**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG.II
2008 SEP 30 PM 4:13
REGIONAL HEARING CLERK

SEP 30 2008

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

Ronson Consumer Products Corporation
3 Ronson Road
Woodbridge, New Jersey 07095

**RE: Ronson Consumer Products Corporation**
**Docket No. CAA-02-2008- 1215**

To Whom It May Concern:

Enclosed please find an Administrative Complaint ("Complaint") that the United States Environmental Protection Agency ("EPA") has filed against Ronson Consumer Products Corporation ("Respondent") under the authority of Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), regarding compliance with the risk management program requirements.

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint.

If you wish to contest the allegations or the penalty proposed in the Complaint, you must file an Answer within ***thirty (30)*** days of your receipt of the enclosed Complaint to the Environmental Protection Agency's ("EPA") Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer, a default order may be entered against you and the entire proposed penalty may be assessed without further proceedings.

Internet Address (URL) • http://www.epa.gov
Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal conference ***does not*** substitute for a written Answer, affect what you may choose to say in an Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

Enclosed with this letter is a copy of the "Combined Enforcement Policy for CAA Section 112(r) Risk Management Program," dated August 15, 2001 ("Section 112(r) Penalty Policy"). Also enclosed is a copy of the "Consolidated Rules of Practice," which govern this proceeding. For your general information and use, I also enclose both an "Information Sheet for U.S. EPA Small Business Resources" and a "Notice of SEC Registrants' Duty to Disclose Environmental Legal Proceedings," which may or may not apply to you.

If you have any questions or wish to schedule an informal settlement conference, please contact the attorney for this case, Carol Berns, at (212) 637-3177, or at her address, as listed in the Complaint.

Sincerely yours,

George Pavlou, Acting Director
Emergency and Remedial Response Division

Enclosures

cc: Karen Maples, Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG.II
2008 SEP 30 PM 4:13
REGIONAL HEARING CLERK

| | | |
|---|---|---|
| In the Matter of: | ) | Docket No. CAA-02-2008- 1215 |
| Ronson Consumer Products Corporation<br>3 Ronson Road<br>Woodbridge, New Jersey, | ) | Administrative Complaint under Section 113 of the Clean Air Act, 42 U.S.C. § 7413 |
| Respondent. | ) | |

ADMINISTRATIVE COMPLAINT

I. JURISDICTION

1. This Complaint ("Complaint") initiates an administrative action for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act ("the Act"), 42 U.S.C. § 7413(d). The Complainant in this action is the Acting Director of the Emergency and Remedial Response Division of the United States Environmental Protection Agency ("EPA"), Region 2, who has been delegated the authority to institute this action.

2. EPA and the U.S. Department of Justice have determined, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that EPA may pursue this matter through administrative enforcement action.

II. APPLICABLE STATUTES AND REGULATIONS

3. Section 113(d) of the Act, 42 U.S.C. § 7413(d), provides for the assessment of penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r).

4. Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate release prevention, detection, and correction requirements regarding regulated substances in order to prevent accidental releases of regulated substances. EPA promulgated regulations in 40 C.F.R. Part 68 to implement Section 112(r)(7) of the Act, which set forth the requirements of risk management programs that must be established and implemented at affected stationary sources. The regulations at 40 C.F.R. Part 68, Subparts A through G, require owners and operators of stationary sources to, among other things, develop and implement: (1) a management system to oversee the implementation of the risk management program elements; and (2) a risk management program that includes, but is not limited to, a hazard assessment, a prevention program, and an emergency response program. Pursuant to 40 C.F.R. Part 68, Subparts A and G, the risk management program for a stationary source that is subject to these requirements is to be described in a risk management plan ("RMP") that must be submitted to EPA.

5. Sections 112(r)(3) and (5) of the Act, 42 U.S.C. §§ 7412(r)(3) and (5), require the Administrator to promulgate a list of regulated substances, with threshold quantities. EPA promulgated a regulation known as the List Rule, at 40 C.F.R. Part 68, Subpart F, to implement Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), which lists the regulated substances and their threshold quantities.

