



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

SEP 16 2010

REPLY TO THE ATTENTION OF:
LR-8J

CERTIFIED MAIL 7009 1680 7665 2490
RETURN RECEIPT REQUESTED

Mr. Daniel Olsen
Chief Executive Officer
ECMC
1651 Mitchell Boulevard
Schaumburg, Illinois 60193

Re: Consent Agreement and Final Order
ECMC
EPA I.D. No.: ILD 984 901 645
Docket No.: **RCRA-05-2010-0023**

Dear Mr. Olsen:

Enclosed, please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original CAFO was filed on September 16, 2010, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$5,000 in the manner prescribed in paragraph 109 of the CAFO, and reference payment with the number BD 2751042R017 and Docket Number RCRA-05-2010-0023. Also enclosed is a *Notice of Securities and Exchange Commission registrant's Duty to Disclose Environmental Legal Proceedings*. Your payment is due within 30 calendar days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

Sincerely,

Paul J. Little
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2010-0023
)	
)	
Photocircuits Corp., d/b/a ECMC)	
1651 Mitchell Boulevard)	Proceeding to Commence and Conclude
Schaumburg, Illinois 60193)	an Action to Assess a Civil Penalty
)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
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RECEIVED
SEP 16 2010

Consent Agreement and Final Order

Preliminary Statement

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Photocircuits Corp. d/b/a ECMC (ECMC), a corporation doing business in the State of Illinois.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction, Waiver of Right to Hearing and Certification

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006(b) and 3008 of RCRA, 42 U.S.C. §§ 6926(b) and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. §§ 260.1 – 279.82.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste.

13. 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 Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 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 U.S.C. § 6928. 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 of RCRA, requiring compliance immediately or within a specified period of time, or both.

14. 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 \$32,500 per day for each violation of Subtitle C of RCRA occurring after March 15, 2004 through January 12, 2009, and a civil penalty of up to \$37,500 per day for each violation occurring or continuing after January 12, 2009.

15. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986). The Administrator of U.S. EPA granted Illinois final authorization to administer certain additional RCRA 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); and October 4, 1996, 61 Fed. Reg. 40520 (August 5, 1996). The U.S. EPA-authorized Illinois regulations are codified at 35 Illinois Administrative Code (IAC) Part 703 *et seq.* See also 40 C.F.R. § 272.700 *et seq.*

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

17. Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), includes a provision for “interim status” which allows hazardous waste treatment, storage, and/or disposal facilities (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 TSD facilities are codified at 35 IAC Part 725.

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

19. A generator who accumulates hazardous waste for more than 90 days is an operator of a TSD facility and is subject to the requirements of 35 IAC Part 725 and the permit requirements of 35 IAC §§ 703.121, 703.180, and 705.121, unless the generator has been granted

an extension to the 90-day period. 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. Storage for more than 90 days subjects the generator of hazardous waste to the requirement to either obtain a permit or achieve interim status.

20. Similarly, the failure to comply with any of the conditions of 35 IAC § 722.134 subjects the generator of hazardous waste to the requirements of 35 IAC Part 725 and the permit requirements of 35 IAC §§ 703.121, 703, 180, and 705.121. Thus, failure to comply with any of the conditions of 35 IAC § 722.134 subjects the generator of hazardous waste to the requirement to either obtain a permit or achieve interim status. See 35 IAC §§ 703.121(a) and (b), 703.180(c) and 705.121(a) [40 C.F.R. §§ 270.1(c), 270.10(a) and (d)].

General Allegations

21. Respondent was and is a “person” as defined by 35 IAC § 720.110, 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

22. On December 12 and 19, 2007, U.S. EPA conducted an inspection of the facility located at 1651 Mitchell Boulevard, Schaumburg, Illinois, 60193 (the Facility).

23. At the time of the 2007 inspection, the Facility was owned and operated by Electro-Circuits, Inc. (Electro-Circuits).

24. On or around August 28, 2008, Electro-Circuits transferred ownership of the Facility and its printed circuit manufacturing operation to Respondent. After the transfer Electro-Circuits dissolved.

