

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 JUL 24 A 8:06
REGIONAL HEARING
CLERK

In the Matter of:

Laser Products, Inc.
185 Km. 19 Antigua Central Juncos
Juncos, PR 00777-1723

Docket No. CAA-02-2011-121

Respondent

COMPLAINANT'S INITIAL PREHEARING EXCHANGE

Pursuant to the request made by Hon. Susan L. Biro, Chief Administrative Law Judge, in the Prehearing Scheduling Order dated June 26, 2012, the Complainant in the above captioned matter hereby submits its Initial Pre-Hearing Exchange.

1.

(A) **a list of names of any witnesses intended to be called at hearing, or a statement that no witnesses will be called. The list must identify each witness as a fact witness or an expert witness, include a brief narrative summary of each witness expected testimony, and a curriculum vitae or resume for each expert witness.**

- i. **Carlos M. Rivera-Velázquez**
Environmental Scientist
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
City View Plaza II - Suite 7000
48 Rd. 165 Km. 1.2
Guaynabo, PR 00968-8069

Mr. Carlos M. Rivera-Velázquez has been working with EPA, Region 2, since November 2001, as an Environmental Scientist. Since November 2002, and at the time of the Inspection, and Issuance of the present Complaint, Mr. Rivera had been handling Clean Air Act inspections in the former Enforcement and Superfund Branch and now under the Multimedia Permits and Compliance Branch. Mr. Rivera has a Bachelor Degree with a Major in Environmental Sciences and a Minor Degree in Chemistry from the Pontifical Catholic University of Puerto Rico where he graduated in 2000.

Mr. Rivera will testify about the CAA Section 112(r) regulations and how they apply to

Respondent's facility. He will testify as to the Inspection he conducted at Respondent's facility and the findings that lead to the issuance of the penalty complaint, including the violations alleged in the Complaint. He will also testify with regard to his knowledge and experience in calculating civil penalties for violations of the CAA Section 112(r) program and about the specific facts and circumstances in this case and how they were considered in supporting the calculation of the penalty assessed in the complaint (the reasoning behind the calculation of said assessed penalty and the appropriateness of the penalty according to the CAA statutory factors and applicable penalty policy). In his expected testimony, Mr. Rivera is expected to discuss and explain the significance of various exhibits Complainant intends to offer.

- ii. **Neil Mulvey**
EPA Contractor
NPM Environmental & Safety, Inc.
Lauren Court
Manalapan, NJ 07726

Mr. Mulvey has 26 years of experience in environmental management and control, in the last 19 years specializing in process risk management and process safety. Mr. Mulvey has extensive experience in governmental and regulatory affairs at both the state and federal level, including risk management and process safety, emergency response, right-to-know, and air pollution control. Mr. Mulvey also has over 4 years experience in environmental affairs while working at a mid-size organic and inorganic chemical manufacturing facility. Mr. Mulvey was responsible for establishing the nation's first accidental release prevention program, the New Jersey Toxic Catastrophe Prevention Act (TCPA). The TCPA program was used as a model in developing other state risk management programs, including the states of California, Delaware, and Nevada. The Occupational Safety and Health Administration (OSHA) and U.S. Environmental Protection Agency (EPA) also used the TCPA program as a model in developing their respective Process Safety Management (PSM) and Risk Management Program (RMP) regulations. Mr. Mulvey has a Bachelors Degree in Environmental Science from Cook College, Rutgers University and graduated in 1979. Also, Mr. Mulvey posses a Masters Degree in Environmental Engineering from the New Jersey Institute of Technology where he graduated in 1982. Mr. Mulvey will testify about the inspection conducted at the facility and the findings of the inspection, including the violations alleged in the Complaint and his experience with the Risk Management Program and the regulations at 40 C.F.R. Part 68. Mr. Mulvey is expected to discuss and explain the significance of various exhibits Complainant intends to offer.

Complainant intends to call Mr. Mulvey as an expert witness.

- iii. **Francisco Claudio**
Chemical Engineer
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II - Suite 7000
48 Rd. 165 Km. 1.2
Guaynabo, PR 00968-8069

Mr. Francisco Claudio has been working with EPA, Region 2, since April 17, 1997, as an Environmental Engineer. Since April 1997, and at the time of the inspections, and issuance of the present Complaint, Mr. Claudio had been handling Clean Air Act inspections in the former Enforcement and Superfund Branch and now under the Multimedia Permits and Compliance Branch. Prior to working at EPA, Mr. Claudio served from 1989 to 1997 as the Director of the Air Quality Area at the Puerto Rico Environmental Quality Board. Mr. Claudio has a Bachelor Degree in Chemical Engineering from the University of Puerto Rico.

Mr. Claudio will testify about the CAA Section 112(r) regulations and how they apply to Respondent's facility. He will testify as to the follow up inspections he conducted at Respondent's facility and the findings that lead to the issuance of the penalty complaint, including the violations alleged in the Complaint. He will also testify with regard to his knowledge and experience in calculating civil penalties for violations of the CAA Section 112(r) program and about the specific facts and circumstances in this case and how they were considered in supporting the calculation of the penalty assessed in the complaint (the reasoning behind the calculation of said assessed penalty and the appropriateness of the penalty according to the CAA statutory factors and applicable penalty policy). In his expected testimony, Mr. Claudio is expected to discuss and explain the significance of various exhibits Complainant intends to offer.

Complainant reserves the right, and nothing herein is intended or is to be construed to prejudice or waive any such right, to call or not to call any of the aforementioned potential witnesses, and to expand or otherwise modify the scope, extent and/or areas of the testimony of any of the above-named potential witnesses, where appropriate. In addition, Complainant reserves the right to list and to call additional potential hearing witnesses, including expert witnesses, to answer and/or rebut evidence (testimonial or documentary) listed by Respondent in its prehearing exchange or on matters arising as a consequence of such evidence.

- (B) copies of all documents and other exhibits intended to be introduced into evidence, identified as Complainant's or Respondent's Exhibits, as appropriate, and numbered with Arabic numerals.**

Complainant's Exhibit 1 - Administrative Order, Docket No. CAA-02-2009-1010.

Complainant's Exhibit 2 - Administrative Complaint, Docket No. CAA-02-2011-1218 with attachments, including the penalty calculation and the EPA Combined Enforcement Policy for Section 112(r) of the Clean Air Act.

Complainant's Exhibit 3 - Respondent's Answer to the Complaint, dated October 31, 2011.

Complainant's Exhibit 4 - Report of USEPA Risk Management Program (RMP) Inspection of the Laser Products, Inc. facility, date of Inspection September 9, 2008, with attachments.

Complainant's Exhibit 5 - Report of USEPA Risk Management Program (RMP) Inspection of the Laser Products, Inc. facility, date of Inspection March 11, 2011.

Complainant's Exhibit 6 - Civil Monetary Penalty Inflation Adjustment Rule; Final Rule, published on February 13, 2004, in the Federal Register (69 FR 7121).

- (C) a statement indicating where the party wants the hearing to be held, and how long the party will need to present its case. The statement must also indicate whether translation services will be necessary in regard to the testimony of any witness(es), and if so, state the language to be translated.**

Pursuant to 40 C.F.R. §§ 22.21(d) and 22.19(d), the hearing should be held in the county where the Respondent conducts business which the hearing concerns, in the city in which the relevant Environmental Protection Agency Regional office is located, or in Washington, D.C. Complainant requests that the hearing be held in San Juan, where the relevant Environmental Protection Agency Regional office is located. This location is convenient for both parties and witnesses, the Laser Products, Inc. facility is close to the metropolitan area and we foresee no problem for Respondent's witnesses to attend the hearing. The Complainant can assist by providing the Regional Hearing Clerk with information on facilities which may be available for purposes of holding the hearing.

Complainant estimates it will need one day and a half to present its direct case.

Translation services will not be necessary.

2.

- (A) A brief narrative statement, and copies of any supporting documents, explaining in detail the factual and/or legal bases for the allegations in Paragraphs 20 and 21, and 25 through 36 of the Complaint, to the extent Respondent denied those allegations in its Answer;**

As stated in Paragraph 20 of the Complaint, Complainant issued an Administrative Order on June 15, 2009. This fact is admitted by Respondent. In its Answer to the Complaint Respondent admits Paragraph 20 and adds a number of facts not contested by Complainant. Also, the fact stated in Paragraph 21 of the Complaint, that the Parties held a meeting to discuss the Order and address Respondent's process to attain compliance, is not denied by Respondent. The Answer to the Complaint offers additional information with regards to Paragraph 21 of the Complaint, not contested by Complainant.

Paragraphs 25 through 36 of the Complaint are admitted by Respondent in its Answer to the Complaint. In Paragraphs 25 through 36 of its Answer to the Complaint, Respondent submits additional information that -as stated- does not deny the specific allegations contained in the Complaint.

- (B) a copy of any reports, notes, or other pertinent documentation produced as a result of the inspections referred to in Paragraph 19 of the Complaint.**

Please see Complainant's Exhibit 4 (Report of USEPA Risk Management Program (RMP) Inspection of the Laser Products, Inc. facility, date of Inspection September 9, 2008, with attachments); and Complainant's Exhibit 5 (Report of USEPA Risk Management Program (RMP) Inspection of the Laser Products, Inc. facility, date of Inspection March 11, 2011).

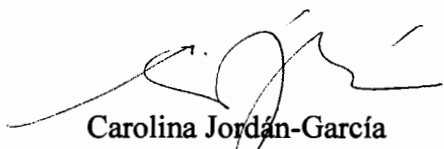
- (C) a copy of the document referred to in Paragraph 20 of the Complaint.**

Please see Complainant's Exhibit 1 (Administrative Order, Docket Number CAA-2009-1010).

- (D) **a copy, or a statement of the internet address (URL), of any policy or guidance relied on by Complainant in calculating the proposed penalty, or intended to be relied on if that penalty is adjusted.**

Civil Monetary Penalty Inflation Adjustment Rule; Final Rule, published on February 13, 2004, in the Federal Register (69 FR 7121).

Respectfully submitted. In Guaynabo, Puerto Rico, July 20, 2012.



Carolina Jordán-García
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
Centro Europa Bldg., Suite 417
1492 Ponce de León Ave.
San Juan, PR 00907-4127
phone: (787) 977-5834
facsimile: (787) 729-7748
email: jordan-garcia@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of:

Laser Products, Inc.
185 Km. 19 Antigua Central Juncos
Juncos, PR 00777-1723

Respondent

Docket No. CAA-02-2011-1218

Administrative Complaint under Order
Section 113 of the Clean Air Act,
42 U.S.C. § 7413

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Complainant's Prehearing Exchange**, dated July 20, 2012, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy by **Overnight Mail** to:

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

Copy by **Certified Mail, Return Receipt Requested** to:

Attorney for Respondent:
Pedro Reyes-Bibiloni, Esq.
254 Muñoz Rivera Ave. Corner Chardon Street,
Hato Rey, P.R. 00918
PO Box 363507
San Juan, P.R. 00936-3507

Copy by **Overnight Mail** to:

The Honorable Susan L. Biro
Chief, Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

7/20/2012
Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF REGIONAL COUNSEL
CENTRO EUROPA BUILDING, SUITE 207
1492 PONCE DE LEON AVENUE, STOP 22
SAN JUAN, PR 00907-4127



061509

VIA FIRST CLASS MAIL – RETURN RECEIPT REQUESTED

Angel L. Cruz
Plant Manager
Laser Products, Inc
PO BOX 1723
Juncos, PR 00777-1723

RE: EPA Administrative Order; Docket No. CAA-02-2009-1010

Dear Mr. Cruz:

The United States Environmental Protection Agency (EPA) issues the enclosed Compliance Order (Order) to Laser Products, Inc., pursuant to Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). EPA has determined that Laser Products, Inc., is in violation of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. Part 68, Subparts A through G.

Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), authorizes the Administrator to promulgate release prevention, detection, and correction requirements regarding regulated substances in order to prevent accidental releases of regulated substances. 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.

As indicated in the Order, if you wish to request a conference with EPA to discuss this Order, you must do so in writing within ten (10) days of receipt of the Order. If you have any questions, or would like to schedule the conference provided for in the Order, please contact Carolina Jordán-García, Regional Counsel in the Office of Regional Counsel. at (787) 977-5834.