6. Pursuant to Section 112(r)(7) of the Act, 42 U.S.C. §7412(r)(7), and 40 C.F.R. §§ 68.10(a), 68.12, and 68.150, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process shall comply with the requirements of 40 C.F.R. Part 68 (including, but not limited to, submission of an RMP to EPA), no later than June 21, 1999, or three years after the date on which such regulated substance is first listed under 40 C.F.R. § 68.130, or the date on which the regulated substance is first present in a process above the threshold quantity, whichever is latest.

7. The regulations at 40 C.F.R. Part 68 separate the covered processes into three categories, designated as Program 1, Program 2, and Program 3. A covered process is subject to Program 3 requirements, as per 40 C.F.R. § 68.10(d), if the process: a) does not meet one or more of the Program 1 eligibility requirements set forth in 40 C.F.R. § 68.10(b); and b) is listed in one of the specific North American Industry Classification System ("NAICS") codes found at 40 C.F.R. § 68.10(d)(1) or is subject to the United States Occupational Safety and Health Administration ("OSHA") process safety management standard set forth in 29 C.F.R. § 1910.119.

8. 40 C.F.R. § 68.12(d) requires that the owner or operator of a stationary source with a Program 3 process undertake certain tasks, including, but not limited to, development and implementation of a management system (pursuant to 40 C.F.R. § 68.15), the implementation of prevention program requirements, which include mechanical integrity (pursuant to 40 C.F.R. §§ 68.65-68.87), the development and implementation of an emergency response program (pursuant to 40 C.F.R. §§ 68.90-68.95), and the submission of additional information on prevention program elements regarding Program 3 processes (pursuant to 40 C.F.R. § 68.175).

## III. DEFINITIONS

9. 40 C.F.R. § 68.3 defines "stationary source" in relevant part, as "any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur."

10. 40 C.F.R. § 68.3 defines "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the Act as amended, listed in 40 C.F.R. § 68.130, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

11. 40 C.F.R. § 68.3 defines "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the Act in 40 C.F.R. § 68.130.

12. 40 C.F.R. § 68.3 defines "process," in relevant part, as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities.

13. 40 C.F.R. § 68.3 defines "covered process" as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

## IV. FINDINGS OF VIOLATIONS

14. Ronson Consumer Products Corporation ("Respondent") is, and at all times referred to herein, was, a "person" within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e).

15. Respondent is the owner and/or operator of a facility located at 3 Ronson Road, Woodbridge, New Jersey, hereinafter referred to as the "Facility."

16. The Facility is a "stationary source" as that term is defined at 40 C.F.R. § 68.3.

17. Respondent uses isobutane at its Facility.

18. Isobutane is a regulated substance as that term is defined in 40 C.F.R. § 68.3.

19. The threshold quantity for isobutane (CAS #75-28-5) is listed in 40 C.F.R. § 68.130 as 10,000 pounds.

20. Respondent uses isobutane in a process at its Facility in amounts exceeding the threshold quantity.

21. On or about November 3, 2004, Respondent submitted to EPA an RMP for the Facility. The RMP specified that Respondent had 166,800 pounds of isobutane in a process at the Facility. The RMP also identified the process in which isobutane was used as a Program 3 process.

22. The Facility includes a Program 3 process as that term is described in 40 C.F.R. § 68.10(d), because the process does not meet the requirements set forth in 40 C.F.R. § 68.10(b) for a Program 1 process, and because the process is subject to the OSHA process safety management standard set forth in 29 C.F.R. § 1910.119.

23. On or about March 24, 2008, EPA conducted an inspection at the Facility to determine compliance with Section 112(r) of the Clean Air Act and the applicable regulations including those listed in 40 C.F.R. Part 68.

24. By letter dated June 16, 2008, EPA informed the Facility of the results of the inspection. Respondent replied by letter dated July 8, 2008.