25. As part of the asset transfer on or around August 28, 2008, Respondent assumed Electro-Circuits’ liability for violations of RCRA that arose or occurred at the Facility prior to

Respondent's obtaining ownership of the Facility. Therefore Respondent is liable for the violations alleged in this CAFO.

26. As of August 28, 2008, Respondent has been an owner and operator of the Facility, as those terms are defined under 40 C.F.R. § 260.10.

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

28. Respondent manufactures printed circuit boards at the Facility.

29. At all times relevant to this CAFO, the process at the Facility has generated "solid wastes" as defined in 35 IAC § 721.102 [40 C.F.R. § 261.2].

30. At all times relevant to this CAFO, the process at the Facility has generated several hazardous wastes identified or listed in 35 IAC §§ 721.120 - 721.131 or caused a hazardous waste to become subject to regulation under 35 IAC Parts 720-729 [40 C.F.R. Parts 260-270].

31. At all times relevant to this CAFO, the Facility held waste acid from its printed circuit board manufacturing process, which is collected and stored in two tanks located at the Facility.

32. At all times relevant to this CAFO, the Facility held the waste acid, a discarded material, for temporary periods in tanks before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

33. At all times relevant to this CAFO, the Facility has identified and characterized its waste acid in hazardous waste manifests and annual reports as U.S. EPA hazardous waste number D002.

34. At all times relevant to this CAFO, the D002 waste acid generated at the Facility was and is a "solid waste" as defined in 35 IAC § 721.102 [40 C.F.R. § 261.2].

35. At all times relevant to this CAFO, the D002 waste acid generated at the Facility was and is a “hazardous waste” as defined in 35 IAC § 721.103 [40 C.F.R. § 261.3(a)].

36. The two D002 Hazardous Waste Acid Tanks are “new tank systems” as defined at 35 IAC § 720.110 [40 C.F.R. § 260.10].

37. At all times relevant to this CAFO, the holding of the D002 waste acid at the Facility constituted hazardous waste “storage” as that term is defined in 35 IAC § 721.102 [40 C.F.R. § 261.2].

38. Respondent and its predecessor are each a “generator” of hazardous waste under 35 IAC § 720.110 [40 C.F.R. § 261.2], at all times relevant to this CAFO.

39. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Illinois regulations as part of the applicable state hazardous waste management program for the state of Illinois, or both.

40. The Facility produced more than 1,000 kilograms (2,205 pounds) of hazardous waste during a calendar month in the both 2007 and the year prior to the inspection, and was a large quantity generator.

41. On December 12 and 19, 2007, U.S. EPA conducted Compliance Evaluation Inspections (CEIs) at the Facility.

42. During the December 12 and 19, 2007, CEIs, Facility personnel allowed the U.S. EPA inspector to observe plant operations related to the handling of hazardous waste and review records at the Facility.

43. On February 11, 2008, U.S. EPA issued a Notice of Violation (the NOV) to Electro-Circuits.

44. Electro-Circuits responded to the NOV on or about March 26, 2008.

45. On June 30, 2008, U.S. EPA issued a Request for Information under Section 3007 of RCRA, as amended, 42 U.S.C. § 6927, to Electro-Circuits (Information Request).

46. Electro-Circuits responded to the Information Request with a letter and enclosed documents on or about August 4, 2008 (Information Request Response).

Count 1 – Failure to Mark Hazardous Waste Storage Tanks;

Storage of Hazardous Waste Without a Permit

47. Complainant incorporates paragraphs 1 through 46 of this Complaint as though set forth in this paragraph.

48. Under 35 IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)] a generator may accumulate hazardous waste on-site for less than 90 days without obtaining a permit or interim status if the generator clearly labels or marks each hazardous waste accumulation container or tank with the words, “Hazardous Waste.”

49. During the December 12 and 19, 2007 inspection, the U.S. EPA inspector observed that the two D002 Hazardous Waste Acid Tanks were not labeled or marked with the words, “Hazardous Waste”, or other words that identified the content of the tanks.