Sincerely,

Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of:

Laser Products, Inc.
185 Km. 19 Antigua Central Juncos
Juncos, PR 00777-1723

Docket No. CAA-02-2009-1010

Respondent

Administrative Order

Proceeding under Section 113
of the Clean Air Act, 42 U.S.C. §7413

JURISDICTION

1. This Administrative Order ("Order") is issued to Laser Products, Inc., ("Respondent") pursuant to Section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. §7413(a)(3)(B) (the "Act"). Section 113 grants to the Administrator of the U.S. Environmental Protection Agency ("EPA") the authority to make a finding of violation of a requirement or prohibition of Section 112(r) of the Act, and upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition. This authority was delegated by the Administrator to the Regional Administrators on August 4, 1994, by EPA Delegation 7-6-A, and within EPA Region 2, was redelegated to, among others, the Director of the Caribbean Environmental Protection Division.

STATUTORY AND REGULATORY BACKGROUND

2. Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), authorizes the Administrator to promulgate release prevention, detection, and correction requirements regarding regulated substances in order to prevent accidental releases of regulated substances. EPA promulgated the regulations at 40 C.F.R. Part 68 in order to implement Section 112(r)(7) of the Act. These regulations 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.

3. 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, which implements Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), and which lists the regulated substances, including propane and butane, and their threshold quantities.

4. 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, requires that 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 at a stationary source above the threshold quantity, whichever is latest.

5. 40 C.F.R. Part 68 separates the covered processes into three categories, designated as Program 1, Program 2, and Program 3, which contain specific requirements for owners and operators of stationary sources with processes that fall within the respective programs. A covered process is subject to Program 3 requirements, as per 40 C.F.R. § 68.10(d), if the process does not meet one or more of the Program 1 eligibility requirements set forth in 40 C.F.R. § 68.10(b), and is: (a) listed in one of the specific North American Industry Classification System codes found at 40 C.F.R. § 68.10(d)(1); or (b) is subject to the United States Occupational Safety and Health Administration ("OSHA") process safety management ("PSM") standard set forth in 29 C.F.R. § 1910.119.

6. 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 (as provided in 40 C.F.R. § 68.15), the implementation of prevention program requirements, which include mechanical integrity (as provided in 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 as part of the RMP data on prevention program elements for Program 3 processes (as provided in 40 C.F.R. § 68.175).

7. 40 C.F.R. § 68.190(a) requires that the owner or operator of a stationary source shall review and update the RMP as specified under 40 C.F.R. § 68.190(b) and submit it to EPA. 40 C.F.R. § 68.190(b)(1) requires that the owner or operator of a stationary source shall revise and update the RMP submitted under 40 C.F.R. § 68.150, within five years of its initial submission or most recent update, whichever is later.

DEFINITIONS

8. Section 112(r)(2)(C) of the Act, 42 U.S.C. § 7412(r)(2)(C), and the regulations at 40 C.F.R. § 68.3 define "stationary source" as, *inter alia*, 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.
9. Section 112(r)(2)(B) of the Act, 42 U.S.C. § 7412(r)(2)(B), defines "regulated substance" as a substance listed pursuant to Section 112(r)(3) of the Act. The list of substances regulated under Section 112(r) of the Act is set forth at 40 C.F.R. § 68.130.
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 "process," 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. Any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release are considered a single process.
12. 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.
13. As used herein, the term "day" shall mean calendar day.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the Act, 42 U.S.C. § 7602(e).
15. Respondent is the owner and/or operator of Laser Products, Inc., located at 185 Km. 19, Antigua Central Juncos, Juncos, Puerto Rico, hereinafter referred to as the "Facility."
16. The Facility is a chlorine manufacturing and storage facility.
17. The Facility is located in a commercial/industrial section of the Municipality of Juncos.

18. The Facility is bordered by an industrial company immediately to the northeast. Open space lies to the north, south, and west. Commercial roads border the Facility to the south and west and the nearest resident is approximately 0.5 miles to the north.

19. Respondent filed an RMP for the Facility with EPA on June 14, 1999. On June 29, 1999, a corrected version was filed, but it was not deemed completed until August 24, 1999, when the final version was filed.¹

20. On March 12, 2004, Respondent resubmitted its RMP. It was deemed incomplete and on April 29, 2004, a complete version was filed. Corrections were submitted on August 6, 2007, and August 22, 2007, date on which it was finally deemed complete.²

21. The resubmission due date for Respondent's RMP was April 13, 2009. Respondent resubmitted its RMP on April 28, 2009.

22. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the Act and 40 C.F.R. §68.3.

23. Chlorine is a regulated substance pursuant to Section 112(r)(2) and (3) of the Act and 40 C.F.R. § 68.3. The threshold quantity for chlorine, as listed in 40 C.F.R. §68.130, Table 2, is 2,500 pounds.

24. EPA conducted an inspection of the Facility on September 9, 2008, to assess compliance with Section 112(r) of the Clean Air Act.

25. During the September 9, 2008 inspection, Respondent's representative informed EPA that the Facility was involved in two major activities: production of hypochlorite solution (12% and 15% concentration) and distribution of 1 ton and 150 lbs. chlorine cylinders.

26. Chlorine is used in the production of hypochlorite solution by reacting caustic soda solution with chlorine in the presence of a small amount of soda ash for buffering. Chlorine is fed to the process from 1 ton cylinders from either of two feed connection points. The two connection points tie into a common feed line. The chlorine feed line goes to a "chlorine tower" (i.e., barometric leg), then to a manifold station where it can then feed any one of three mix tanks. The design intent of the chlorine tower is to prevent reverse flow of liquid from the mix tanks back to the 1 ton cylinders. The Facility uses approximately 6,000 lbs. of chlorine per day in this batch operation.

27. The chlorine distribution involves the receipt, storage, and distribution of 1 ton and 150 lbs. chlorine cylinders. These cylinders are distributed to Puerto Rico Aqueduct and Sewer Authority ("PRASA") facilities. One ton chlorine cylinders are stored in an open area that is contiguous with the parking lot.

¹ The RMP was not deemed complete on these occasions due to minor errors in the filing documents, such as Respondent's failure to include the name of the county where the Facility is located.

² See, footnote 1.

28. Pursuant to 40 C.F.R. § 68.10(b), an RMP-covered process is eligible to be registered as Program 1 if the process has not had an accidental release of a regulated substance that led to death, injury, or response or restoration activities of an environmental receptor within five years prior to the submission of the RMP, 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 less than the distance to any public receptor, as defined in § 68.30; and emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

29. Pursuant to 40 C.F.R. § 68.10(d), a facility must register its RMP-covered process under Program 3 if it is not eligible for Program 1 and it is either subject to the OSHA PSM standard set forth in 29 C.F.R. § 1910.119, or it is listed in one of the specific North American Industry Classification System codes found at 40 C.F.R. § 68.10(d)(1). As required by 40 C.F.R. § 68.10(c), a facility must register its RMP-covered process a Program 2 if it does not meet the requirements of either Program 1 or Program 3.

30. The RMP-covered process at the Facility is not eligible for Program 1 because it does not meet the requirements set forth in 40 C.F.R. § 68.10(b). The RMP-covered process at the Facility does not meet the requirements for Program 2 because the Facility is subject to the OSHA PSM standard set forth in 29 C.F.R. § 1910.119. Because the covered process is not eligible for Program 1 and is not subject to the OSHA PSM standard, the Facility should have registered as Program 3 in its RMP submission and complied with the requirements of 40 C.F.R. § 68.12(d).

31. During EPA's September 9, 2008 inspection, Respondent did not have a management system to oversee the implementation of the risk management program elements, as required by 40 C.F.R. § 68.15.

32. During EPA's September 9, 2008 inspection, Respondent did not have a qualified person or position in charge of the development, implementation, and integration of the risk management program elements, as required by 40 C.F.R. § 68.15(b). Respondent did not have an organization chart identifying the persons, other than the person identified under paragraph (b), to which the responsibility for implementing individual requirements of Part 68 is assigned, as required by 40 C.F.R. § 68.15(c).

33. During EPA's September 9, 2008 inspection, Respondent did not have an estimate, as part of its RMP, of the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint, as defined in §68.22(a), as required by 40 C.F.R. § 68.30(a).

34. During EPA's September 9, 2008 inspection, Respondent did not provide hazard assessment documentation required pursuant to 40 C.F.R. § 68.39.

35. During EPA's September 9, 2008 inspection, Respondent did not produce process safety information pertaining to the technology of the process, as required by 40 C.F.R. § 68.65(c), including: a block flow diagram; process chemistry information; maximum intended inventory; safe upper and lower limits for such items as temperatures, pressures, flows, or compositions; and an evaluation of the consequences of deviation.

36. During EPA's September 9, 2008 inspection, Respondent did not produce process safety information pertaining to the equipment in the process required by 40 C.F.R. § 68.65(d), including: materials of construction; piping and instrumentation diagrams; electrical classification; relief system design and design basis; ventilation system design; design codes and standards employed; material and energy balances; and safety systems.

37. During EPA's September 9, 2008 inspection, Respondent did not produce any documentation stating that the equipment complies with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2). EPA personnel observed that the chlorine storage and feed system did not comply with good engineering practices.

38. During EPA's September 9, 2008 inspection, Respondent did not have a complete mechanical integrity program, as required by 40 C.F.R. § 68.73.³

39. During EPA's September 9, 2008 inspection, Respondent did not have written procedures to manage changes as required by 40 C.F.R. § 68.75.

40. During EPA's September 9, 2008 inspection, EPA personnel observed that there was no record of completed RMP compliance audits, pursuant to the requirements of 40 C.F.R. § 68.79, including reports of the findings of audits, documentation of the responses to each of the findings, and documentation that deficiencies have been corrected.

38. During EPA's September 9, 2008 inspection, Respondent did not have a written employee participation plan as required by 40 C.F.R. § 68.83.

39. During EPA's September 9, 2008 inspection, Respondent did not have information regarding the contract owner or operator's safety performance and programs, as required by 40 C.F.R. § 68.87(b)(1).

40. During EPA's September 9, 2008 inspection, Respondent did not produce documentation that it had developed and implemented safe work practices consistent with §68.69(d), to control the entrance, presence, and exit of the contract owner or

³ The Facility did not have a program, procedures and or training for employees on this item. The Facility only had a series of documents pertaining to the calibration of the chlorine sensor for a six (6) month period.

operator and contract employees in covered process areas, as required by 40 C.F.R. § 68.87(b)(4).

41. Based on information available to EPA, including information gathered during the inspection performed by EPA at the Facility and the Findings of Fact set forth above, EPA has determined that Respondent failed to comply with the requirements of 40 C.F.R. Part 68, and that Respondent's failures to comply with the requirements of 40 C.F.R. Part 68, described above, constitute violations of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7).

ORDER

42. Based upon the foregoing Findings of Fact and Conclusions of Law, and other information available to EPA, it is hereby ordered that Respondent comply with the requirements set forth below. All activities specified below shall be initiated by Respondent upon receipt of this Order and shall be completed no later than the periods mentioned for their completion, as specified herein.

Parties Bound

43. The provisions of this Order shall apply to Respondent and its officers, agents, servants, employees, and successors and to all persons, firms, and corporations acting under, through, or for Respondent.

Work to be Performed

44. Respondent shall undertake the following actions regarding the Facility:

a. Within one-hundred eighty (180) calendar days of the effective date of this Order, Respondent shall come into compliance with the requirements of 40 C.F.R. Part 68, including resolving the violations described in Paragraphs 31-40, above.

b. In addition, within two-hundred (200) calendar days of the effective date of this Order, Respondent shall submit a report to the EPA staff at the addresses below, documenting compliance with subparagraph a., above, at the Facility. This report shall include the following certification, signed by a duly authorized officer of Respondent:

I certify under penalty of law that I have examined and I am familiar with the information submitted in this document and all attachments and that, based on my review of this information and inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and

complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

45. The submissions required by Paragraph 44 above, shall be made to:

Carolina Jordán-García, Esq.
Office of Regional Counsel - Caribbean Team
U.S. Environmental Protection Agency - Region 2
Centro Europa Bldg., Suite 417
1492 Ponce de León Ave.
San Juan, PR 00907-4127

and

Teresita Rodríguez
U.S. Environmental Protection Agency
Caribbean Environmental Protection Division
Multimedia Permits and Compliance Branch
1492 Ponce de León Ave., Suite 417
San Juan, PR 00907-4127

46. EPA will review the documentation submitted pursuant to Paragraph 44, above. If EPA determines that the actions taken or documentation submitted is insufficient to demonstrate compliance with the requirements of Section 112(r) of the Act, 42 U.S.C. § 7412(r) and 40 C.F.R. Part 68, EPA will so notify Respondent in writing. Respondent shall undertake all actions directed by EPA in its written notice within thirty (30) days of Respondent's receipt of EPA's comments.

