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8 UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
9 REGION 9  
75 HAWTHORNE STREET  
10 SAN FRANCISCO, CALIFORNIA 94105

11 IN RE:

12 LEADING EDGE AVIATION SERVICES, INC.,

13 RESPONDENT  
14  
15

DOCKET NO. CAA-9-2011- 0009

COMPLAINT AND NOTICE OF  
OPPORTUNITY FOR HEARING

16  
17 PRELIMINARY STATEMENT

18 Complainant, the Director of the Air Division, United States Environmental Protection  
19 Agency ("EPA"), Region 9, is issuing this Complaint and Notice of Opportunity for Hearing  
20 ("Complaint") pursuant to Section 113(d) of the Clean Air Act (the "Act"), as amended, 42  
21 U.S.C. § 7413(d). The Administrator of EPA ("Administrator") delegated the authority to issue  
22 complaints such as this one in the state of Arizona to the Regional Administrator of Region 9 and  
23 the Regional Administrator, in turn, re-delegated that authority to Complainant. Respondent is  
24 Leading Edge Aviation Services, Inc. ("LEAS" or "Respondent").

25 Complainant will show that Respondent violated Rule 1118 of Mojave Desert Air Quality  
26 Management District ("MDAQMD"), as incorporated into the State Implementation Plan for  
27 California pursuant to Section 110 of the Act, 42 U.S.C. § 7410, at the facility where it applies  
28 coatings to aircraft, located near Victorville, California (the "Facility"). In addition, Complainant

1 will show that Respondent violated section 114 of the Act, 40 U.S.C. § 7414, by failing to fully  
2 and accurately respond to an information request concerning the Facility issued to Respondent by  
3 EPA.

#### 4 STATUTORY AND REGULATORY BACKGROUND

5 1. The primary purpose of the Act is to protect and enhance the quality of the nation's air  
6 resources so as to promote the public health and welfare and the productive capacity of its  
7 population. See 42 U.S.C. § 7401(b)(1).

8 2. The Administrator of EPA, pursuant to authority under section 109 of the Act, 42 U.S.C.  
9 § 7409, promulgated the National Ambient Air Quality Standards ("NAAQS") for certain criteria  
10 air pollutants, including ozone. See 40 C.F.R. §§ 50.9, 50.10.

11 3. Pursuant to Section 107(d) of the Act, 42 U.S.C. § 7407(d), the Administrator  
12 promulgated lists of attainment status designations for each air quality control region ("AQCR")  
13 in every state. These lists identify the attainment status of each AQCR for each of the criteria  
14 pollutants. The attainment status designations for the California AQCRs are listed at 40 C.F.R.  
15 § 81.305.

16 4. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA  
17 a plan which provides for the implementation, maintenance, and enforcement of primary and  
18 secondary NAAQS in the State. Upon approval by EPA, the plan becomes part of the applicable  
19 state implementation plan ("SIP") for the State. Pursuant to Section 113(a)(1) of the Act, 42  
20 U.S.C. § 7413(a)(1), EPA may enforce violations of the SIP.

21 5. LEAS is based in Santa Ana, California, and engages in applying coatings to aircraft at  
22 the Facility located at 13516 Phantom Road, Hanger 756; 13640 Phantom Road, Hanger 747;  
23 and 13010 Aerospace Drive, Hanger 676, Victorville, California. The Facility is located in the  
24 West Mojave Desert Air Basin and is subject to the jurisdiction of the MDAQMD. EPA has  
25 designated the West Mojave Desert Air Basin as a nonattainment area for the NAAQS for ozone.  
26 See 40 C.F.R. § 81.305.

27 6. The coating applied by LEAS at the Facility contain volatile organic compounds  
28 ("VOCs"). During application and drying of these coatings, VOCs are released to the

1 atmosphere. Once in the atmosphere, VOCs in combine with oxides of nitrogen in the presence  
2 of sunlight to form ozone. Reducing emissions of VOCs to the atmosphere reduces the  
3 formation of ozone.

4 7. MDAQMD Rule 1118 (Aerospace Vehicle Parts and Products Coating Operations) was  
5 approved into and made a part of the federally enforceable SIP pursuant to 42 U.S.C. § 7410 on  
6 August 17, 1998. See 63 FR 43884 (August 17, 1998).

7 8. Section (A)(1)(a) of MDAQMD Rule 1118 states: "The purpose of this rule is to reduce  
8 the amount of emissions of volatile organic compounds (VOCs) from the source category of  
9 aerospace vehicle manufacturing or reworking facility and to provide the administrative  
10 requirements for measuring and recording the VOC emissions from adhesives, coatings and  
11 cleaning solvents used by such facilities."

