facility operating record daily inspections of the hazardous waste tanks.

ANSWER: Respondent admits the allegations of paragraph 111.

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.

ANSWER: Respondent denies the allegations of paragraph 112 and each of them.

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).

ANSWER: Respondent denies the allegations of paragraph 113 and each of them.

II. PROPOSED CIVIL PENALTY

Respondent denies any civil penalty is due, required or appropriate and contests the proposed penalties.

III. PROPOSED COMPLIANCE ORDER

This section does not require an answer from Respondent.

IV. OPPORTUNITY TO REQUEST A HEARING

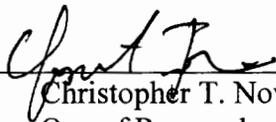
Respondent hereby requests a hearing to contest all of the material facts in this Complaint and to contest the amount of the proposed penalty as provided for in Section 3008 of RCRA, 42 U.S.C. § 6928(b), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," codified at 40 C.F.R. § 22.15(a).

V. SETTLEMENT CONFERENCE

Respondent hereby requests an informal conference to discuss the facts of this case and to arrive at a settlement.

Respectfully submitted,

**SUNRISE ELECTRONICS, INC, an Illinois
corporation**

By: 
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