



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

SEP 12 2008

REPLY TO THE ATTENTION OF:

SC-6J

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

Dave Zeno, President  
Aurora Circuits LLC  
2250 White Oak Circle  
Aurora, IL 60504

Re: Aurora Circuits LLC, Aurora, Illinois  
Docket No. **CAA-05-2008-0036**

Dear Mr. Zeno:

Enclosed is a copy of the Administrative Complaint which the United States Environmental Protection Agency (Agency) has filed today pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), against Aurora Circuits LLC. In the Complaint, the Agency alleges that Aurora Circuits LLC violated Section 112(r) of the CAA, 42 U.S.C. §7412(r) and the provisions of 40 C.F.R. Part 68, the Risk Management Program (RMP) Regulations. Specifically, the Complaint alleges that the following violations:

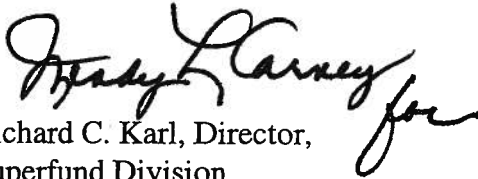
1. Aurora Circuits LLC failed to maintain the records on the offsite consequence analyses as required under 40 C.F.R. § 68.39.
2. Aurora Circuits LLC failed to compile the process safety information before conducting the process hazard analysis required by the regulation, which constitutes a violation of 40 C.F.R. § 68.65.
3. Aurora Circuits LLC failed to conduct a process hazard analysis as required under 40 C.F.R. § 68.67.
4. Aurora Circuits LLC failed to develop and implement written operating procedures for the handling of chlorine as required under 40 C.F.R. § 68.69.
5. Aurora Circuits LLC failed to certify that compliance audits are conducted at least every three years to verify that the practices and procedures developed under the rule are adequate and are being followed in accordance with 40 C.F.R. § 68.79.
6. Aurora Circuits LLC failed to timely submit an updated Risk Management Plan as required under 40 C.F.R. § 68.190(b)(1).

7. Aurora Circuits LLC failed to submit a Risk Management Plan or to prepare and implement a Risk Management Program which meets the requirements of a covered process subject to Program 3 requirements, as referenced at 40 C.F.R. §§ 68.12(a) and (d).

By law, you have a right to request a hearing regarding the violation alleged in the Complaint and proposed penalty. Please pay particular attention to the section entitled "*Opportunity to Request a Hearing.*" You are required to respond to this Complaint within thirty (30) calendar days of receipt of the Complaint. Should you fail to timely file an answer to the Complaint, the proposed civil penalty will become due and payable thirty (30) days after a default order becomes the final order of the Region 5 Administrator for the United States Environmental Protection Agency.

For additional information regarding this matter you may contact Silvia Palomo, Environmental Engineer at (312)353-2172. If you have any legal questions, you may contact John Tielsch, Associate Regional Counsel at (312)353-7447.

Sincerely yours,



Richard C. Karl, Director,  
Superfund Division

Enclosures (3) Administrative Complaint

Combined Enforcement Policy for Section 112(r) of the Clean Air Act  
40 C.F.R. Part 22- Consolidated Rules

cc: John Tielsch  
Office of Regional Counsel

Silvia Palomo  
Office of Chemical Emergency  
Preparedness and Prevention

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:** ) **Docket No. CAA-05-2008-0036**  
 )  
**Aurora Circuits LLC** ) **Proceeding to Assess a**  
**2250 White Oak Circle** ) **Civil Penalty under**  
**Aurora, Illinois 60504** ) **Section 113(d) of the**  
 ) **Clean Air Act,**  
**Respondent.** ) **42 U.S.C. § 7413(d)**

**Administrative Complaint**

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act ("the Act"), 42 U.S.C. § 7413(d).
2. The Complainant is, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency ("U.S. EPA"), Region 5, Chicago, Illinois.
3. The Respondent is Aurora Circuits LLC, a company doing business in the State of Illinois.

**Statutory and Regulatory Background**

4. In accordance with Section 112(r) of the Act, on June 20, 1996, U.S. EPA promulgated regulations to prevent accidental releases of regulated substances and minimize the consequences of those releases that do occur. These regulations, known as the Risk Management Program regulations, are codified at 40 C.F.R. Part 68.
5. The Risk Management Program regulations apply to all stationary sources with processes that contain more than a threshold quantity of a regulated substance. The List of Regulated Toxic Substances and Threshold Quantities for Accidental Release Prevention is codified at 40 C.F.R. § 68.130.

**RECEIVED  
REGIONAL HEARING CLERK  
US EPA REGION V  
2008 SEP 15 AM 11:04**

6. Chlorine is a "regulated substance," as that term is defined in Section 112(r)(3) of the Act and 40 C.F.R. § 68.3. 40 C.F.R. § 68.130, Table 1.

7. The "threshold quantity" (as that term is defined in 40 C.F.R. §68.3) for chlorine is 2,500 pounds in a process. 40 C.F.R. § 68.130, Table 3.