47. Respondent shall provide EPA and its representatives, including contractors, with access to Respondent's Facility for the purpose of assessing Respondent's compliance with this Order and with the Act. Respondent shall also provide EPA and its representatives, including contractors, with access to all records relating to Respondent's implementation of this Order.

48. Respondent shall preserve all documents and information relating to the activities carried out pursuant to this Order for six years after completion of the work required by this Order. At the end of the six-year period, Respondent shall notify EPA at least thirty (30) days before any such document or information is destroyed that such documents and information are available for inspection. Upon request, Respondent shall provide EPA with the originals or copies of such documents and information.

49. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to merit

treatment as confidential business information in accordance with applicable law, or otherwise determined by EPA to be confidential or subject to restricted access under applicable law.

ENFORCEMENT

50. Section 113(a)(3) of the Act provides that upon failure to comply with an order issued under Section 113(a)(3)(B), the EPA Administrator may, *inter alia* issue an administrative penalty order pursuant to Section 113(d) for civil administrative penalties of up to \$25,000 per day of violation or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties of not more than \$25,000 per day for each violation. Pursuant to the Debt Collection and Improvement Act, the civil penalties have been increased and currently allow for a civil penalty of not more than \$37,500 per violation per day, 31 U.S.C. § 3701 *et seq.* (DCIA), and 40 C.F.R. Part 19, promulgated pursuant to DCIA. In addition, Respondent may be subject to an administrative or civil action for similar penalties and/or injunctive relief, pursuant to Sections 113(b) and (d) of the Act, based on the violations addressed by this Order. Furthermore, for any person who knowingly violates the provisions of the Act, Section 113(c) provides for criminal penalties or imprisonment, or both.

51. This Order shall not relieve Respondent of its obligation to comply with all applicable federal, State, and local laws, regulations and other legal requirements, including but not limited to Section 112(r) of the Act, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State or local permit. Compliance with this Order shall not relieve Respondent of any liability for penalties pursuant to Section 113(d) of the Act or pursuant to any other federal, state or local laws and regulations.

52. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of a regulated substance, other extremely hazardous substance, or other substance on, at, or from Respondent's Facility. EPA reserves the right to bring an action against Respondent assessing or seeking penalties and/or other relief for any violations, including, without limitation: the violations referred to in the Findings of Fact and Conclusions of Law set forth above; and/or any other violations of Section 112(r) of the Act. Respondent may be subject to an administrative or civil action for penalties and/or injunctive relief, pursuant to Sections 113(b) and (d) of the Act, based on the violations addressed by this Order and/or any other violations of Section 112(r) of the Act. This Order shall not constitute or be construed as a release of any liability that the Respondent or any other person has under the Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601-9675, or any other law. EPA also reserves all of its rights to obtain access to Respondent's Facility and require Respondent's submission of information to EPA.

EFFECTIVE DATE; OPPORTUNITY FOR A CONFERENCE

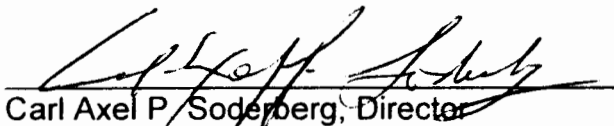
53. Respondent may request a conference with EPA concerning the violations alleged in, and the requirements of, this Order. Respondent has the right to be represented by counsel at such a conference. If a conference is held, this Order shall become effective the day after the conference, unless the effective date is extended by EPA. If a conference is not timely requested, the Order shall become effective eight (8) days after Respondent's receipt of the Order.

54. A request for a conference must be made in writing in time for EPA's receipt no later than seven (10) ten days after Respondent's receipt of this Order. The written request for a conference may be sent by fax or mail. The conference shall be held within ten (10) days of the request unless that time period is extended by EPA in its sole discretion. The conference may be conducted in person or by telephone.

55. The request for a conference and other inquiries concerning this Order should be addressed to:

Carolina Jordán-García, Esq.
Office of Regional Counsel - Caribbean team
U.S. Environmental Protection Agency - Region 2
Centro Europa Bldg., Suite 417
1492 Ponce de León Ave.
San Juan, PR 00907-4127
(tel.)787-977-5834
(fax)787-729-7748

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:



Carl Axel P. Soderberg, Director
U.S. Environmental Protection Agency-Region 2
Caribbean Environmental Protection Division
1492 Ponce de Leon Ave., Suite 417
San Juan, Puerto Rico 00907

Date: 06-12-09

TO: Laser Products, Inc
PO BOX 1723
Juncos, PR 00777-1723
Attn: Angel L. Cruz, Plant Mananager

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of

Laser Products, Inc
PO BOX 1723
Juncos, PR 00777-1723

Docket No. CAA-02-2009-1010

Respondent

Proceeding under Section 113(a)
of the Clean Air Act, 42 U.S.C. §7413(a)

Administrative Order

CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed a copy of the foregoing "Compliance Order" to the following persons, at the addresses listed below and in the following manner:

Copy by Certified Mail /
Return Receipt Requested:

Angel L. Cruz
Plant Manager
Laser Products, Inc
PO BOX 1723
Juncos, PR 00777-1723

Date: 6/15/09.



San Juan, Puerto Rico
Office of Regional Counsel - CT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CENTRO EUROPA BUILDING, SUITE 417
1492 PONCE DE LEON AVENUE, STOP 22
SAN JUAN, PR 00907-4127

093011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ignacio Carvajal
President
Laser Products, Inc.
185 Km. 19, Antigua Central Juncos
P.O. Box 1723
Juncos, PR 00777-1723

**Re: Complaint and Notice of Opportunity to Request a Hearing
Docket Number CAA-02-2011-1218
In the Matter of Laser Products, Inc.**

Dear Mr. Carvajal:

Enclosed is a Complaint that the United States Environmental Protection Agency (EPA) is issuing against Laser Products, Inc. (Respondent) as a result of our determination that Respondent failed to comply with 40 C.F.R. Part 68, Subparts A through G, 40 C.F.R. § 68.1 et seq., at its plant located at 185 Km. 19, Antigua Central Juncos, Juncos, Puerto Rico, (hereinafter referred to as the "Facility"), in violation of Section 112(r)(7) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7412(r)(7).

This Complaint is filed pursuant to the authority contained in Section 113(d) of the Act, 42 U.S.C. § 7413(d). The Complaint proposes assessing a total penalty of \$190,527 for Respondent's alleged violations.

The Respondent has the right to a hearing to contest the factual allegations of the Complaint. If the Respondent admits the allegations, or it is found to be true after there has been an opportunity for a hearing on them, the Respondent has the right to contest the penalty proposed in the Complaint. I have enclosed a copy of 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" (CROP), followed by the Agency in cases of this kind. The CROP is codified at 40 C.F.R. Part 22.

Please note the requirements for an Answer at Section 22.15 of the CROP. If the Respondent wishes to contest the allegations in the Complaint or the penalty proposed in the Complaint, the Respondent must file an original and a copy of a written Answer within thirty (30) days of the Respondent's receipt of the enclosed Complaint with the

within thirty (30) days of the Respondent's receipt of the enclosed Complaint with the 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 the Respondent does not file an Answer within thirty (30) days of receipt of this Complaint, the Respondent may be judged to have defaulted (see Section 22.17 of the CROP). If a default order is entered, the entire proposed penalty may be assessed without further proceedings.

Whether or not the Respondent requests a formal hearing, the Respondent may informally confer with EPA concerning 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 as a result of such informal conference with the Agency. The Agency also encourages the use of Supplemental Environmental Projects (SEPs), where appropriate, as part of the settlement. Enclosed is a copy of the EPA SEP Policy for your consideration.

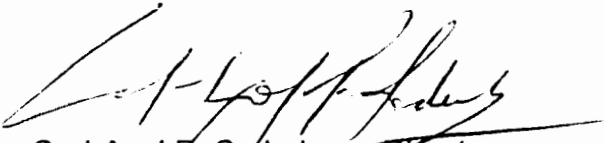
The Respondent may represent itself or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone. An attorney from the Agency's Office of Regional Counsel will normally be present at any informal conference. Please note that a request for an informal conference is not substitute for a written Answer or affects what the Respondent may choose to say in an Answer, nor does it extend the thirty (30) days by which the Respondent must file an Answer requesting a hearing. Any hearing held in this matter will be conducted in accordance with the CROP.

If you have any questions or wish to discuss a settlement of this matter with the EPA by an informal conference, please immediately contact:

Carolina Jordán-García, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
Centro Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, Puerto Rico 00907-4127
Tel.: (787) 977-5834 / Fax: (787) 729-7748
jordan-garcia.carolina@epa.gov

We urge your prompt attention to this matter.

Sincerely,



Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division

Enclosures

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Region 2**

In the Matter of:

Laser Products, Inc.
185 Km. 19, Antigua Central Juncos
Juncos, PR 00777-1723

Respondent

Docket No. CAA-02-2011-1218

Administrative Complaint under Order
Section 113 of the Clean Air Act,
42 U.S.C. § 7413

ADMINISTRATIVE COMPLAINT

I. JURISDICTION

1. This Administrative 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 Director of the Caribbean Environmental Protection 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, 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 set forth 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) if either one of the following conditions is met: the process 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 the process is subject to the United States Occupational Safety and Health Administration ("OSHA") process safety management ("PSM") standard set forth in 29 C.F.R. § 1910.119. As required by 40 C.F.R. § 68.10(c), a facility must register its RMP-covered process as a Program 2 process if it does not meet the requirements of either Program 1 or Program 3.

8. The regulations set forth at 40 C.F.R. § 68.12(d) require 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 and set forth 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. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the Act, 42 U.S.C. § 7602(e).

15. Respondent is the owner and/or operator of Laser Products, Inc., located at 185 Km. 19, Antigua Central Juncos, Juncos, Puerto Rico, 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. Chlorine is a regulated substance pursuant to Section 112(r)(2) and (3) of the Act and 40 C.F.R. § 68.3. The threshold quantity for chlorine, as listed in 40 C.F.R. § 68.130, Table 2, is 2,500 pounds.

18. Respondent handled, stored and used, chlorine in a process at the Facility in amounts exceeding the threshold quantity.

19. EPA conducted an inspection of the Facility on September 9, 2008, February 10, 2010 and a final inspection on March 2, 2011 to assess compliance with Section 112(r) of the Clean Air Act.

20. On June 15, 2009, EPA issued an Administrative Order (AO) under Docket No. CAA-02-2009-1010 to Respondent for such violations and Order them to:

21. On October 8, 2009, EPA and Respondent held a meeting to discuss the Order and to address its progress to meet compliance with the Order and Section 112(r).

22. On February 10, 2010, an EPA Enforcement Officer conducted a follow-up inspection at Laser Products, Inc. to determine if the facility had develop and implemented the measures needed to reach compliance with its RMP Program.

23. The EPA Enforcement Officer also was able to discuss with the Operational Manager the progress to reach compliance with the RMP Program. However, since the actions needed to correct the EPA findings of September 9, 2008, were still being developed, EPA was not able to reach a conclusion on the Facility's compliance on February 10, 2010.

24. From the findings of the follow up inspection, EPA concluded that Respondent took the necessary steps to comply with the regulatory requirements under Part 68.

COUNT I

25. During EPA's September 9, 2008 inspection, Respondent did not have a management system to oversee the implementation of the risk management program elements, as required by 40 C.F.R. § 68.15.

26. During EPA's September 9, 2008 inspection, Respondent did not have an estimate, as part of its RMP, of the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint, as defined in §68.22(a), as required by 40 C.F.R. § 68.30(a).

27. During EPA's September 9, 2008 inspection, Respondent did not provide hazard assessment documentation required pursuant to 40 C.F.R. § 68.39.

28. During EPA's September 9, 2008 inspection, Respondent did not produce process safety information pertaining to the technology of the process, as required by 40 C.F.R. § 68.65(c), including: a block flow diagram; process chemistry information;

maximum intended inventory; safe upper and lower limits for such items as temperatures, pressures, flows, or compositions; and an evaluation of the consequences of deviation.