12 9. Section (A)(2)(a) of MDAQMD Rule 1118 states: "This rule is applicable to any person  
13 who manufactures or reworks aerospace vehicles by applying or specifying the use of surface  
14 coatings for aerospace vehicle parts and products."

15 10. Section (B)(4) of MDAQMD Rule 1118 defines "Aerospace Vehicle" as "any fabricated  
16 part, assembly of parts or completed unit of any aircraft, helicopter, missile, and space vehicles,  
17 including such integral equipment as models, mockups, prototypes, molds, jigs, tooling,  
18 hardware jackets, test coupons and any auxiliary equipment associated with testing, transport,  
19 and storage of such vehicles."

20 11. Section (B)(26) of MDAQMD Rule 1118 defines "High Volume Low Pressure"  
21 ("HVLP") spraying as "any spray equipment with air pressure between 0.1 and 10.0 psi and air  
22 volume greater than 15.5 cfm per spray gun."

23 12. Section (B)(48) defines "Volatile Organic Compound" as "any compound of carbon  
24 which may participate in such atmospheric photochemical reactions and contribute the formation  
25 of photochemical smog, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic  
26 carbides or carbonates, ammonium carbonate and those exempt compounds listed in 40 CFR  
27 51.100(S)(1)."

28 ///

GENERAL ALLEGATIONS

13. At all times relevant to this action, LEAS has engaged in the coating of aerospace parts and products, as defined at section (B)(4) of MDAQMD Rule 1118, at the Facility.

14. At all times relevant to this action, the coatings applied by LEAS to aerospace parts and products have contained VOC, as defined at section (B)(48) of MDAQMD Rule 1118.

15. At all times relevant to this action, LEAS has applied coatings to aerospace parts and products using, among other methods, spray guns.

16. LEAS is a "person" as that term is defined in section 302(e) of the Act, 42 U.S.C. § 7602(e).

17. In a letter dated June 11, 2008, EPA issued its first information request ("First Request") to LEAS pursuant to Section 114 of the Act, 42 U.S.C. § 7414. LEAS was required to respond to EPA's First Request through correspondence postmarked no later than July 8, 2008.

18. In letters dated July 7, 2008, and August 15, 2008, LEAS submitted its response ("First Response") to the EPA's First Request.

19. In a letter dated November 20, 2008, EPA issued a second information request ("Second Request") to LEAS pursuant to Section 114 of the Act, 42 U.S.C. § 7414.

20. In letters dated January 20, 2009, and February 6, 2009, LEAS submitted its response ("Second Response") to the EPA's Second Request.

21. On July 1, 2011, EPA issued a Finding and Notice of Violation ("FNOV") to LEAS pursuant to section 113(a) of the Act, 42 U.S.C. § 7413(a). The FNOV

COUNT I: USE OF NONCOMPLYING DEVILBISS SPRAY GUN

22. Paragraphs 1 through 21 are realleged and incorporated herein by reference.

23. Information provided by LEAS in its First Response and Second Response shows that LEAS applied coatings to aerospace parts and products at the Facility using one or more spray guns with the model number of FLG-647 and which were manufactured by DeVilbiss, Inc., ("DeVilbiss FLG-647").

24. Information provided by LEAS in its First Response and Second Response shows that the DeVilbiss FLG-647 spray gun did not meet the requirements for HVLP spraying as set forth at

1 section (B)(26) of MDAQMD Rule 1118.

2 25. Information provided by LEAS in its First Response and Second Response shows that  
3 LEAS used one or more DeVilbiss FLG-647 spray guns to apply coatings to aerospace parts and  
4 products at the Facility from on or about November 1, 2006, until on or about May 1, 2007.

5 26. Every day LEAS applied coatings to aerospace parts and products at the Facility using  
6 one or more noncomplying DeVilbiss FLG-647 spray guns is a separate violation under the Act  
7 for each day that each gun which was used.

8 **COUNT II: USE OF NONCOMPLYING CENTRAL PNEUMATIC SPRAY GUN**

9 27. Paragraphs 1 through 21 are realleged and incorporated herein by reference.

10 28. Information provided by LEAS in its First Response and Second Response shows that  
11 LEAS applied coatings to aerospace parts and products at the Facility using one or more spray  
12 guns with the model number of 94572-OVGA, described as a 20-ounce gun, and manufactured  
13 by Central Pneumatic, Inc., ("CP 20oz").

14 29. Information provided by LEAS in its First Response and Second Response shows that the  
15 CP 20oz spray gun did not meet the requirements for HVLP spraying as set forth at section  
16 (B)(26) of MDAQMD Rule 1118.