COUNT 1

25. The allegations set forth in paragraphs 1 though 24, above, are incorporated herein by reference.

26. According to information obtained by EPA during the inspection, Respondent did not assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements as required by 40 C.F.R. § 68.15.

27. According to information obtained during the EPA inspection, Respondent failed to label and color code all isobutane system components, including valves, transfer lines and emergency switches, in a manner consistent with generally accepted good engineering practices in accordance with 40 C.F.R. § 68.65(d)(2).

28. According to information obtained during the EPA inspection, Respondent did not perform an initial process hazard analysis for its isobutane system as required by 40 C.F.R. § 68.67.

29. According to information obtained during the EPA inspection, Respondent failed to develop and implement written operating procedures for emergency shutdown of the isobutane system as required by 40 C.F.R. § 68.69(a)(1)(iv).

30. According to information obtained during the EPA inspection, Respondent failed to ensure that written operating procedures were readily accessible to employees who work in or maintain a process in which isobutene was being used as required by 40 C.F.R. § 68.69(b).

31. According to information obtained during the EPA inspection, Respondent failed to annually review its written operating procedures for isobutane as required by 40 C.F.R. § 68.69(c).

32. According to information obtained during the EPA inspection, Respondent failed to develop and implement initial and refresher operator training programs, including providing training documentation, as required pursuant to 40 C.F.R. § 68.71.

33. According to information obtained during the EPA inspection, Respondent failed to establish and implement written procedures to maintain the ongoing mechanical integrity of process equipment as required by 40 C.F.R. § 68.73.

34. According to information obtained during the EPA inspection, Respondent failed to establish and implement a management of change procedure as required by 40 C.F.R. § 68.75.

35. According to information obtained during the EPA inspection, Respondent failed to develop and implement a pre-startup review procedure as required by 40 C.F.R. § 68.77.

36. According to information obtained during the EPA inspection, Respondent failed to develop and implement an internal compliance audit as required by 40 C.F.R. § 68.79.

37. According to information obtained during the EPA inspection, Respondent failed to develop and implement an incident investigation procedure as required by 40 C.F.R. § 68.81.

38. According to information obtained during the EPA inspection, Respondent failed to develop and implement a written employee participation plan as required by 40 C.F.R. § 68.83.

39. According to information obtained during the EPA inspection, it was determined that Respondent failed to issue a hot work permit for hot work operators which meets the requirements of 40 C.F.R. § 68.85.

40. According to information obtained during the EPA inspection, Respondent failed to develop a contractor safety review procedure, including documentation of safety reviews and approvals for specific contractors as required by 40 C.F.R. § 68.87.

41. According to information obtained during the EPA inspection, Respondent failed to provide complete process safety information, including materials of construction, proper electrical system classification, relief system design, safety systems, and design codes and standards as required by 40 C.F.R. § 68.65.

42. According to information obtained during the EPA inspection, Respondent failed to document that equipment used in its process complies with recognized and generally accepted good engineering practices in accordance with 40 C.F.R. § 68.65(d)(2).

43. Respondent's failures to comply with the requirements of 40 C.F.R. Part 68 as described above constitute violations of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7). Respondent is therefore subject to the assessment of penalties under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

## V. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

Pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation, EPA is authorized to assess civil penalties not to exceed $27,500 per day for each violation of Section 112 of the Act, 42 U.S.C. § 7412, that occurred on or after January 30, 1997 through March 15, 2004, and $32,500 per day for each violation of Section 112 of the Act that occurred after March 15, 2004. Civil penalties under Section 113 of the Act may be assessed by Administrative Order. On the basis of the violations of the Act described above, Complainant alleges that Respondent is subject to penalties for violating Section 112(r) of the Act, 42 U.S.C. § 7412(r).