29. During EPA's September 9, 2008 inspection, Respondent did not produce process safety information pertaining to the equipment in the process required by 40 C.F.R. § 68.65(d), including: materials of construction; piping and instrumentation diagrams; electrical classification; relief system design and design basis; ventilation system design; design codes and standards employed; material and energy balances; and safety systems.

30. During EPA's September 9, 2008 inspection, Respondent did not produce any documentation stating that the equipment complies with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2). EPA personnel observed that the chlorine storage and feed system did not comply with good engineering practices.

31. During EPA's September 9, 2008 inspection, Respondent did not have a complete mechanical integrity program, as required by 40 C.F.R. § 68.73.

32. During EPA's September 9, 2008 inspection, Respondent did not have written procedures to manage changes as required by 40 C.F.R. § 68.75.

33. During EPA's September 9, 2008 inspection, EPA personnel observed that there was no record of completed RMP compliance audits, pursuant to the requirements of 40 C.F.R. § 68.79, including reports of the findings of audits, documentation of the responses to each of the findings, and documentation that deficiencies have been corrected.

34. During EPA's September 9, 2008 inspection, Respondent did not have a written employee participation plan as required by 40 C.F.R. § 68.83.

35. During EPA's September 9, 2008 inspection, Respondent did not have information regarding the contract owner or operator's safety performance and programs, as required by 40 C.F.R. § 68.87(b)(1).

36. During EPA's September 9, 2008 inspection, Respondent did not produce documentation that it had developed and implemented safe work practices consistent with §68.69(d), to control the entrance, presence, and exit of the contract owner or operator and contract employees in covered process areas, as required by 40 C.F.R. § 68.87(b)(4).

37. 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), as modified pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 73 Fed. Reg. 75340 (December 11, 2008), which was mandated by the Debt Collection Improvement Act of 1996 and 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation, EPA is authorized to assess civil penalties not to exceed \$32,500 per day for each violation of Section 112 of the Act, 42 U.S.C. § 7412, that occurred that occurred after March 15, 2004 through January 12, 2009, and \$37,500 per day for each violation of Section 112 of the Act that occurred after January 12, 2009. This amount is subject to revision under federal law and regulation. 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 December 29, 2008 memorandum entitled "Amendments to EPA's Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)," from Granta Y. Nakayama, Assistant Administrator, Office of Enforcement and Compliance Assurance, 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 \$190,527 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 PROCEEDING

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.

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. See 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:

Carolina Jordán-García
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
1492 Ponce de León Ave.
Centro Europa Building, Suite 417
San Juan, Puerto Rico 00907- 4127
Email: jordan-garcia.carolina@epa.gov
Tel.: (787) 977-5834
Fax: (787) 729-7748

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 that 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.

A. 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 the Act and the applicable regulations. See 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 VI.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

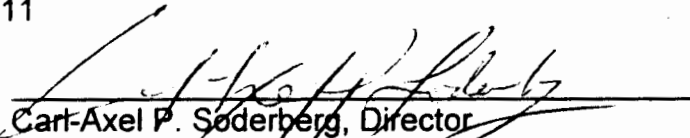
Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address provided in Section VI.A., above), a copy of the check or other instrument 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 VI.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:

U.S. 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, which is 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 such a 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: Sept. 30, 2011


Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency
Region 2
1492 Ponce de Leon Ave. Suite 417
San Juan, Puerto Rico 00907

TO: Mr. Ignacio Carvajal
Laser Products, Inc.
P.O. Box 1723
185 Km. 19 Antigua Central Juncos
Juncos, PR 00777-1723

IN THE MATTER OF:

Laser Products, Inc.
185 Km. 19, Antigua Central Juncos
Juncos, PR 00777-1723

Respondent

Docket No. CAA-02-2011-1218

Administrative Complaint under Order Section
113 of the Clean Air Act, 42 U.S.C. §7413

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original and Copy via UPS Mail to:

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

Copy by Certified Mail Return Receipt:

Ignacio Carvajal
Laser Products, Inc.
P.O. Box 1723
185 Km. 19 Antigua Central Juncos
Juncos, PR 00777-1723

Dated: September 30, 2011

Allen Jay

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Laser Products, Inc.
185 Km. 19, Antigua Central Juncos
Juncos, Puerto Rico 00777-1723

Respondent

Docket No. CAA-02-2011-1218

Administrative Complaint Under Order
Section 113 of the Clean Air Act,
42 U.S.C. § 7413

**ANSWER TO COMPLAINT, REQUEST FOR HEARING
AND INFORMAL SETTLEMENT CONFERENCE**

TO THE ENVIRONMENTAL PROTECTION AGENCY:

COMES NOW, Laser Products, Inc. ("Respondent"), through its undersigned attorney, and respectfully alleges, states, and prays as follows:

I. JURISDICTION

1. Respondent acknowledges the authority of the Director of the Caribbean Environmental Protection Division (the "Director") of the United States Environmental Protection Agency (the "EPA") to institute this Administrative Complaint (the "Complaint") dated September 30, 2011, which was received by Respondent on October 5, 2011.
2. Does not require an answer.

II. APPLICABLE STATUTES AND REGULATIONS

3. The allegation in paragraph 3 does not require an answer; it is a conclusion of law.
4. The allegation in paragraph 4 does not require an answer; it is a conclusion of law.
5. The allegation in paragraph 5 does not require an answer; it is a conclusion of law.
6. The allegation in paragraph 6 does not require an answer; it is a conclusion of law.
7. The allegation in paragraph 7 does not require an answer; it is a conclusion of law.
8. The allegation in paragraph 8 does not require an answer; it is a conclusion of law.

III. DEFINITIONS

9. The allegation in paragraph 9 does not require an answer; it is a conclusion of law.
10. The allegation in paragraph 10 does not require an answer; it is a conclusion of law.
11. The allegation in paragraph 11 does not require an answer; it is a conclusion of law.
12. The allegation in paragraph 12 does not require an answer; it is a conclusion of law.
13. The allegation in paragraph 13 does not require an answer; it is a conclusion of law.

IV. FINDINGS OF VIOLATIONS

14. The allegation in paragraph 14 is admitted.
15. The allegation in paragraph 15 is admitted.
16. The allegation in paragraph 16 is admitted.
17. The allegation in paragraph 17 does not require an answer; it is a conclusion of law.
18. The allegation in paragraph 18 is admitted.
19. The allegation in paragraph 19 is admitted.
20. Respondent admits that EPA issued an Administrative Order (AO) dated June 15, 2009 under Docket No. CAA-02-2009-1010. Respondent also admits that the AO ordered Respondent to perform certain work related to the implementation of Respondent's facility Risk Management Plan (RMP) Program, which Respondent did perform. Respondent denies that there were such violations as stated in paragraph 20 of the Complaint. Respondent is a local family owned small business, which on June 14, 1999 registered as a Program 3. Respondent submits that since the first facility RMP submission back in June 14, 1999, it has allocated and paid significant amounts of money, and continues to invest in consulting services to comply with the EPA requirements established under Section 112(r) of the Clean Air Act and the applicable provisions of Part 68 of the Code of Federal Regulations (C.F.R). It is further clarified that Respondent has never handled at its facility any one (1) ton or 150 lbs. chlorine cylinders belonging to the Puerto Rico Aqueduct and Sewer Authority.
21. Respondent admits that on October 8, 2009 a meeting was held with an EPA officer to discuss the AO and Respondent's RMP program. During said meeting, Respondent submitted another copy of an improved RMP Program, which Respondent was confident that it would satisfy applicable regulatory and Complainant's requirements established in the June 15, 2009 AO.

22. The allegation in paragraph 22 is admitted.
23. The allegation in paragraph 23 is admitted.
24. The allegation in paragraph 24 is admitted.

COUNT 1

25. The allegation in paragraph 25 is admitted. It is submitted that, as determined by Complainant in paragraph 24 of the Complaint, Respondent currently has a management system to oversee the implementation of the risk management program elements as required by 40 C.F.R. § 68.15.
26. The allegation in paragraph 26 is admitted. It is submitted that Respondent's PSM/RMP Program includes the population within a circle with its center at the point of the release and a radius determined by the distance to the end point, as defined in § 68.22(a), as required by 40 C.F.R. § 68.30(a).
27. The allegation in paragraph 27 is admitted. It is submitted that Respondent's PSM/RMP Program includes all the required hazard assessment components including five (5) years accident history, off-site consequence analysis and process hazard analysis, as required by 40 C.F.R. § 68.39.
28. The allegation in paragraph 28 is admitted. It is submitted that Respondent's PSM/RMP Program includes process safety information pertaining to the technology of the process as required by 40 C.F.R. § 68.65(c), including: a block flow diagram; process chemistry information; maximum intended inventory; safe upper and lower limits for such items as temperatures, pressures, flows, or compositions; and an evaluation of the consequences deviation.
29. The allegation in paragraph 29 is admitted. It is submitted that Respondent's PSM/RMP Program includes process safety information pertaining to the equipment in the process, as required by 40 C.F.R. § 68.65(d), including: materials of construction; piping and instrumentation diagrams; electrical classification; relief system design and design basis; ventilation system design; design codes and standards employed; material and energy balances; and safety systems.
30. The allegation in paragraph 30 is admitted. It is submitted that both, the chlorine storage and the sodium hypochlorite manufacturing areas, conform to applicable building and fire codes. Section 3.1 of Respondent's PSM/RMP Program includes information stating that the equipment complies with recognized and generally accepted good engineering practices as required by 40 C.F.R. § 68.65(d)(2).
31. The allegation in paragraph 31 is admitted. It is submitted that Respondent's PSM/RMP Program includes a complete mechanical integrity program which defines the testing,

inspection, certification, documentation and information as required by 40 C.F.R. § 68.73.

32. The allegation in paragraph 32 is admitted. It is submitted that Respondent's PSM/RMP Program defines the procedures and includes the documentation required for the management of process changes as required by 40 C.F.R. § 68.75.
33. The allegation in paragraph 33 is admitted. It is submitted that Respondent's PSM/RMP Program defines how compliance audits are performed in compliance with the requirements established in 40 C.F.R. § 68.79.
34. The allegation in paragraph 34 is admitted. It is submitted that Respondent's PSM/RMP Program defines the participation of employees as related to the PSM and RMP Program requirements in compliance with 40 C.F.R. § 68.83.
35. The allegation in paragraph 35 is admitted. It is submitted that Respondent's PSM/RMP Program defines contractor management related to the chlorine processes as required by 40 C.F.R. § 68.87(b)(1).
36. The allegation in paragraph 36 is admitted. It is submitted that Respondent developed and implemented safe work practices consistent with the requirements of established in 40 C.F.R. § 68.87(b)(4). Respondent's PSM/RMP Program describe chlorine process area entrance control by operators and area entrance and exit control by contractors.
37. The allegation in paragraph 37 does not require an answer; it is a conclusion of law.

V. NOTICE OF PROPOSED ORDER ASSESING A CIVIL PENALTY

38. The Complaint states that a copy of Section 112(r) Penalty Policy and the Penalty Calculation Worksheet was included as Attachment 1 of the Complaint. It is respectfully submitted that Respondent did not received copy of said documents with the Complaint. Nevertheless, it is respectfully submitted that the proposed civil penalty of \$190,527.00 is unwarranted. Respondent is a good corporate citizen and not an unwilling party who needs enforcement to compel compliance. The amount of the proposed penalty is unfairly inappropriate because of the material facts stated in the Grounds for Defense below. Respondent reserves the right to amend its answer to the Complaint after being provided with copy of the Penalty Calculation Worksheet.

Grounds for Defense

39. Respondent acted in good faith by requesting/attending meetings with Complainant to address Complainant's requirements. After Complainant's inspections to Respondent's facility to review compliance with RMP requirements, Respondent did not receive copy of inspection reports which could serve as a guidance to address Complainant's alleged deficiencies of Respondent's RMP Program implementation. Furthermore, to satisfactorily address Complainant's requirements, Respondent hired a second consulting

firm early in 2011 demonstrating its good faith efforts to comply with EPA requirements to address the alleged violations to Section 112(r) of the Clean Air Act and applicable regulatory requirements. In addition, the noted violations did not pose a significant harm to public health or the environment.

40. The proposed penalty is unwarranted and unfairly disproportionate considering the nature, circumstances of the case, and the extent and gravity of the alleged violation, lack of prior history of violations, the degree of culpability of the unintentional violation, the possible economic benefit, and the willingness of Respondent to cooperate with EPA at all relevant times. Respondent did not incur in repeat or flagrant violations. Respondent has no prior history of violations to the Clean Air Act.