17 30. Information provided by LEAS in its First Response and Second Response shows that  
18 LEAS used one or more CP 20oz spray guns to apply coatings to aerospace parts and products at  
19 the Facility from on or about November 1, 2006, until on or about May 1, 2007.

20 31. Every day LEAS applied coatings to aerospace parts and products at the Facility using  
21 one or more noncomplying CP 20oz spray guns is a separate violation under the Act for each gun  
22 which was used.

23 **COUNT III: USE OF NONCOMPLYING CENTRAL PNEUMATIC SPRAY GUN**

24 32. Paragraphs 1 through 21 are realleged and incorporated herein by reference.

25 33. Information provided by LEAS in its First Response and Second Response shows that  
26 LEAS applied coatings to aerospace parts and products at the Facility using one or more spray  
27 guns with the model number of 94572-OVGA, described as a 4.2-ounce gun, and manufactured  
28 by Central Pneumatic, Inc., ("CP 4.2oz").

1 34. Information provided by LEAS in its First Response and Second Response shows that the  
2 CP 4.2oz spray gun did not meet the requirements for HVLP spraying as set forth at section  
3 (B)(26) of MDAQMD Rule 1118.

4 35. Information provided by LEAS in its First Response and Second Response shows LEAS  
5 used one or more CP 4.2oz spray guns to apply coatings to aerospace parts and products at the  
6 Facility from on or about November 1, 2006, until on or about May 1, 2007.

7 36. Every day LEAS applied coatings to aerospace parts and products at the Facility using  
8 one or more noncomplying CP 4.2oz spray guns is a separate violation under the Act for each day  
9 that each gun which was used.

10 COUNT IV: FAILURE FULLY AND ACCURATELY RESPOND

11 37. Paragraphs 1 through 21 are realleged and incorporated herein by reference.

12 38. In its First Response, LEAS failed to fully and accurately provide all the information  
13 required by EPA's First Request. For example, EPA's First Request required LEAS to explain  
14 how each spray gun it had used to apply coatings at the Facility met the requirements set forth in  
15 section C.2 of MDAQMD Rule 1118. In its First Response, LEAS either claimed that particular  
16 spray guns met the requirements of section C.2 of MDAQMD Rule 1118 or failed to provide the  
17 required explanation. In its Second Response, LEAS provided information which both  
18 contradicted the information provided in its First Response and provided the basis for the  
19 violations alleged in Counts I through III in this Complaint.

20 39. LEAS's failure to fully and accurately provide all the information required by EPA's First  
21 Request is a violation of the Act. This is either a single day of violation, or is a separate violation  
22 for each day between July 8, 2008, the date LEAS's First Response was due to be postmarked for  
23 delivery to EPA, and the date on which LEAS ultimately provided the required information in its  
24 Second Response.

25 PROPOSED CIVIL PENALTY

26 Section 113(d) of the Act, 42 U.S.C. § 7413(d), authorizes a civil administrative penalty  
27 of up to Thirty-Seven Thousand Five Hundred Dollars (\$37,500) per day for each violation of the  
28 Act, provided that the total amount of penalty assessed does not exceed Two Hundred Ninety-

1 Five Thousand Dollars (\$295,000). For purposes of determining the amount of the civil penalty  
2 to be assessed, Section 113(e) of the Act, 42 U.S.C. § 7413(e), requires EPA to consider the size  
3 of the business, the economic impact of the penalty on the business, the violator's compliance  
4 history and good faith efforts to comply, the duration of the violation as established by any  
5 credible evidence, payment by the violator of penalties previously assessed for the same  
6 violation, the economic benefit of noncompliance, and the seriousness of the violation.  
7 Accordingly, Complainant requests that after consideration of these statutory assessment factors,  
8 the Administrator assess against Respondent a civil administrative penalty of up to \$37,500 for  
9 each violation of the Act set forth above.

#### 10 OPPORTUNITY TO REQUEST A HEARING

11 The Consolidated Rules of Practice Governing the Administrative Assessment of Civil  
12 Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of  
13 Practice"), 40 C.F.R. Part 22, govern these proceedings. A copy of the Consolidated Rules of  
14 Practice accompanies this Complaint.