The proposed civil penalty in this matter has been determined in accordance with the "Combined Enforcement Policy for CAA Section 112(r) Risk Management Program," dated August 15, 2001 ("Section 112(r) Penalty Policy") and the September 21, 2004 memorandum from Thomas V. Skinner, Acting Assistant Administrator, to the Regional Administrators. A copy of the Section 112(r) Penalty Policy accompanies this Complaint. A Penalty Calculation Worksheet which shows how the proposed penalty was calculated is included as Attachment 1.

In determining the amount of any penalty to be assessed, Section 113(e) of the Act, 42 U.S.C. § 7413(e), requires EPA to take into consideration the size of Respondent's business, the economic impact of the proposed penalty on Respondent's business, Respondent's full compliance history and good faith efforts to comply, the duration of the violations as established by any credible evidence, payment by Respondent of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violations.

In accordance with Section 113(d) of the Act, 40 C.F.R. Part 19, and the Section 112(r) Penalty Policy, and based on the facts alleged in this Complaint, Complainant proposes to assess a civil penalty of $130,205 against Respondent.

Payment of a civil penalty shall not affect Respondent's ongoing obligation to comply with the Act and other applicable federal, state or local laws.

The proposed penalty reflects a presumption of Respondent's ability to pay the penalty and to continue in business based on the size of its business and the economic impact of the proposed penalty on its business. Respondent may submit appropriate documentation to rebut this presumption.

## VI. PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation are entitled, "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS" (hereinafter, the "Consolidated Rules"), and are codified at 40 C.F.R. Part 22. A copy of the Consolidated Rules accompanies this Complaint.

### A. Notice of Opportunity to Request a Hearing and Answering The Complaint

To request a hearing, Respondent must file an Answer to the Complaint, pursuant to 40 C.F.R. §§ 22.15(a) - (c). Pursuant to 40 C.F.R. § 22.15(a), such Answer must be filed within 30 days after service of the Complaint. An Answer is also to be filed, pursuant to 40 C.F.R. § 22.15(a), if Respondent contests any material fact upon which the Complaint is based, contends that the proposed penalty is inappropriate, or contends that Respondent is entitled to judgment as a matter of law. If filing an Answer, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint. The address of the Regional Hearing Clerk of EPA, Region 2, is:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Respondent shall also serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a). Complainant's copy of Respondent's Answer, as well as a copy of all other documents that Respondent files in this action, shall be sent to:

Damaris Urdaz Cristiano
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, NY 10007
Phone: (212) 637-3140

Pursuant to 40 C.F.R. § 22.15(b), Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied, pursuant to 40 C.F.R. § 22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) whether Respondent requests a hearing.

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation, pursuant to 40 C.F.R. § 22.15(d).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

B. Failure To Answer

If Respondent fails to file a timely answer to the Complaint, EPA may file a Motion for Default pursuant to 40 C.F.R. §§ 22.17(a) and (b), which may result in the issuance of a default order assessing the proposed penalty pursuant to 40 C.F.R. § 22.17(c). If a default order is issued, any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final. If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in federal court.

## VII. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions and objectives of CERCLA and EPCRA and the applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged; (2) any information relevant to Complainant's calculation of the

proposed penalty; (3) the effect the proposed penalty would have on Respondent's ability to continue in business; and/or (4) any other special facts or circumstances Respondent wishes to raise. Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to the EPA Assistant Regional Counsel identified in Section IV.A., above.

Respondent's request for a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing pursuant to 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction will be made simply because an informal settlement conference is held.

In the event settlement is reached, its terms shall be recorded in a written Consent Agreement signed by the parties and incorporated into a Final Order, pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in such Consent Agreement terminates this administrative litigation and the civil proceedings arising out of the allegations made in this Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

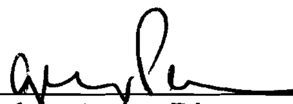
## VIII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address provided in Section IV.A., above), a copy of the check or other instrument of payment, as provided in 40 C.F.R.§ 22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Assistant Regional Counsel identified in Section IV.A., above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America," in the full amount of the penalty assessed in this Complaint to the following addressee:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The check must be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this Complaint. Pursuant to 40 C.F.R.§ 22.18(a)(3), upon EPA's receipt of such payment, a Final Order shall be issued. Furthermore, as provided in 40 C.F.R.§ 22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's rights to contest the allegations made in the Complaint and to appeal the Final Order. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable regulations and requirements, and to maintain such compliance.