VI. PROCEDURES GOVERNING THIS ADMINISTRATIVE PROCEEDING

Respondent requests a formal hearing to contest the appropriateness of the findings of violation, as well as the appropriateness of the penalty assessed.

VII. INFORMAL SETTLEMENT CONFERENCE

Respondent requests an informal conference in order to discuss the facts of this case and the possibility of a settlement.

In San Juan, Puerto Rico, this 31th day of October 2011.

WE HEREBY CERTIFY that on this same date a copy of this Answer to Complaint, Request for Hearing and Informal Settlement Conference has been mailed by certified mail to Carolina Jordan-García, Esq., Office of Regional Counsel, U.S. Environmental Protection Agency, Region 2, Centro Europa Building, Suite 417, 1492 Ponce de León Avenue, San Juan, Puerto Rico 00907-4127.

LASER PRODUCTS, INC.

FIDDLER GONZÁLEZ & RODRÍGUEZ, P.S.C.
P.O. Box 363507
San Juan, Puerto Rico 00936-3507
Eduardo Negrón-Navas
enegron@fgrlaw.com
787-759-3106
Pedro Reyes-Bibiloni
preyes@fgrlaw.com
787-759-3208

By:


Pedro Reyes-Bibiloni

CLEAN AIR ACT SECTION 112(r) INSPECTION REPORT

Laser Products Inc.

Juncos, Puerto Rico

GENERAL INFORMATION

Stationary Source	Laser Products Inc.
Date of Inspection	September 9, 2008
USEPA Inspector	Carlos Rivera, USEPA – Region II, Caribbean Office, Enforcement
Contract Auditor	Neil Mulvey, Sullivan Group (Subcontractor)
Description of Activities	<ul style="list-style-type: none">• Opening meeting with facility representative.• Program audit.• Closing meeting with facility representatives. Program audit consisted of the following activities: Document review. Field verification. Personnel interviews

STATIONARY SOURCE INFORMATION

EPA Facility ID #	1000 0003 8915
Date of Latest Submission (used for RMP inspection)	Receipt Date: August 28, 2007 (Correction) Anniversary Date: April 13, 2009
Facility Location	185 Km. 19 Antigua Central Juncos Juncos, PR 00777-1723 Tel. (787) 653-3700
Number of Employees	<i>RMP*Submit</i> states 19 employees. Facility management reported 25 employees.

Description of Surrounding Area	The facility conducts business on a six acre site located in a commercial / industrial section of Juncos. The facility is bordered by an industrial company immediately to the northeast. Open space lies to the north, south, and west. Commercial roads border the facility to the south and west. The nearest resident is approximately 0.5 miles to the north.
Participants	Participants included representatives from: Carlos Rivera, USEPA – Region II, Caribbean Office Neil P. Mulvey, USEPA Contractor – Sullivan Group Angel L. Cruz, Plant Manager, Laser Products Inc. Raymond B. Huddleston, Regulatory Advisor, Consultant* * Lead representative for Laser Products.

REGISTRATION INFORMATION

Process ID #	71964
Program Level (as reported in RMP)	Program 3
Process Chemicals	Chlorine @ 2,000-lbs. (Registered quantity)
NAICS Code	325181 (Alkalies and Chlorine Manufacturing)

GENERAL COMMENTS

Business conducted at the Laser Products Inc., Juncos, PR facility includes two major activities: production of hypochlorite solution (12% and 15%) and distribution of 1-ton and 150-lbs. chlorine cylinders. The hypochlorite solution (i.e., bleach) is sold as a consumer product. The facility operates one shift, M – F.

Chlorine is used in the production of hypochlorite solution by reacting caustic soda solution with chlorine in the presence of a small amount of soda ash for buffering. Chlorine is fed to the process from 1-ton cylinders from either of two feed connection points. The two connection points tie into a common feed line. The chlorine feed line goes to a 'chlorine tower' (i.e., barometric leg), then to a manifold station where it can then feed any one of three mix tanks. The design intent of the chlorine tower is to prevent reverse flow of liquid from the mix tanks back to the 1-ton cylinders. The facility uses approximately 6,000-lbs. of chlorine per day in this batch operation.

The process includes one chlorine detector located in a containment area near the mix tanks. The facility reported that the chlorine detector sounds an audible alarm at 3 PPM, but was out of service at the time of this inspection.

The entire production process is conducted in an open sided area raised on a concrete platform covered with an aluminum shed roof. Storage of 1-ton chlorine cylinders intended for use as a raw material in producing hypochlorite solution is an open area located at ground level just east of the production area.

Chlorine distribution involves the receipt, storage, and distribution of 1-ton and 150-lbs. chlorine cylinders. Cylinders are distributed to PRASA facilities. One-ton chlorine cylinders are stored in an open area that is contiguous with the parking lot.

RMP DOCUMENTATION

The only RMP documents available for review were related to the *RMP*Submit* registration. Several conflicting registrations were on file, including their most recent submission. There were no other RMP documents available for review.

Comments regarding select RMP elements follow:

Management System [40 CFR 68.15] & Registration

While the Plant Manager has overall responsibility for implementation of the RMP program, he did not demonstrate an understanding of the RMP program requirements. There were minimal records available to support implementation. The facility's consultant demonstrated some understanding of the RMP requirements.

There was no written description of a management system.

The *RMP*Submit* registration lists the chlorine inventory as 2,000-lbs. During the time of the September 9, 2008 inspection, approximately 111 one-ton cylinders were on-site, totaling 222,000-lbs.

Hazard Assessment

See the RMP Checklist for information regarding hazard assessment.

Process Safety Information (PSI) [40 CFR 68.65]

The only PSI documentation available for review was an MSDS for chlorine. No other documentation was available for review. See RMP Checklist for list of PSI required items not available for review.

Process Hazard Analysis (PHA) [40 CFR 68.67]

There was no record or copy of a completed PHA of the process available for review.

Standard Operating Procedures (SOPs) [40 CFR 68.69]

There were no written operating procedures available for review related to the receipt, storage, and handling of chlorine cylinders or the production of hypochlorite using chlorine as a raw material.

Training [40 CFR 68.71]

Operator training records included:

- Employee OSHA 40-hours of HAZWOPER training.
- 40-hour HAZWOPER training for the hypochlorite crew leader (completed in January 2008).
- Employee safety training provided by their chlorine supplier, Jones Chemical.

Training records were filed by employee name and included written tests to verify operator understanding of training received.

There were no training records however regarding specific tasks related to the handling of chlorine cylinders or use of chlorine in the hypochlorite process.

Mechanical Integrity [40 CFR 68.73]

There was no written mechanical integrity program available for review. The facility did have records of inspection and calibration of the chlorine sensor, performed on a 6-month schedule (reviewed record of calibration in 1/08 and 7/08; next scheduled for 1/09). However it should be noted that the chlorine sensor was not functioning at the time of this inspection.

Management of Change (MOC) [40 CFR 68.75] & Pre-Startup Review (PSR) [40 CFR 68.77]

There were no written MOC or PSR procedures available for review. There were no completed MOC or PSR reviews available for inspection.

Compliance Audits [40 CFR 68.79]

There was no record of completed RMP compliance audits.

Incident Investigation [40 CFR 68.81]

There was no record of a written incident investigation procedure. The Plant Manager stated that there have been no reportable chlorine releases.

Employee Participation [40 CFR 68.83]

There was no written employee participation plan available for review.

Hot Work Permit [40 CFR 68.85]

There was no record of a hot work permit program.

Contractor Safety [40 CFR 68.87]

There was no record of written contractor safety procedures.

Emergency Response [40 CFR 68.90 – 68.95]

Evaluated by USEPA inspector.

FACILITY TOUR

Several items noted during the facility tour include:

- ❑ The process includes one chlorine detector located in a containment area near the mix tanks . The facility reported that the chlorine detector sounds an audible alarm at 3 PPM, but was out of service at the time of this inspection. There was no chlorine sensor located at the 1-ton chlorine cylinder feed station. **The facility should immediately repair and place the chlorine sensor back into service and ensure that it is included in the mechanical integrity program to ensure continued operating integrity. The facility should consider adding additional chlorine sensors in areas of potential chlorine leaks, such as at the 1-ton chlorine cylinder feed station.**
- ❑ One-ton chlorine cylinders are stored directly on the ground in an open area that is contiguous with the parking lot as well as areas immediately adjacent to truck loading / unloading dock and is therefore vulnerable to external events such as impact with cars and trucks moving throughout the area. The cylinders are stored using unsecured wood dividers. The entire cylinder storage area is exposed to direct sunlight and rain since no shed or covered area is provided. **The facility should evaluate the 1-ton chlorine cylinder storage area regarding the potential for vehicle impact and provide necessary safeguards to prevent vehicle impact. The facility should review their current storage and handling practices in comparison to industry standards, such as The Chlorine Institute.**
- ❑ When unloading 1-ton chlorine cylinders from truck trailers onto the dock, the trailer is not secured to the dock. **The facility should consider installing a dock-lock or other means to firmly secure the trailer to the dock when unloading 1-ton chlorine cylinders.**
- ❑ There were signs of external corrosion at flanges and valves on the chlorine line at the 1-ton feed station. **The facility should conduct an integrity inspection of the chlorine feed line and flanges in accordance with good engineering practices.**
- ❑ One of the chlorine lines from the manifold station to the mix tanks is bowed and mis-shapen. Additionally, some of the chlorine lines appear to be supported using wire. **The facility should conduct an integrity inspection of the chlorine feed line and ensure proper support for the lines, in accordance with good engineering practices.**

- ❑ The facility uses an unconventional means to ensure valves are in a locked position. **The facility should establish a safe work practice for ensuring valves are maintained in desired locked position and utilize industry standard valve locking devices.**
- ❑ The chlorine A and B kits at the facility were not sealed, leading to the possibility that the kits are missing parts or tools that may be needed in the event of an emergency. **The facility must either maintain the chlorine A and B kits in a sealed state or otherwise ensure that all necessary parts and tools are present.**

FINDINGS/RECOMMENDATIONS

Registration Information

- ❑ The *RMP*Submit* registration lists the chlorine inventory as 2,000-lbs. During the time of the September 9, 2008 inspection, approximately 111 one-ton cylinders were on-site, totaling 222,000-lbs. **The facility should submit a corrected *RMP*Submit* registration reflecting the maximum intended chlorine inventory.**

Management System [40 CFR 68.15]

- ❑ **The facility must prepare a written description of its RMP management system, assign qualified personnel to implement the program and ensure such personnel are knowledgeable of RMP requirements and facility programs and procedures.**

Process Safety Information (PSI) [40 CFR 68.65]

- ❑ Other than an MSDS of chlorine, there was no PSI on file for review. **The facility must compile / develop process safety information describing the technology in the process and equipment in the process as required by 40 CFR 68.65(c) and (d).**
- ❑ **The facility must document that equipment complies with recognized and generally accepted good engineering practices as required by 40 CFR 68.65(d) (2).**

Process Hazard Analysis (PHA) [40 CFR 68.67]

- ❑ There was no completed PHA on file for review. **The facility must complete a PHA as required by 40 CFR 68.67.**

Standard Operating Procedures (SOPs) [40 CFR 68.69]

- ❑ There were no written operating procedures available for review. **The facility must develop written operating procedures for the receipt, storage, and handling of chlorine cylinders and the production of hypochlorite using chlorine as a raw material, as required by 40 CFR 68.69.**
- ❑ **The facility must develop necessary safe work procedures (including hot work permit procedures) to ensure safe work practices are employed at the covered process, as required by 40 CFR 68.69(d).**

Training [40 CFR 68.71]

- ❑ There were no training records however regarding specific tasks related to the handling of chlorine cylinders or use of chlorine in the hypochlorite process. **The facility must prepare and implement an operator training program related to the covered process, including the handling of chlorine cylinders and use of chlorine in the hypochlorite process, as required by 40 CFR 68.71.**

Mechanical Integrity [40 CFR 68.73]

- ❑ There was no written mechanical integrity program available for review. The facility did have records of inspection and calibration of the chlorine sensor, performed on a 6-month schedule (reviewed record of calibration in 1/08 and 7/08; next scheduled for 1/09). However it should be noted that the chlorine sensor was not functioning at the time of this inspection. **The facility must develop a complete mechanical integrity program as required by 40 CFR 68.73 for all equipment, lines, instruments, and safety systems used in the covered process.**