50. Electro-Circuits’ failure to mark the two D002 Hazardous Waste Acid Tanks with the words, “Hazardous Waste”, or other words that identified the content of the tanks as required, constitutes a failure to comply with 35 IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)].

51. By failing to comply with all of the requirements of 35 IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)], Electro-Circuits did not satisfy the conditions at 35 IAC § 722.134(a) [40 C.F.R. § 262.34(a)] necessary to exempt it from the requirement to obtain a permit or interim status for the storage of hazardous waste. Hazardous waste has been stored at the Facility without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a),

and the regulations found at 35 IAC § 703.180 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

52. Violation at the Facility of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 2 – Failure to Have Certified Written Tank Assessment
for Hazardous Waste Storage Tanks

53. Complainant incorporates paragraphs 1 through 46 of this Complaint as though set forth in this paragraph.

54. 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 tank system requirements of Subpart J of 35 IAC Part 725. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must comply with the requirements for hazardous waste treatment, storage and disposal (TSD) facilities in Illinois set forth in 35 IAC Part 725 [40 C.F.R. Part 265], including Subpart J of 35 IAC Part 725.

55. Subpart J of 35 IAC Part 725 includes, among other things, 35 IAC § 725.292: New Tank System and Component Design and Installation Requirements.

56. 35 IAC § 725.292(a) requires that owners and operators of new hazardous waste storage tank systems shall ensure that the foundation, structural support, seams, connections and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the wastes to be stored or treated, and corrosion protection so that it will not collapse, rupture or fail. The owner or operator must obtain a written tank

assessment reviewed and certified by a qualified professional engineer attesting that the system has sufficient structural integrity and is acceptable for the storage and treatment of hazardous waste. Such written assessment must include the information specified under 35 IAC §§ 725.292(a)(1) through (5) [40 C.F.R. §§ 265.192(a)(1) through (5)].

57. During the December 12 and 19, 2007 CEIs, Electro-Circuits could not provide the U.S. EPA inspector upon request, a written tank assessment certified by a qualified professional engineer to attest that the two D002 Hazardous Waste Acid Tanks at the Facility have sufficient structural integrity and are acceptable for the storage and treatment of hazardous waste in violation of 35 IAC § 725.292(a) [40 C.F.R. § 265.192(a)].

58. In the NOV dated February 11, 2008, U.S. EPA noted that at the time of the December 12 and 19, 2007 CEIs, Electro-Circuits could not locate a written tank assessment certified by a qualified professional engineer.

59. In its March 26, 2008, response to the NOV, Electro-Circuits indicated that it could not locate documentation of a written tank assessment certified by a qualified professional engineer before March 25, 2008. The response included a "Tank Systems Certification" for the two D002 Hazardous Waste Acid Tanks dated March 25, 2008.

60. Electro-Circuits' failure to have a written tank assessment certified by a qualified professional engineer that determined that two hazardous waste accumulation tank systems were adequately designed constitutes a violation of 35 IAC § 725.292(a) [40 C.F.R. § 265.192(a)].

61. Violation at the Facility of 35 IAC § 725.292(a) [40 C.F.R. § 265.192(a)] subjects Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 3 – Failing to Comply with General Facility Standards

62. Complainant incorporates paragraphs 1 through 46 of this Complaint as though set forth in this paragraph.

63. Under 35 IAC § 722.134(a)(1)(B) [40 C.F.R. § 262.34(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 [40 C.F.R. Part 265].

64. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must comply with the requirements for TSD facilities in Illinois set forth in 35 IAC Part 725, including Subpart J of 35 IAC Part 725.

65. Subpart J of 35 IAC Part 725 includes, among other things, requirements for containment and detection of releases, 35 IAC § 725.293 [40 C.F.R. § 265.193].