Dated: 9/30, 2008



George Pavlou, Acting Director
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

TO: Ronson Consumer Products Corporation
3 Ronson Road
Woodbridge, New Jersey 07095

Attachment

cc: Karen Maples, Region 2 Hearing Clerk

Prepared by: Ellen Banner, Environmental Scientist/OSC
ERRD - Response & Prevention Branch
September 17, 2008

| **Facility Name/Address:** Ronson Consumer Products Corporation, 3 Ronson Road, Woodbridge, NJ |
|---|
| **Violation:** 40 C.F.R. §§ 68.150 & 68.12(d) - failure to develop and implement a complete Risk Management Plan (RMP) as required by 40 C.F.R. Part 68. |

**Penalty Calculation**

1. Summary Table

| | |
|---|---|
| Seriousness of the Violation | $25,001 |
| Adjustment for actual or potential environmental consequences | $6,250 |
| Duration | $31,251 |
| Size of Violator | $35,000 |
| Economic Benefit | $25,907 |
| Inflation Adjustment | $21,263 |
| Subtotal | $144,672 |
| Adjustment - 10% reduction for Cooperation | - $14,467 |
| TOTAL PROPOSED PENALTY | $130,205 |

I

2. Gravity Component

a) Extent of deviation: Major

Ronson Consumer Products, Inc. ("Respondent") has been using isobutane in a process in amounts greater than 10,000 pounds at its facility in Woodbridge, New Jersey (the "Facility"). Ten thousand pounds is the threshold quantity which triggers the risk management program requirements of Section 112(r) of the Clean Air Act and 40 C.F.R. Part 68.

On or about March 24, 2008, EPA performed an inspection at the Facility to determine compliance with Section 112(r) of the Clean Air Act and 40 C.F.R. Part 68. During this inspection, it was determined that the risk management program

implemented at the facility was incomplete and contained numerous deficiencies.

The failure to properly implement a risk management program in accordance with 40 C.F.R. Part 68 undermines the purpose of the regulations, which is to ensure proper development and implementation of a risk management program to prevent or respond to releases. The "extent of deviation" from the risk management program requirements is "major" for purposes of EPA's Combined Enforcement Policy for Section 112(r) of the Clean Air Act, dated August 15, 2001 (the "Penalty Policy"). Because the Facility is a Program 3 facility, the applicable cell in Table I, the "Penalty Assessment Matrix," in the Penalty Policy is the "Major, Program 3" cell, corresponding to a penalty of not less than $25,001. A penalty of $25,001 was chosen.

b) Adjustment based on actual or potential environmental consequences:

Consistent with the Penalty Policy, the $25,001 penalty figure was then adjusted upward to reflect the actual or potential environmental consequences of a potential worst-case release from the Facility. A "major impact" upward adjustment of 25%, or $6,250, was selected, due to the amount of isobutane at the Facility and the effect that a release would have on nearby residents and the environment around the Facility. This adjustment raises the penalty figure to $31,251.

c) Duration of violation

Some of the violations began in June 1999, when Respondent first became subject to the RMP regulations. However, EPA calculated the duration component of the penalty from September 2003 through September 2008, which is 60 months. Under the Penalty Policy, the "duration" component of the penalty for 60 months of noncompliance would be $84,000, which is significantly greater than the portion of the penalty calculated above. In its enforcement discretion, EPA is electing, in this instance, to limit the duration component to an amount equal to the amount arrived at above, $31,251. The duration component of $31,251.00 increases the penalty to $62,502.