Management of Change (MOC) [40 CFR 68.75] & Pre-Startup Review (PSR) [40 CFR 68.77]

- ❑ There was no written MOC or PSR procedure available for review. **The facility must develop and implement the required MOC (40 CFR 68.75) and PSR (40 CFR 68.77) procedures.**

Compliance Audits [40 CFR 68.79]

- ❑ There were no records of completed RMP compliance audits. **The facility must complete RMP compliance audits at least once every three years, as required by 40 CFR 68.79.**

Incident Investigation [40 CFR 68.81]

- There was no record of a written incident investigation procedure. The Plant Manager reported that there have been no reportable chlorine releases. **The facility must develop an incident investigation procedure as required by 40 CFR 68.81.**

Employee Participation [40 CFR 68.83]

- There was no record of a written employee participation plan available for review. **The facility must develop a written employee participation plan as required by 40 CFR 68.83.**

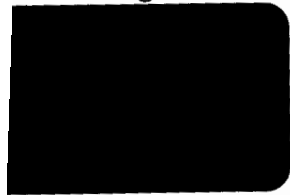
Hot Work Permit [40 CFR 68.85]

- There was no record of a hot work permit program. **The facility must develop a written hot work permit program as required by 40 CFR 68.85.**

Contractor Safety [40 CFR 68.87]

- There was no record of written contractor safety procedures. **The facility must develop and implement contractor safety procedures as required by 40 CFR 68.67.**

RMP Program Level 3 Process Checklist



Facility Name: LASER PRODUCTS INC.
RMP Inspection Date: SEPTEMBER 9, 2008
USEPA Inspectors: CARLOS RIVERA – USEPA, REGION II,
CARIBBEAN OFFICE &
NEIL MULVEY, SULLIVAN GROUP (Subcontractor)
(NOTE: Hazard Assessment evaluation completed by Rohit Shirpewar, Sullivan Group FINAL

Section A – Management [68.15]

Management system developed and implemented as provided in 40 CFR 68.15? S M U N/A
 Comments:

Has the owner or operator:

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 1. Developed a management system to oversee the implementation of the risk management program elements? [68.15(a)] | <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A |
| 2. Assigned a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements? [68.15(b)] | <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A |
| 3. Documented other persons responsible for implementing individual requirements of the risk management program and defined the lines of authority through an organization chart or similar document? [68.15(c)] | <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A |

Section B: Hazard Assessment [68.20-68.42]

Hazard assessment conducted and documented as provided in 40 CFR 68.20-68.42? S M U N/A
 Comments:

Hazard Assessment: Offsite consequence analysis parameters [68.22]

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 1. Used the following endpoints for offsite consequence analysis for a worst-case scenario: [68.22(a)]
<input checked="" type="checkbox"/> For toxics: the endpoints provided in Appendix A of 40 CFR Part 68? [68.22(a)(1)]
<input type="checkbox"/> For flammables: an explosion resulting in an overpressure of 1 psi? [68.22(a)(2)(i)]; or
<input type="checkbox"/> For flammables: a fire resulting in a radiant heat/exposure of 5 kw/m ² for 40 seconds? [68.22(a)(2)(ii)]
<input type="checkbox"/> For flammables: a concentration resulting in a lower flammability limit, as provided in NFPA documents or other generally recognized sources? [68.22(a)(2)(iii)] | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A

Note: should be noted in RMP. |
| 2. Used the following endpoints for offsite consequence analysis for an alternative release scenario: [68.22(a)]
<input checked="" type="checkbox"/> For toxics: the endpoints provided in Appendix A of 40 CFR Part 68? [68.22(a)(1)]
<input type="checkbox"/> For flammables: an explosion resulting in an overpressure of 1 psi? [68.22(a)(2)(i)]
<input type="checkbox"/> For flammables: a fire resulting in a radiant heat/exposure of 5 kw/m ² for 40 seconds? [68.22(a)(2)(ii)]
<input type="checkbox"/> For flammables: a concentration resulting in a lower flammability limit, as provided in NFPA documents or other generally recognized sources? [68.22(a)(2)(iii)] | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A |
| 3. Used appropriate wind speeds and stability classes for the release analysis? [68.22(b)] | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A |
| 4. Used appropriate ambient temperature and humidity values for the release analysis? [68.22(c)] | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A |
| 5. Used appropriate values for the height of the release for the release analysis? [68.22(d)] | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A |

RMP Program Level 3 Process Checklist

Facility Name: LASER PRODUCTS INC.

RMP Inspection Date: SEPTEMBER 9, 2008

**USEPA Inspectors: CARLOS RIVERA – USEPA, REGION II,
CARIBBEAN OFFICE &**

NEIL MULVEY, SULLIVAN GROUP (Subcontractor)

**(NOTE: Hazard Assessment evaluation completed by Rohit
Shirpewar, Sullivan Group
FINAL**

6. Used appropriate surface roughness values for the release analysis? [68.22(e)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
7. Do tables and models, used for dispersion analysis of toxic substances, appropriately account for dense or neutrally buoyant gases? [68.22(f)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
8. Were liquids, other than gases liquefied by refrigeration only, considered to be released at the highest daily maximum temperature, based on data for the previous three years appropriate for a stationary source, or at process temperature, whichever is higher? [68.22(g)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A

Hazard Assessment: Worst-case release scenario analysis [68.25]

9. Analyzed and reported in the RMP one worst-case release scenario estimated to create the greatest distance to an endpoint resulting from an accidental release of a regulated toxic substance from covered processes under worst-case conditions? [68.25(a)(2)(i)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
10. Analyzed and reported in the RMP one worst-case release scenario estimated to create the greatest distance to an endpoint resulting from an accidental release of a regulated flammable substance from covered processes under worst-case conditions? [68.25(a)(2)(ii)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
11. Analyzed and reported in the RMP additional worst-case release scenarios for a hazard class if the worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case release scenario developed under 68.25(a)(2)(i) or 68.25(a)(2)(ii)? [68.25(a)(2)(iii)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
12. Has the owner or operator determined the worst-case release quantity to be the greater of the following: [68.25(b)] <input checked="" type="checkbox"/> If released from a vessel, the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity? [68.25(b)(1)] <input type="checkbox"/> If released from a pipe, the greatest amount held in the pipe, taking into account administrative controls that limit the maximum quantity? [68.25(b)(2)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A

13.a. Has the owner or operator for toxic substances that are normally gases at ambient temperature and handled as a gas or liquid under pressure:

13.a.(1) Assumed the whole quantity in the vessel or pipe would be released as a gas over 10 minutes? [68.25(c)(1)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
13.a.(2) Assumed the release rate to be the total quantity divided by 10, if there are no passive mitigation systems in place? [68.25(c)(1)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A

13.b. Has the owner or operator for toxic gases handled as refrigerated liquids at ambient pressure:

13.b.(1) Assumed the substance would be released as a gas in 10 minutes, if not contained by passive mitigation systems or if the contained pool would have a depth of 1 cm or less? [68.25(c)(2)(i)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.b.(2) If released substance would be contained by passive mitigation systems in a pool with a depth > 1 cm; <input type="checkbox"/> Assumed the quantity in the vessel or pipe (as determined per 68.25(b)) would be spilled instantaneously to form a liquid pool? [68.25(c)(2)(ii)] <input type="checkbox"/> Calculated the volatility rate at the boiling point of the substance and at the conditions specified in 68.25(d)? [68.25(c)(2)(ii)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A

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13.c. Has the owner or operator for toxic substances that are normally liquids at ambient temperature:

13.c.(1) Assumed the quantity in the vessel or pipe would be spilled instantaneously to form a liquid pool? [68.25(d)(1)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.c.(2) Determined the surface area of the pool by assuming that the liquid spreads to 1 cm deep, if there is no passive mitigation system in place that would serve to contain the spill and limit the surface area, or if passive mitigation is in place, was the surface area of the contained liquid used to calculate the volatilization rate? [68.25(d)(1)(i)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.c.(3) Taken into account the actual surface characteristics, if the release would occur onto a surface that is not paved or smooth? [68.25(d)(1)(ii)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.c.(4) Determined the volatilization rate by accounting for the highest daily maximum temperature in the past three years, the temperature of the substance in the vessel, and the concentration of the substance if the liquid spilled is a mixture or solution? [68.25(d)(2)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.c.(5) Determined the rate of release to air from the volatilization rate of the liquid pool? [68.25(d)(3)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.c.(6) Determined the rate of release to air by using the methodology in the RMP Offsite Consequence Analysis Guidance, any other publicly available techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices, or proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models to local emergency planners upon request? [68.25(d)(3)] What modeling technique did the owner or operator use? [68.25(g)] _____	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A

13.d. Has the owner or operator for flammables:

13.d.(1) Assumed the quantity in a vessel(s) of flammable gas held as a gas or liquid under pressure or refrigerated gas released to an undiked area vaporizes resulting in a vapor cloud explosion? [68.25(e)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.d.(2) For refrigerated gas released to a contained area or liquids released below their atmospheric boiling point, assumed the quantity volatilized in 10 minutes results in a vapor cloud? [68.25(f)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
13.d.(3) Assumed a yield factor of 10% of the available energy is released in the explosion for determining the distance to the explosion endpoint, if the model used is based on TNT-equivalent methods? [68.25(e)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
14. Used the parameters defined in 68.22 to determine distance to the endpoints? [68.25(g)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
15. Determined the rate of release to air by using the methodology in the RMP Offsite Consequence Analysis Guidance, any other publicly available techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices, or proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models to local emergency planners upon request? [68.25(g)] What modeling technique did the owner or operator use? [68.25(g)] <u>EPA's RMP*Comp(TM)</u>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
16. Ensured that the passive mitigation system, if considered, is capable of withstanding the release event triggering the scenario and will still function as intended? [68.25(h)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A

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<p>17. Considered also the following factors in selecting the worst-case release scenarios: [68.25(i)]</p> <p><input type="checkbox"/> Smaller quantities handled at higher process temperature or pressure? [68.25(i)(1)]</p> <p><input type="checkbox"/> Proximity to the boundary of the stationary source? [68.25(i)(2)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
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Hazard Assessment: Alternative release scenario analysis [68.28]

<p>18. Identified and analyzed at least one alternative release scenario for each regulated toxic substance held in a covered process(es) and at least one alternative release scenario to represent all flammable substances held in covered processes? [68.28(a)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
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<p>19. Selected a scenario: [68.28(b)]</p> <p><input checked="" type="checkbox"/> That is more likely to occur than the worst-case release scenario under 68.25? [68.28(b)(1)(i)]</p> <p><input type="checkbox"/> That will reach an endpoint off-site, unless no such scenario exists? [68.28(b)(1)(ii)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
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<p>20. Considered release scenarios which included, but are not limited to, the following: [68.28(b)(2)]</p> <p><input checked="" type="checkbox"/> Transfer hose releases due to splits or sudden hose uncoupling? [68.28(b)(2)(i)]</p> <p><input type="checkbox"/> Process piping releases from failures at flanges, joints, welds, valves and valve seals, and drains or bleeds? [68.28(b)(2)(ii)]</p> <p><input type="checkbox"/> Process vessel or pump releases due to cracks, seal failure, or drain, bleed, or plug failure? [68.28(b)(2)(iii)]</p> <p><input type="checkbox"/> Vessel overfilling and spill, or overpressurization and venting through relief valves or rupture disks? [68.28(b)(2)(iv)]</p> <p><input type="checkbox"/> Shipping container mishandling and breakage or puncturing leading to a spill? [68.28(b)(2)(v)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
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<p>21. Used the parameters defined in 68.22 to determine distance to the endpoints? [68.28(c)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
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<p>22. Determined the rate of release to air by using the methodology in the RMP Offsite Consequence Analysis Guidance, any other publicly available techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices, or proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models to local emergency planners upon request? [68.28(c)]</p> <p>What modeling technique did the owner or operator use? [68.25(g)] <u>EPA's RMP*Comp(TM)</u></p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
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<p>23. Ensured that the passive and active mitigation systems, if considered, are capable of withstanding the release event triggering the scenario and will be functional? [68.28(d)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
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<p>24. Considered the following factors in selecting the alternative release scenarios: [68.28(e)]</p> <p><input type="checkbox"/> The five-year accident history provided in 68.42? [68.28(e)(1)]</p> <p><input type="checkbox"/> Failure scenarios identified under 68.50? [68.28(e)(2)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
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Hazard Assessment: Defining off-site impacts–Population [68.30]