66. 35 IAC § 725.293(a) [40 C.F.R. § 265.193(a)] requires that each hazardous waste storage tank system has secondary containment. 35 IAC §§ 725.293(b) through (f) [40 C.F.R. §§ 265.193(b) through (f)] provide the requirements that secondary containment for tank systems must meet to be compliant with the regulations. Among these requirements, 35 IAC § 725.293(b)(1) [40 C.F.R. § 265.193(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, and 35 IAC § 725.293(b)(2) [40 C.F.R. § 265.193(b)(2)] requires that secondary containment be capable of detecting and collecting releases and accumulated liquids until the collected material is removed. 35 IAC § 725.293(d) [40 C.F.R. § 265.193(d)] requires that secondary containment for tanks must include one or more of the following devices:

- a. A line (external to the tank);
- b. A vault;
- c. A double-walled tank;
- d. An equivalent device as approved by the Illinois Pollution Control Board in an adjusted standards proceeding.

67. At the time of the December 12 and 19, 2007 CEIs, the U.S. EPA inspector observed that the two D002 Waste Acid Tanks did not have secondary containment 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.

68. At the time of the December 12 and 19, 2007, CEIs, the U.S. EPA inspector observed that the two D002 Waste Acid Tanks did not have secondary containment capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

69. At the time of the December 12 and 19, 2007, CEIs, the U.S. EPA inspector noted that the two D002 Waste Acid Tanks did not have any secondary containment device listed under 35 IAC § 725.293(d) [40 C.F.R. § 265.193(d)].

70. At the time of the December 12 and 19, 2007 CEIs, Electro-Circuits' failed to have any secondary containment for the two D002 Hazardous Waste Acid Tanks for two hazardous waste tanks that met the criteria for required secondary containment as specified under 35 IAC §§ 725.293(b) through (f) [40 C.F.R. §§ 265.193(b) through (f)].

71. Electro-Circuits' failure to provide secondary containment for the two D002 Hazardous Waste Acid Tanks that met the criteria for secondary containment as specified under 35 IAC §§ 725.293(b) through (f), constitutes a violation of 35 IAC § 725.293.

72. Violation at the Facility of 35 IAC §§ 725.293(a) through (f) [40 C.F.R. §§ 265.193(a) through (f)] subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 4 – Failure to Record Hazardous Waste Tank Inspections

73. Complainant incorporates paragraphs 1 through 46 of this complaint as though set forth in this paragraph.

74. Under 35 IAC § 722.134(a)(1)(B) [40 C.F.R. § 262.34(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 [40 C.F.R. Part 265].

75. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must comply with the requirements for TSD facilities in Illinois set forth in 35 IAC Part 725, including Subpart J of 35 IAC Part 725.

76. Subpart J of 35 IAC Part 725 includes 35 IAC § 725.295 [40 C.F.R. § 265.195], which requires, among other things, that a comprehensive daily inspection be performed on each hazardous waste system, including, where present: 1) overfill/spill control equipment; 2) aboveground portions of the tank system; 3) data gathered from equipment; and 4) construction material and the area immediately surrounding the tank system and secondary containment. Under 35 IAC § 725.295(g), the owner or operator must document in the operating record of the facility, each such daily inspection.

77. At the time of the December 12 and 19, 2007 CEIs, Electro-Circuits did not have and could not produce any records documenting that the Respondent was inspecting the following tank system components, where present, at least once each operating day: 1)

overflow/spill control equipment; 2) aboveground portions of the tank system; 3) data gathered from equipment; and 4) construction material and the area immediately surrounding the tank system and secondary containment.

78. In the NOV dated February 11, 2008, U.S. EPA noted that at the time of the December 12 and 19, 2007 CEIs, Electro-Circuits could not locate any hazardous waste inspection records.

79. In its March 26, 2008, response to the NOV, Electro-Circuits indicated that it did not document daily inspections of the D002 Hazardous Waste Tanks until March 18, 2008.

80. Electro-Circuits' failure to document in the facility operating record that the Facility was inspecting the following tank system components, where present, at least once each operating day: 1) overflow/spill control equipment; 2) aboveground portions of the tank system; 3) data gathered from equipment; and 4) construction material and the area immediately surrounding the tank system and secondary containment constitutes a violation of 35 IAC § 725.295 [40 C.F.R. § 265.195].

81. Violation at the Facility of 35 IAC § 725.295 [40 C.F.R. §§ 265.195] subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 5 - Failure to Train and Maintain Records of Training

82. Complainant incorporates paragraphs 1 through 46 of this complaint as though set forth in this paragraph.

83. 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 [40 C.F.R. § 265.16].

84. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must comply with the requirements for TSD facilities in Illinois set forth in 35 IAC Part 725 [40 C.F.R. Part 265], including 35 IAC § 725.116: Personnel Training Requirements [40 C.F.R. § 265.16].

85. 35 IAC § 725.116(a) [40 C.F.R. § 265.16(a)] requires that all facility personnel must complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable hazardous waste storage facility performance standards. 35 IAC § 725.116(a)(2) [40 C.F.R. § 265.16(a)(2)] specifies that the training program must be directed by a person trained in hazardous waste management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they were employed.

86. Under 35 IAC § 725.116(b) [40 C.F.R. § 265.16(b)], hazardous waste management training required under 35 IAC § 725.116(a) [40 C.F.R. § 265.16(a)] must be given to new employees within six months of employment.

87. Under 35 IAC § 725.116(c) [40 C.F.R. § 265.16(c)], an annual review of hazardous waste management training required under 35 IAC § 725.116(a) [40 C.F.R. § 265.16(a)] must be provided to employees involved in hazardous waste management.

88. 35 IAC § 725.116(d)(1) [40 C.F.R. § 265.16(d)(1)] requires that the owner / operator maintain at the facility job titles for each position related to hazardous waste management at the facility and the name of the employee filling each job.

89. 35 IAC § 725.116(d)(2) [40 C.F.R. § 265.16(d)(2)] requires that the owner / operator maintain at the facility a written job description (including requisite skill, education and/or other qualifications and duties) of each position related to hazardous waste management at the facility.

90. 35 IAC § 725.116(d)(3) [40 C.F.R. § 265.16(d)(3)] requires that the owner / operator 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.

91. 35 IAC § 725.116(d)(4) [40 C.F.R. § 265.16(d)(4)] requires that the owner / operator maintain at the facility, records documenting that the training or job experience required to be provided has been given to and completed by facility personnel.

92. 35 IAC § 725.116(e) [40 C.F.R. § 265.16(e)] requires that the owner or operator keep training records on current personnel until closure of the facility, and training records on former employees must be kept for a least three years from the date the employee last worked at the facility.

93. During the December 12, and December 19, 2007, CEIs, Electro-Circuits did not have, maintain, or could not produce any records that documented that it had ensured that facility personnel had completed a program of classroom instruction or on-the-job training that taught facility personnel to perform their duties in a way that ensures the facility's compliance with applicable hazardous waste storage facility performance standards, that such training was reviewed annually, that the program was directed by a person trained in hazardous waste management procedures, and that the instruction had taught facility personnel hazardous waste

management procedures (including contingency plan implementation) relevant to the positions in which they were employed.

94. During the December 12, and December 19, 2007 CEIs, Electro-Circuits did not have or maintain any records documenting the job title for each position at the Facility related to hazardous waste management, the name of the employee filling each job, as well as a written job description, a written description of the training, and training records on current and former employees.

95. During the December 12 and December 19, 2007 CEIs, Electro-Circuits did not have or maintain any training documentation in regard to hazardous waste management maintained at the Facility.

96. Failure to ensure that facility personnel had completed a program of classroom instruction or on-the-job training that taught them to perform their duties in a way that ensured the facility's compliance with applicable hazardous waste storage facility performance standards, that the training was reviewed annually, that the program was directed by a person trained in hazardous waste management procedures, and that the training included instruction which taught facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they were employed, and failure to keep any hazardous management training records required by 35 IAC § 725.116, constitutes a violation of 35 IAC §§ 725.116(a)-(e) [40 C.F.R. §§ 265.16(a) through (e)].

97. Violation at the Facility of 35 IAC §§ 725.116(a) through (e) [40 C.F.R. §§ 265.16] subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Count 6 - Failure to Revise and Submit Contingency Plan

98. Complainant incorporates paragraphs 1 through 46 of this complaint as though set forth in this paragraph.

99. 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, Contingency Plan and Emergency Procedures.

100. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134, [40 C.F.R. § 262.34], must comply with the requirements for TSD facilities in Illinois set forth in 35 IAC Part 725, including Subpart D of 35 IAC Part 725.

101. Subpart D at 35 IAC § 725.151(a) [40 C.F.R. § 265.51(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.

102. 35 IAC § 725.152 [40 C.F.R. § 265.52] provides the requirements for the content of the contingency plan. Among these requirements, 35 IAC § 725.152(d) [40 C.F.R. § 265.52(d)] states that the plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date.

103. 35 IAC § 725.153 [40 C.F.R. § 265.53] requires that a copy of the contingency plan be maintained at the facility, and that it must submit a copy to each local police department, fire department, hospital, and state or local emergency response team that may be called upon to provide emergency services at the facility.

104. 35 IAC § 725.154 [40 C.F.R. § 265.54], requires that the contingency plan must be reviewed and immediately amended if necessary whenever, among other things, the list of emergency coordinators changes.

105. At the time of the December 12 and 19, 2007 CEIs, Electro-Circuits could not demonstrate that it had submitted a copy of the facility contingency plan to all local police departments, fire departments, hospitals and state or local response teams that may be called upon to provide emergency services.

106. Failure to demonstrate submission of a copy of the facility contingency plan to all local police departments, fire departments, hospitals and state or local response teams that may be called upon to provide emergency services constitutes a violation of 35 IAC § 725.153 [40 C.F.R. § 265.53].

107. At the time of the December 12 and 19, 2007 CEIs, Electro-Circuits failed to review and revise the facility contingency plan when information regarding the emergency coordinators had changed, in violation of 35 IAC §§ 725.152(d) and 725.154 [40 C.F.R. §§ 265.52(d) and 265.54].

108. Violation at the Facility of 35 IAC §§ 725.152, 725.153, and 725.154 subjects the Respondent to an order for compliance and civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

Civil Penalty

109. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$5,000. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements, and Respondent's demonstration that it

is financially unable to pay a higher civil penalty. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

110. Within 30 days after the effective date of this CAFO, Respondent must pay a \$5,000 civil penalty for the RCRA violations by electronic funds transfer, payable to "treasurer, United States of America," and remit to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state "ECMC," the docket number of this CAFO, and the billing document number.

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

112. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

114. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

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

116. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

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

118. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.


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

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

**In the Matter of: Photocircuits Corp., d/b/a ECMC
Docket No.**

Photocircuits Corp., d/b/a ECMC, Respondent

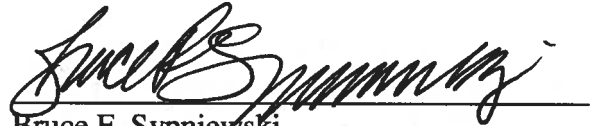
Aug 30th, 2010
Date


Name
CEO / President
Title

**In the Matter of: Photocircuits Corp., d/b/a ECMC
Docket No.**

United States Environmental Protection Agency, Complainant

9/14/10
Date

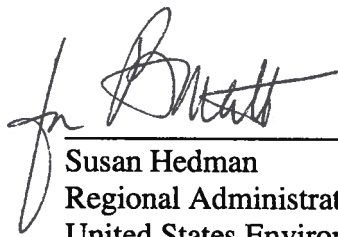

Bruce F. Sypniewski
Acting Director
Land and Chemicals Division

In the Matter of: Photocircuits Corp., d/b/a ECMC
Docket No. RCRA-05-2010-0023

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-15-10'
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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PROTECTION AGENCY
SEP 16 2010
OFFICE OF REGIONAL
COUNSEL

CASE NAME: Electro-Circuits Manufacturing Company

DOCKET NO: RCRA RCRA-05-2010-0023

CERTIFICATE OF SERVICE


I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-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:

Mr. Daniel Olsen
Chief Executive Officer
ECMC
1651 Mitchell Boulevard
Schaumburg, Illinois 60193

Return Receipt # 7009 1680 7665 2490

Dated: 9/16/10


Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division - RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5028

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SEP 16 2010

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**