d) Size of violator

Consistent with the Penalty Policy, EPA scales the penalty to the "size of the violator" by calculating the violator's net worth. In this case, however, EPA was not able to determine Respondent's net worth. In cases where EPA is unable to determine a company's net worth, the Penalty Policy establishes that the size of violator may be based on gross revenues from all revenue sources. Information obtained by EPA indicates that Respondent has $26,300,000 in annual revenues. In accordance with the size of violator adjustments in Table III of the Penalty Policy, $35,000,000 in gross revenues results in an upward adjustment to the penalty of $35,000. The size of violator component increases the penalty to $97,502.

3. Economic Benefit

"Economic benefit" is the financial gain that a violator accrues by delaying and/or avoiding the costs of compliance. In this case, EPA calculated the economic benefit of Respondent's avoided costs of failing to submit and implement a completed RMP. An initial cost of $18,413 was determined for the economic benefit gained by developing and submitting an RMP plan. In addition, an annual reoccurring cost of $5,586 was determined for each year of violation. EPA's BEN computer program (BEN ver. 4.4) was then used to calculate the economic benefit that Respondent gained through noncompliance and the amount of economic benefit was determined to be $25,907.

Adjustment to Penalty for Inflation

Pursuant to 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation, and the September 21, 2004 memorandum from Thomas V. Skinner, Acting Assistant Administrator, to the Regional Administrators entitled "Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004)," the gravity-based penalty was increased by 17.23% or $21,263.

Adjustments to Gravity Component

EPA considered all relevant factors as enumerated in the Penalty Policy in calculation of the proposed penalty. There were no adjustments made for willfulness or negligence, history of noncompliance, environmental damage, or inability to pay. A 10% reduction for cooperation was allowed due to Respondent's cooperation during EPA's pre-filing investigation.

**TOTAL PENALTY: $130,205**

# ATTACHMENT 1

Prepared by: Ellen Banner, Environmental Scientist/OSC
ERRD - Response & Prevention Branch
September 17, 2008

| **Facility Name/Address:** Ronson Consumer Products Corporation, 3 Ronson Road, Woodbridge, NJ |
|---|
| **Violation:** 40 C.F.R. §§ 68.150 & 68.12(d) – failure to develop and implement a complete Risk Management Plan (RMP) as required by 40 C.F.R. Part 68. |

**Penalty Calculation**

1. Summary Table

| | |
|---|---|
| Seriousness of the Violation | $25,001 |
| Adjustment for actual or potential environmental consequences | $6,250 |
| Duration | $31,251 |
| Size of Violator | $35,000 |
| Economic Benefit | $25,907 |
| Inflation Adjustment | $21,263 |
| Subtotal | $144,672 |
| Adjustment - 10% reduction for Cooperation | - $14,467 |
| TOTAL PROPOSED PENALTY | $130,205 |

I

2. Gravity Component

a) Extent of deviation: Major

Ronson Consumer Products, Inc. ("Respondent") has been using isobutane in a process in amounts greater than 10,000 pounds at its facility in Woodbridge, New Jersey (the "Facility"). Ten thousand pounds is the threshold quantity which triggers the risk management program requirements of Section 112(r) of the Clean Air Act and 40 C.F.R. Part 68.

On or about March 24, 2008, EPA performed an inspection at the Facility to determine compliance with Section 112(r) of the Clean Air Act and 40 C.F.R. Part 68. During this inspection, it was determined that the risk management program implemented at the facility was incomplete and contained numerous deficiencies.