25. Estimated population that would be included in the distance to the endpoint in the RMP based on a circle with the point of release at the center? [68.30(a)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A 300
26. Identified the presence of institutions, parks and recreational areas, major commercial, office, and industrial buildings in the RMP? [68.30(b)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A 300
27. Used most recent Census data, or other updated information to estimate the population? [68.30(c)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A 300
28. Estimated the population to two significant digits? [68.30(d)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A 75

Hazard Assessment: Defining off-site impacts–Environment [68.33]

29. Identified environmental receptors that would be included in the distance to the endpoint based on a circle with the point of release at the center? [68.33(a)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
30. Relied on information provided on local U.S.G.S. maps, or on any data source containing U.S.G.S. data to identify environmental receptors? [Source may have used LandView to obtain information] [68.33(b)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A

Hazard Assessment: Review and update [68.36]

31. Reviewed and updated the off-site consequence analyses at least once every five years? [68.36(a)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
32. Completed a revised analysis and submit a revised RMP within six months of a change in processes, quantities stored or handled, or any other aspect that might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more? [68.36(b)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A

Hazard Assessment: Documentation [68.39]

33. For worst-case scenarios: a description of the vessel or pipeline and substance selected, assumptions and parameters used, the rationale for selection, and anticipated effect of the administrative controls and passive mitigation on the release quantity and rate? [68.39(a)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
34. For alternative release scenarios: a description of the scenarios identified, assumptions and parameters used, the rationale for the selection of specific scenarios, and anticipated effect of the administrative controls and mitigation on the release quantity and rate? [68.39(b)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
35. Documentation of estimated quantity released, release rate, and duration of release? [68.39(c)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
36. Methodology used to determine distance to endpoints? [68.39(d)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A

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37. Data used to estimate population and environmental receptors potentially affected? [68.39(e)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
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Hazard Assessment: Five-year accident history [68.42]

38. Has the owner or operator included all accidental releases from covered processes that resulted in deaths, injuries, or significant property damage on site, or known offsite deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage? [68.42(a)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
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39. Has the owner or operator reported the following information for each accidental release: [68.42(b)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
<input type="checkbox"/> Date, time, and approximate duration of the release? [68.42(b)(1)]	
<input type="checkbox"/> Chemical(s) released? [68.42(b)(2)]	
<input type="checkbox"/> Estimated quantity released in pounds and percentage weight in a mixture (toxics)? [68.42(b)(3)]	
<input type="checkbox"/> NAICS code for the process? [68.42(b)(4)]	
<input type="checkbox"/> The type of release event and its source? [68.42(b)(5)]	
<input type="checkbox"/> Weather conditions (if known)? [68.42(b)(6)]	
<input type="checkbox"/> On-site impacts? [68.42(b)(7)]	
<input type="checkbox"/> Known offsite impacts? [68.42(b)(8)]	
<input type="checkbox"/> Initiating event and contributing factors (if known)? [68.42(b)(9)]	
<input type="checkbox"/> Whether offsite responders were notified (if known)? [68.42(b)(10)]	
<input type="checkbox"/> Operational or process changes that resulted from investigation of the release? [68.42(b)(11)]	

Section C: Prevention Program

Implemented the Program 3 prevention requirements as provided in 40 CFR 68.65 - 68.87?	<input type="checkbox"/> S <input type="checkbox"/> M <input type="checkbox"/> U <input type="checkbox"/> N/A
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Comments:

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Prevention Program- Safety information [68.65]

<p>1. Has the owner or operator compiled written process safety information, which includes information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process, before conducting any process hazard analysis required by the rule? [68.65(a)]</p> <p>Does the process safety information contain the following for hazards of the substances: [68.65(b)]</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Material Safety Data Sheets (MSDS) that meet the requirements of the OSHA Hazard Communication Standard [29 CFR 1910.1200(g)]? [68.48(a)(1)] <input checked="" type="checkbox"/> Toxicity information? [68.65(b)(1)] <input checked="" type="checkbox"/> Permissible exposure limits? [68.65(b)(2)] <input checked="" type="checkbox"/> Physical data? [68.65(b)(3)] <input checked="" type="checkbox"/> Reactivity data? [68.65(b)(4)] <input checked="" type="checkbox"/> Corrosivity data? [68.65(b)(5)] <input checked="" type="checkbox"/> Thermal and chemical stability data? [68.65(b)(6)] <input checked="" type="checkbox"/> Hazardous effects of inadvertent mixing of materials that could foreseeably occur? [68.65(b)(7)] 	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
<p>2. Has the owner documented information pertaining to technology of the process?</p> <ul style="list-style-type: none"> <input type="checkbox"/> A block flow diagram or simplified process flow diagram? [68.65(c)(1)(i)] <input type="checkbox"/> Process chemistry? [68.65(c)(1)(ii)] <input type="checkbox"/> Maximum intended inventory? [68.65(c)(1)(iii)] <input type="checkbox"/> Safe upper and lower limits for such items as temperatures, pressures, flows, or compositions? [68.65(c)(1)(iv)] <input type="checkbox"/> An evaluation of the consequences of deviation? [68.65(c)(1)(iv)] 	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
<p>3. Does the process safety information contain the following for the equipment in the process: [68.65(d)(1)]</p> <ul style="list-style-type: none"> <input type="checkbox"/> Materials of construction? 68.65(d)(1)(i)] <input type="checkbox"/> Piping and instrumentation diagrams [68.65(d)(1)(ii)] <input type="checkbox"/> Electrical classification? [68.65(d)(1)(iii)] <input type="checkbox"/> Relief system design and design basis? [68.65(d)(1)(iv)] <input type="checkbox"/> Ventilation system design? [68.65(d)(1)(v)] <input type="checkbox"/> Design codes and standards employed? [68.65(d)(1)(vi)] <input type="checkbox"/> Material and energy balances for processes built after June 21, 1999? [68.65(d)(1)(vii)] <input type="checkbox"/> Safety systems? [68.65(d)(1)(viii)] 	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
<p>4. Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices? [68.65(d)(2)]</p>	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A

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5. Has the owner or operator determined and documented that existing equipment, designed and constructed in accordance with codes, standards, or practices that are no longer in general use, is designed, maintained, inspected, tested, and operating in a safe manner? [68.65(d)(3)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
Prevention Program- Process Hazard Analysis [68.67]	
6. Has the owner or operator performed an initial process hazard analysis (PHA), and has this analysis identified, evaluated, and controlled the hazards involved in the process? [68.67(a)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
7. Has the owner or operator determined and documented the priority order for conducting PHAs, and was it based on an appropriate rationale? [68.67(a)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
8. Has the owner used one or more of the following technologies to conduct process PHA: [68.67(b)] <ul style="list-style-type: none"> <input type="checkbox"/> What-if? [68.67(b)(1)] <input type="checkbox"/> Checklist? [68.67(b)(2)] <input type="checkbox"/> What-if/Checklist? [68.67(b)(3)] <input type="checkbox"/> Hazard and Operability Study (HAZOP) [68.67(b)(4)] <input type="checkbox"/> Failure Mode and Effects Analysis (FMEA) [68.67(b)(5)] <input type="checkbox"/> Fault Tree Analysis? [68.67(b)(6)] <input type="checkbox"/> An appropriate equivalent methodology? [68.67(b)(7)] 	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
9. Did the PHA address: <ul style="list-style-type: none"> <input type="checkbox"/> The hazards of the process? [68.67(c)(1)] <input type="checkbox"/> Identification of any incident that had a likely potential for catastrophic consequences? [68.67(c)(2)] <input type="checkbox"/> Engineering and administrative controls applicable to hazards and interrelationships?[68.67(c)(3)] <input type="checkbox"/> Consequences of failure of engineering and administrative controls? [68.67(c)(4)] <input type="checkbox"/> Stationary source siting? [68.67(c)(5)] <input type="checkbox"/> Human factors? [68.67(c)(6)] <input type="checkbox"/> An evaluation of a range of the possible safety and health effects of failure of controls? [68.67(c)(7)] 	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
10. Was the PHA performed by a team with expertise in engineering and process operations and did the team include appropriate personnel? [68.67(d)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
11. Has the owner or operator established a system to promptly address the team's findings and recommendations; assured that the recommendations are resolved in a timely manner and documented; documented what actions are to be taken; completed actions as soon as possible; developed a written schedule of when these actions are to be completed; and communicated the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations? [68.67(e)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
12. Has the PHA been updated and revalidated by a team every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process? [68.67(f)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A

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13. Has the owner or operator retained PHAs and updates or revalidations for each process covered, as well as the resolution of recommendations for the life of the process? [68.67(g)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
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Prevention Program- Operating procedures [68.69]

14. Has the owner or operator developed and implemented written operating procedures that provide instructions or steps for conducting activities associated with each covered process consistent with the safety information? [68.69(a)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
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15 Do the procedures address the following: [68.69(a)] <u>Steps for each operating phase: [68.69(a)(1)]</u> <input type="checkbox"/> Initial Startup? [68.69(a)(1)(i)] <input type="checkbox"/> Normal operations? [68.69(a)(1)(ii)] <input type="checkbox"/> Temporary operations? [68.69(a)(1)(iii)] <input type="checkbox"/> Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner? [68.69(a)(1)(iv)] <input type="checkbox"/> Emergency operations? [68.69(a)(1)(v)] <input type="checkbox"/> Normal shutdown? [68.68(a)(1)(vi)] <input type="checkbox"/> Startup following a turnaround, or after emergency shutdown? [68.69(a)(1)(vii)] <u>Operating limits: [68.69(a)(2)]</u> <input type="checkbox"/> Consequences of deviations [68.69(a)(2)(i)] <input type="checkbox"/> Steps required to correct or avoid deviation? [68.69(a)(2)(ii)] <u>Safety and health considerations: [68.69(a)(3)]</u> <input type="checkbox"/> Properties of, and physical hazards presented by, the chemicals used in the process [68.69(a)(3)(i)] <input type="checkbox"/> Precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment? [68.69(a)(3)(ii)] <input type="checkbox"/> Control measures to be taken if physical contact or airborne exposure occurs? [68.69(a)(3)(iii)] <input type="checkbox"/> Quality control for raw materials and control of hazardous chemical inventory levels? [68.69(a)(3)(iv)] <input type="checkbox"/> Any special or unique hazards? [68.69(a)(3)(v)] <input type="checkbox"/> <u>Safety systems and their functions? [68.69(a)(4)]</u>	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
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16. Are operating procedures readily accessible to employees who are involved in a process? [68.69(b)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
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17. Has the owner or operator certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary? [68.69(c)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
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18. Has the owner or operator developed and implemented safe work practices to provide for the control of hazards during specific operations, such as lockout/tagout? [68.69(d)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
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RMP Program Level 3 Process Checklist

Facility Name: LASER PRODUCTS INC.