15 Under these rules, you have the right to request a hearing. Any request for a hearing must  
16 be in writing and must be filed with the Regional Hearing Clerk, U.S. Environmental Protection  
17 Agency, Region 9, 75 Hawthorne Street, San Francisco, California within thirty (30) days of  
18 receipt of this Complaint. In the event that you intend to request a hearing to contest any material  
19 facts set forth in the Complaint, to dispute the amount of the penalty proposed in the Complaint,  
20 or to assert a claim for judgment as a matter of law, you must file a written Answer to this  
21 Complaint with the Regional Hearing Clerk at the above address within thirty (30) days of  
22 receipt of this Complaint. A copy of your Answer should also be sent to:

23 Allan Zabel  
24 Senior Counsel (ORC-2)  
25 U.S. Environmental Protection Agency, Region 9  
26 75 Hawthorne Street  
27 San Francisco, CA 94105

28 Your Answer should clearly and directly admit, deny, or explain each factual allegation  
contained in this Complaint with regard to which you have any knowledge. The Answer should  
state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense;

1 (2) a concise statement of the facts which you intend to place at issue in the hearing; and (3)  
2 whether a hearing is requested. Hearings held in the assessment of the civil penalties will be  
3 conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C.  
4 §§ 551 et seq., and the Consolidated Rules of Practice. See 40 C.F.R. Part 22.

5 If you fail to file an Answer to this Complaint with the Regional Hearing Clerk within thirty (30)  
6 days of receipt, such failure shall constitute an admission of all facts alleged in the Complaint  
7 and a waiver of your right to a hearing under Section 113(d)(2).

#### 8 SETTLEMENT CONFERENCE

9 EPA encourages all parties against whom civil penalties are proposed to pursue the  
10 possibilities of settlement through informal conferences. Therefore, whether or not you request a  
11 hearing, you may confer informally with the Agency concerning the alleged violation or the  
12 amount of the proposed penalty. You may wish to appear at the conference yourself or be  
13 represented by counsel. If a settlement is reached, it shall be finalized by the issuance of a  
14 written Consent Agreement and Final Order by the Regional Judicial Officer, EPA, Region 9.  
15 The issuance of such Consent Agreement and Final Order shall constitute a waiver of your right  
16 to request a hearing of any matter stipulated to therein.

17 To explore the possibility of settlement in this matter, address your correspondence to:

18 Allan Zabel  
19 Senior Counsel (ORC-2)  
20 U.S. Environmental Protection Agency, Region 9  
21 75 Hawthorne Street  
22 San Francisco, CA 94105

23 His telephone number is (415) 972-3902.

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1 After this Complaint is issued, the Consolidated Rules of Practice prohibit ex parte  
2 (unilateral) discussion of the merits of any action with the EPA Regional Administrator, Chief  
3 Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the  
4 decision of this case.

5  
6 Dated at San Francisco, California on this 29 day of September 2011.

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8   
9 f. Deborah Jordan  
10 Director, Aff Division  
11 U.S. EPA, Region 9  
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

**SEP 29 2011**

CERTIFIED MAIL No. 7010 3090 0001 2472 7708  
RETURN RECEIPT REQUESTED

IN REPLY: AIR-5  
REFER TO: Docket No. CAA-09-2011-0009

Mr. William Manclark  
President  
Leading Edge Aviation Services, Inc.  
19301 Campus Drive  
Suite 250  
Santa Ana, CA 92707

Dear Mr. Manclark:

Enclosed is a copy of a Complaint and Notice of Opportunity for Hearing ("Complaint") filed pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. §§ 7401-7671q (1991) (the "Act"). The Complaint alleges that Leading Edge Aviation Services, Inc., violated Sections 110 and 114 of the Act and Mojave Desert Air Quality Management District Rule 1118. These violations are set forth more specifically in the Complaint.


You should be aware of the part of the Complaint entitled "Opportunity to Request a Hearing." You are required to respond to this Complaint within thirty (30) days of receipt of the Complaint. If you fail to file an Answer to this Complaint with the Regional Hearing Clerk within thirty (30) days of receipt, you may be found to be in default, pursuant to 40 C.F.R. § 22.17, which shall constitute an admission of facts alleged in the Complaint and a waiver of your right to a hearing. The proposed civil penalty shall become due and payable thirty (30) days after a final order is issued upon default.

Copies of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Clean Air Act Stationary Source Civil Penalty Policy are enclosed.

Letter to Mr. Manclark  
Page 2

If you wish to discuss the Complaint, you may contact Mark Sims of the Air Enforcement Office at (415) 972-3965, or have your attorney contact Allan Zabel of the Office of Regional Counsel at (415) 972-3902. Thank you for your cooperation in this matter.

Sincerely,

  
for Deborah Jordan  
Director, Air Division

Enclosure

cc: Mr. Eldon Heaston (MDAQMD)  
Mr. James Ryden (CARB)  
Mr. Brad Marten, Esq. (Marten Law)