The failure to properly implement a risk management program in accordance with 40 C.F.R. Part 68 undermines the purpose of the regulations, which is to ensure proper development and implementation of a risk management program to prevent or respond to releases. The "extent of deviation" from the risk management program requirements is "major" for purposes of EPA's Combined Enforcement Policy for Section 112(r) of the Clean Air Act, dated August 15, 2001 (the "Penalty Policy"). Because the Facility is a Program 3 facility, the applicable cell in Table I, the "Penalty Assessment Matrix," in the Penalty Policy is the "Major, Program 3" cell, corresponding to a penalty of not less than $25,001. A penalty of $25,001 was chosen.

b) Adjustment based on actual or potential environmental consequences:

Consistent with the Penalty Policy, the $25,001 penalty figure was then adjusted upward to reflect the actual or potential environmental consequences of a potential worst-case release from the Facility. A "major impact" upward adjustment of 25%, or $6,250, was selected, due to the amount of isobutane at the Facility and the effect that a release would have on nearby residents and the environment around the Facility. This adjustment raises the penalty figure to $31,251.

c) Duration of violation

Some of the violations began in June 1999, when Respondent first became subject to the RMP regulations. However, EPA calculated the duration component of the penalty from September 2003 through September 2008, which is 60 months. Under the Penalty Policy, the "duration" component of the penalty for 60 months of noncompliance would be $84,000, which is significantly greater than the portion of the penalty calculated above. In its enforcement discretion, EPA is electing, in this instance, to limit the duration component to an amount equal to the amount arrived at above, $31,251. The duration component of $31,251.00 increases the penalty to $62,502.

d) Size of violator

Consistent with the Penalty Policy, EPA scales the penalty to the "size of the violator" by calculating the violator's net worth. In this case, however, EPA was not able to determine Respondent's net worth. In cases where EPA is unable to determine a company's net worth, the Penalty Policy establishes that the size of violator may be based on gross revenues from all revenue sources. Information obtained by EPA indicates that Respondent has $26,300,000 in annual revenues. In accordance with the size of violator adjustments in Table III of the Penalty Policy, $35,000,000 in gross revenues results in an upward adjustment to the penalty of $35,000. The size of violator component increases the penalty to $97,502.

3. Economic Benefit

"Economic benefit" is the financial gain that a violator accrues by delaying and/or avoiding the costs of compliance. In this case, EPA calculated the economic benefit of Respondent's avoided costs of failing to submit and implement a completed RMP. An initial cost of $18,413 was determined for the economic benefit gained by developing and submitting an RMP plan. In addition, an annual reoccurring cost of $5,586 was determined for each year of violation. EPA's BEN computer program (BEN ver. 4.4) was then used to calculate the economic benefit that Respondent gained through noncompliance and the amount of economic benefit was determined to be $25,907.

Adjustment to Penalty for Inflation

Pursuant to 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation, and the September 21, 2004 memorandum from Thomas V. Skinner, Acting Assistant Administrator, to the Regional Administrators entitled "Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004)," the gravity-based penalty was increased by 17.23% or $21,263.

Adjustments to Gravity Component

EPA considered all relevant factors as enumerated in the Penalty Policy in calculation of the proposed penalty. There were no adjustments made for willfulness or negligence, history of noncompliance, environmental damage, or inability to pay. A 10% reduction for cooperation was allowed due to Respondent's cooperation during EPA's pre-filing investigation.

**TOTAL PENALTY: $130,205**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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| In the Matter of: | ) | Docket No. CAA-02-2008-1215 |
| Ronson Consumer Products Corporation<br>3 Ronson Road<br>Woodbridge, New Jersey, | ) | Administrative Complaint under<br>Section 113 of the Clean Air Act,<br>42 U.S.C. § 7413 |
| Respondent. | ) | |

**CERTIFICATION OF SERVICE**

I certify that on the date noted below, I caused to be sent, by certified mail, return receipt requested, a copy of the foregoing **"ADMINISTRATIVE COMPLAINT"** and a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, to the following persons at the addresses listed below:

Ronson Consumer Products Corporation
3 Ronson Road
Woodbridge, New Jersey 07095

Date: 9 30 08

Name: Jessalyn Lorenzo

Title: Secretary

Address: 290 Broadway 17 Fl. NY, N.Y. 10007