8. The Risk Management Program regulations require that the owner or operator of a facility subject to the regulations develop and implement a Risk Management Plan ("RMP") for preventing accidental releases to the air and minimizing the consequences of releases that do occur. 40 C.F.R. § 68.12.

9. A facility's RMP must, among other things, describe the stationary source and regulated substances handled at the facility. 40 C.F.R. § 68.155(b).

10. A facility must submit its RMP no later than: June 21, 1999; three years after the date on which the regulated substance is first listed under 40 C.F.R. § 68.130; or the date on which a regulated substance is first present in more than a threshold quantity in a process, whichever is later. 40 C.F.R. §§ 68.10(a), 68.150.

11. A facility must review its RMP once every five years from the date of the initial submission, and submit the updated RMP to EPA. 40 C.F.R. § 68.190(b)(1).

12. The processes subject to these requirements are divided into three tiers of eligibility: Programs 1, 2, and 3. 40 C.F.R. § 68.10.

13. Program 3 applies to all processes which do not meet the requirements of 40 C.F.R. §68.10(b) and are subject to the OSHA Process Safety Management ("PSM") standard set forth at 29 C.F.R. § 1910.119. 40 C.F.R. § 68.10(d).

14. The owner or operator of a stationary source with a process subject to Program 3 requirements, shall develop and implement a management system as provided in 40 C.F.R. § 68.15.

15. The owner or operator of a stationary source with a process subject to Program 3 requirements, shall conduct a hazard assessment as provided in 40 C.F.R. §§ 60.20 through 68.87.

16. The owner or operator of a stationary source with a process subject to Program 3 requirements, shall implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87.

17. The owner or operator of a stationary source with a process subject to Program 3 requirements, shall submit as part of the RMP the data on the prevention program elements as provided in 40 C.F.R. § 68.175.

18. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, provides that the Administrator of U.S. EPA ("the Administrator") may assess a civil penalty of up to \$32,500 per day of violation, up to a total of \$220,000, for violations that occurred on or after January 31, 1997.

### **General Allegations**

19. The Respondent is an Illinois limited liability company with a plant located at 2250 White Oak Circle, Aurora, Illinois 60504 ("the Facility"). At the Facility, the Respondent is engaged in the business of manufacturing of single sided printed circuit boards.

20. The Respondent is a "person," as that term is defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

21. The Facility contains buildings, structures, equipment and activities from which a

release of chlorine may occur.

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

23. For purposes of the requirements at 40 C.F.R. Part 68, the Respondent is the "owner or operator" of the Facility as that term is defined at §112(a)(9) of the Act.

24. The Respondent uses and stores 6,000 lbs of chlorine on site. The chlorine is stored in three 2,000-lbs. cylinders.

25. The chlorine cylinders are a "process," and a "covered process" as defined at 40 C.F.R. § 68.3.

26. Chlorine is a "regulated substance" under §112(r)(3) of the Act.

27. The Facility is subject to the "Program 3" eligibility requirements because the process: a.) does not meet the requirements of 40 C.F.R. §68.10(b), because the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and 40 C.F.R. §68.25 is greater than the distance to any public receptor; and b.) is subject to the OSHA process safety management standard set forth at 29 C.F.R. § 1910.119. 40 C.F.R. § 68.10(d).

28. On May 20, 2004, a representative from U.S. EPA conducted an inspection at the Facility under the authority of Section 114(a) of the Act, 42 U.S.C. § 7414(a). The purpose of the inspection was to determine whether the Respondent was complying with Section 112(r) of the Act and the regulations implementing Section 112(r) at 40 C.F.R. Part 68 at the Facility.

29. In November 2001, the Respondent bought the facility from Kalmus & Associates, Inc. The Respondent changed the name of the Facility to Aurora Circuits LLC.

30. On June 21, 1999, Kalmus & Associates, Inc. submitted a RMP to U.S. EPA as

required under 40 C.F.R. §§ 68.10(a), 68.150. In the RMP, Kalmus & Associates, Inc. informed U.S. EPA that the Facility was subject to the Program 2 requirements. However, the Facility is subject to the Program 3 requirements because the covered process does not meet the requirements of 40 C.F.R. §68.10(b) and is subject to the OSHA Process Safety Management ("PSM") standard set forth at 29 C.F.R. § 1910.119. 40 C.F.R. § 68.10(d).

31. After the inspection, the Respondent revised the RMP and submitted it to U.S. EPA under the name of Aurora Circuits LLC. The revised RMP only included administrative changes and did not cover the Program 3 requirements.

### Violations

32. Based on the inspection conducted by U.S. EPA, the Facility failed to comply with the Risk Management Program regulations 40 C.F.R. Part 68 for Program 3 requirements in that:

33. Respondent failed to submit a Risk Management Plan or to prepare and implement a Risk Management Program which meets the requirements of a covered process subject to Program 3 requirements, as referenced at 40 C.F.R. §§ 68.12(a) and (d).

34. Respondent failed to maintain the records on the offsite consequence analyses as required under 40 C.F.R. § 68.39.

35. Respondent failed to compile the process safety information before conducting the process hazard analysis required by the regulation, which constitutes a violation of the 40 C.F.R. § 68.65.

36. Respondent failed to conduct a process hazard analysis as required under

40 C.F.R. § 68.67.

37. Respondent failed to develop and implement written operating procedures for the handling of chlorine as required under 40 C.F.R. § 68.69.

38. Respondent failed to establish and implement written procedures to maintain the on-going integrity of the process in accordance with 40 C.F.R. § 68.73.

39. Respondent failed to comply with the compliance audit section under 40 C.F.R. § 68.79.

40. On November 4, 2004, the Respondent submitted an updated RMP to U.S. EPA. The updated RMP was due on June 21, 2004, in accordance with 40 C.F.R. § 68.190(b)(1).

41. Accordingly, the Respondent violated the reporting requirements of 40 C.F.R. Part 68, and is subject to the assessment of a civil penalty under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

#### **Proposed Civil Penalty**

42. The Administrator must consider the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), when assessing an administrative penalty under Section 113(d), 42 U.S.C. § 7413(d).

43. Based upon an evaluation of the facts alleged in this Complaint and the factors in Section 113(e) of the Act, 42 U.S.C. § 7413(e), Complainant proposes that the Administrator assess a civil penalty of \$20,000 against the Respondent. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Combined Enforcement Policy for § 112(r) of the Clean Air Act, dated August 15, 2001.

44. Complainant developed the proposed penalty based on the best information



available to Complainant at the time of the issuance of this Complaint. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the appropriateness of the proposed penalty.

### **Rules Governing This Proceeding**

45. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("the Consolidated Rules"), now codified at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with this Complaint is a copy of the Consolidated Rules.

### **Filing and Service of Documents**

46. The Respondent must file with the Regional Hearing Clerk the original and one copy of each document the Respondent intends to submit as part of the record in this proceeding.

The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

47. The Respondent must also serve a copy of each document filed in this proceeding on each party pursuant to 40 C.F.R. § 22.5. Complainant has authorized Mr. John Tielsch, Associate Regional Counsel, to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Mr. John Tielsch at (312) 353-7447.

Mr. Tielsch's address is:

Office of Regional Counsel (C-14J)  
U.S. EPA, Region 5

77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

**Opportunity to Request a Hearing**

48. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). The Respondent has the right to request a hearing on any material fact alleged in the Complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, the Respondent must specifically make the request in its answer, as discussed below.

**Answer**

49. The Respondent must file a written Answer to this Complaint if it contests any material fact of the Complaint, contends that the proposed penalty is inappropriate, or contends that it is entitled to judgment as a matter of law. To file an Answer, the Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified above and must serve copies of the written Answer on the other parties to this Complaint.

50. If the Respondent chooses to file a written Answer to the Complaint, it must do so within thirty (30) calendar days after receiving the Complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturday, Sunday, and federal legal holidays are counted. If the 30-day time period expires on Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

51. The Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint, or must state clearly that the Respondent has no knowledge of a particular factual allegation. When the Respondent states that it has no

knowledge of a particular factual allegation, the allegation is deemed denied.

52. The Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

53. The Respondent's Answer must also state:

- a. the circumstances or arguments which the Respondent alleges constitute grounds of defense;
- b. the facts which the Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether the Respondent requests a hearing, as discussed above.

54. If the Respondent does not file a written Answer within thirty (30) calendar days of receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules, 40 C.F.R. §22.17(c). Default by the Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. As provided by 40 C.F.R. § 22.17(d), the Respondent must pay any penalty assessed in a default order without further proceedings thirty (30) days after the default order becomes the final order of the Administrator of U.S. EPA pursuant to 40 C.F.R. § 22.27(c).

#### **Settlement Conference**

55. Whether or not the Respondent requests a hearing, it may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, the Respondent may contact Mr. Tielsch at the address or phone number specified above.

56. The Respondent's request for an informal settlement conference does not extend the thirty (30) calendar day period for filing a written Answer to this Complaint. The Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

**Continuing Obligations to Comply**

57. Neither the assessment nor payment of a civil penalty will affect the Respondent's continuing obligations to comply with the Act and any other applicable federal, state, or local law.

9/12/08  
Date

  
Richard C. Karl, Director  
Superfund Division

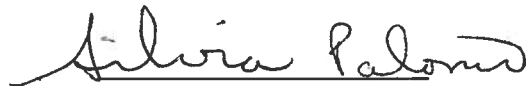
Re: Aurora Circuits LLC  
Aurora, Illinois

**CERTIFICATE OF SERVICE**

I certify that the original and one copy of the attached Administrative Complaint was filed this day with the Regional Hearing Clerk (R-19J), U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true copy was sent to the Respondent, along with the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits, 40 C.F.R. Part 22, Penalty Policy, and Audit Policy at the following address:

Dave Zeno  
President  
Aurora Circuits LLC  
2250 White Oak Circle  
Aurora, Illinois 60505

Date: 9/15/08



Silvia Palomo  
Chemical Emergency Preparedness  
and Prevention Section (SC-6J)  
U.S. EPA Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

CAA-05-2008-0036