RMP Inspection Date: SEPTEMBER 9, 2008

USEPA Inspectors: CARLOS RIVERA – USEPA, REGION II,

CARIBBEAN OFFICE &

NEIL MULVEY, SULLIVAN GROUP (Subcontractor)

(NOTE: Hazard Assessment evaluation completed by Rohit

Shirpewar, Sullivan Group

FINAL

Prevention Program - Training [68.71]

19. Has each employee involved in operating a process, and each employee before being involved in operating a newly assigned process, been initially trained in an overview of the process and in the operating procedures? [68.71(a)(1)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
20. Did initial training include emphasis on safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks? [68.71(a)(1)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
21. In lieu of initial training for those employees already involved in operating a process on June 21, 1999, an owner or operator may certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures [68.71(a)(2)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
22. Has refresher training been provided at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process? [68.71(b)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
23. Has owner or operator ascertained and documented in record that each employee involved in operating a process has received and understood the training required? [68.71(c)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
24. Does the prepared record contain the identity of the employee, the date of the training, and the means used to verify that the employee understood the training? [68.71(c)]	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A

Prevention Program - Mechanical Integrity [68.73]

25. Has the owner or operator established and implemented written procedures to maintain the on-going integrity of the process equipment listed in 68.73(a)? [68.73(b)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
26. Has the owner or operator trained each employee involved in maintaining the on-going integrity of process equipment? [68.73(c)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
27. Performed inspections and tests on process equipment? [68.73(d)(1)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A PARTIAL. See RMP Summary Report.
28. Followed recognized and generally accepted good engineering practices for inspections and testing procedures? [68.73(d)(2)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
29. Ensured the frequency of inspections and tests of process equipment is consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience? [68.73(d)(3)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A

RMP Program Level 3 Process Checklist

Facility Name: LASER PRODUCTS INC.
RMP Inspection Date: SEPTEMBER 9, 2008
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(NOTE: Hazard Assessment evaluation completed by Rohit Shirpewar, Sullivan Group
FINAL

<p>30. Documented each inspection and test that had been performed on process equipment, which identifies the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test? [68.73(d)(4)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A PARTIAL. See RMP Summary Report.</p>
<p>31. Corrected deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation? [68.73(e)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>32. Assured that equipment as it was fabricated is suitable for the process application for which it will be used in the construction of new plants and equipment? [68.73(f)(1)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>33. Performed appropriate checks and inspections to assure that equipment was installed properly and consistent with design specifications and the manufacturer's instructions? [68.73(f)(2)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>34. Assured that maintenance materials, spare parts and equipment were suitable for the process application for which they would be used? [68.73(f)(3)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>Prevention Program - Management Of Change [68.75]</p>	
<p>35. Has the owner or operator established and implemented written procedures to manage changes to process chemicals, technology, equipment, and procedures, and changes to stationary sources that affect a covered process? [68.75(a)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>36. Do procedures assure that the following considerations are addressed prior to any change: [68.75(b)]</p> <ul style="list-style-type: none"> <input type="checkbox"/> The technical basis for the proposed change? [68.75(b)(1)] <input type="checkbox"/> Impact of change on safety and health? [68.75(b)(2)] <input type="checkbox"/> Modifications to operating procedures? [68.75(b)(3)] <input type="checkbox"/> Necessary time period for the change? [68.75(b)(4)] <input type="checkbox"/> Authorization requirements for the proposed change? [68.75(b)(5)] 	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>37. Were employees, involved in operating a process and maintenance, and contract employees, whose job tasks would be affected by a change in the process, informed of, and trained in, the change prior to start-up of the process or affected parts of the process? [68.75(c)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>38. If a change resulted in a change in the process safety information, was such information updated accordingly? [68.75(d)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>39. If a change resulted in a change in the operating procedures or practices, had such procedures or practices been updated accordingly? [68.75(e)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>

RMP Program Level 3 Process Checklist

Facility Name: LASER PRODUCTS INC.
RMP Inspection Date: SEPTEMBER 9, 2008
USEPA Inspectors: CARLOS RIVERA – USEPA, REGION II,
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(NOTE: Hazard Assessment evaluation completed by Rohit Shirpewar, Sullivan Group)
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Prevention Program - Pre-startup Safety Review [68.77]

<p>40. If the facility installed a new stationary source, or significantly modified an existing source, (as discussed at 68.77(a)) did it perform a pre-startup safety review prior to the introduction of a regulated substance to a process to confirm: [68.77(b)]</p> <p><input type="checkbox"/> Construction and equipment was in accordance with design specifications? [68.77(b)(1)]</p> <p><input type="checkbox"/> Safety, operating, maintenance, and emergency procedures were in place and were adequate? [68.77(b)(2)]</p> <p><input type="checkbox"/> For new stationary sources, a process hazard analysis had been performed and recommendations had been resolved or implemented before startup? [68.77(b)(3)]</p> <p><input type="checkbox"/> Modified stationary sources meet the requirements contained in management of change? [68.77(b)(3)]</p> <p><input type="checkbox"/> Training of each employee involved in operating a process had been completed? [68.77(b)(4)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p> <p>There was no written PSR procedure available for review. See RMP Summary Report.</p>
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Prevention Program - Compliance audits [68.79]

<p>41. Has the owner or operator certified that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed? [68.79(a)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>42. Has the audit been conducted by at least one person knowledgeable in the process? [68.79(b)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>43. Are the audit findings documented in a report? [68.79(c)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>44. Has the owner or operator promptly determined and documented an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected? [68.79(d)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>45. Has the owner or operator retained the two most recent compliance reports? [68.79(e)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>

Prevention Program - Incident investigation [68.81]

<p>46. Has the owner or operator investigated each incident that resulted in, or could reasonably have resulted in a catastrophic release of a regulated substance? [68.81(a)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>47. Were all incident investigations initiated not later than 48 hours following the incident? [68.81(b)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>48. Was an accident investigation team established and did it consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of a contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident? [68.81(c)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>49. Was a report prepared at the conclusion of every investigation? [68.81(d)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>

RMP Program Level 3 Process Checklist

Facility Name: LASER PRODUCTS INC.
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(NOTE: Hazard Assessment evaluation completed by Rohit Shirpewar, Sullivan Group
FINAL

<p>50. Does every report include: [68.81(d)]</p> <p><input type="checkbox"/> Date of incident? [68.81(d)(1)]</p> <p><input type="checkbox"/> Date investigation began? [68.81(d)(2)]</p> <p><input type="checkbox"/> A description of the incident? [68.81(d)(3)]</p> <p><input type="checkbox"/> The factors that contributed to the incident? [68.81(d)(4)]</p> <p><input type="checkbox"/> Any recommendations resulting from the investigation? [68.81(d)(5)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>51. Has the owner or operator established a system to address and resolve the report findings and recommendations, and are the resolutions and corrective actions documented? [68.81(e)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>52. Was the report reviewed with all affected personnel whose job tasks are relevant to the incident findings including contract employees where applicable? [68.81(f)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>53. Has the owner or operator retained incident investigation reports for at least five years? [68.81(g)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>

Section D - Employee Participation [68.83]

<p>1. Has the owner or operator developed a written plan of action regarding the implementation of the employee participation required by this section? [68.83(a)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>2. Has the owner or operator consulted with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of process safety management in chemical accident prevention provisions? [68.83(b)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>3. Has the owner or operator provided to employees and their representatives access to process hazards analyses and to all other information required to be developed under the chemical accident prevention rule? [68.83(c)]</p>	<p><input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A</p>

Section E - Hot Work Permit [68.85]

<p>1. Has the owner or operator issued a hot work permit for each hot work operation conducted on or near a covered process? [68.85(a)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p> <p>There was no record of a completed HWP program available for review. See RMP Summary Report.</p>
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RMP Program Level 3 Process Checklist

Facility Name: **LASER PRODUCTS INC.**

RMP Inspection Date: **SEPTEMBER 9, 2008**

USEPA Inspectors: **CARLOS RIVERA – USEPA, REGION II,**

CARIBBEAN OFFICE &

NEIL MULVEY, SULLIVAN GROUP (Subcontractor)

(NOTE: Hazard Assessment evaluation completed by Rohit

Shirpewar, Sullivan Group

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2. Does the permit document that the fire prevention and protection requirements in 29CFR 1910.252(a) have been implemented prior to beginning the hot work operations? [68.85(b)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
3. Does the permit indicate the date(s) authorized for hot work and the object(s) upon which hot work is to be performed? [68.85(b)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
4. Are the permits being kept on file until completion of the hot work operations? [68.85(b)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A

Section F - Contractors [68.87]

1. Has the owner or operator obtained and evaluated information regarding the contract owner or operator's safety performance and programs when selecting a contractor? [68.87(b)(1)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
2. Informed contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process? [68.87(b)(2)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
3. Explained to the contract owner or operator the applicable provisions of the emergency response or the emergency action program? [68.87(b)(3)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A
4. Developed and implemented safe work practices consistent with §68.69(d), to control the entrance, presence, and exit of the contract owner or operator and contract employees in the covered process areas? [68.87(b)(4)]	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A
5. Periodically evaluated the performance of the contract owner or operator in fulfilling their obligations (as described at 68.87(c)(1) – (c)(5))? [68.87(b)(5)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A

Section G - Emergency Response [68.90 - 68.95] *Evaluated by USEPA inspector.*

Developed and implemented an emergency response program as provided in 40 CFR 68.90-68.95? S M U N/A

Comments:

1. Is the facility designated as a "first responder" in case of an accidental release of regulated substances?	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
1.a. If the facility is not a first responder:	
1.a.(1) For stationary sources with any regulated substances held in a process above threshold quantities, is the source included in the community emergency response plan developed under 42 U.S.C. 11003? [68.90(b)(1)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
1.a.(2) For stationary sources with only regulated flammable substances held in a process above threshold quantities, has the owner or operator coordinated response actions with the local fire department? [68.90(b)(2)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A
1.a.(3) Are appropriate mechanisms in place to notify emergency responders when there is need for a response? [68.90(b)(3)]	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A

RMP Program Level 3 Process Checklist

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FINAL

<p>2. An emergency response plan is maintained at the stationary source and contains the following? [68.95(a)(1)]</p> <p><input type="checkbox"/> Procedures for informing the public and local emergency response agencies about accidental releases? [68.95(a)(1)(i)]</p> <p><input type="checkbox"/> Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures? [68.95(a)(1)(ii)]</p> <p><input type="checkbox"/> Procedures and measures for emergency response after an accidental release of a regulated substance? [68.95(a)(1)(iii)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>3. The emergency response plan contains procedures for the use of emergency response equipment and for its inspection, testing, and maintenance? [68.95(a)(2)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>4. The emergency response plan requires, and there is documentation of, training for all employees in relevant procedures? [68.95(a)(3)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>5. The owner or operator has developed and implemented procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes? [68.95(a)(4)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>6. Did the owner or operator use a written plan that complies with other Federal contingency plan regulations or is consistent with the approach in the National Response Team's Integrated Contingency Plan Guidance ("One Plan")? If so, does the plan include the elements provided in paragraph (a) of 68.95, and also complies with paragraph (c) of 68.95? [68.95(b)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>7. Has the emergency response plan been coordinated with the community emergency response plan developed under EPCRA? [68.95(c)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>

Section H – Risk Management Plan [40 CFR 68.190 – 68.195]

<p>1. Does the single registration form include, for each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process and the Program level of the process? [68.160(b)(7)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p> <p>See RMP Summary Report regarding inventory quantity.</p>
<p>2. Did the facility assign the correct program level(s) to its covered process(es)? [68.160(b)(7)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>

RMP Program Level 3 Process Checklist

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<p>3. Has the owner or operator reviewed and updated the RMP and submitted it to EPA [68.190(a)]? Reason for update:</p> <p><input type="checkbox"/> Five-year update. [68.190(b)(1)]</p> <p><input type="checkbox"/> Within three years of a newly regulated substance listing. [68.190(b)(2)]</p> <p><input type="checkbox"/> At the time a new regulated substance is first present in an already regulated process above threshold quantities. [68.190(b)(3)]</p> <p><input type="checkbox"/> At the time a regulated substance is first present in a new process above threshold quantities. [68.190(b)(4)]</p> <p><input type="checkbox"/> Within six months of a change requiring revised PHA or hazard review. [68.190(b)(5)]</p> <p><input type="checkbox"/> Within six months of a change requiring a revised OCA as provided in 68.36. [68.190(b)(6)]</p> <p><input type="checkbox"/> Within six months of a change that alters the Program level that applies to any covered process. [68.190(b)(7)]</p>	<p><input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A</p>
<p>4. If the owner or operator experienced an accidental release that met the five-year accident history reporting criteria (as described at 68.42) subsequent to April 9, 2004, did the owner or operator submit the information required at 68.168, 68.170(j) and 68.175(l) within six months of the release or by the time the RMP was updated as required at 68.190, whichever was earlier. [68.195(a)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>5. If the emergency contact information required at 68.160(b)(6) has changed since June 21, 2004, did the owner or operator submit corrected information within thirty days of the change? [68.195(b)]</p>	<p><input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A</p>
<p>Totals</p>	

Employees (subpart A of 29 CFR part 2602) by removing all provisions other than those dealing with outside employment. These outside employment provisions, which are now codified at 29 CFR part 4904, have been superseded by OGE's government-wide regulations. Accordingly, the PBGC is removing part 4904 from its regulations.

Because this rule involves agency management and personnel (5 U.S.C. 553(a)(2)), general notice of proposed rulemaking and a delayed effective date are not required (5 U.S.C. 553(b), (d)).

Because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4904

Conflict of interests, Government employees, Penalties, Political activities (Government employees), Production and disclosure of information, Testimony.

■ For the reasons set forth above, 29 CFR chapter XL is amended as follows:

PART 4904—ETHICAL CONDUCT OF EMPLOYEES

■ 1. The authority citation for part 4904 continues to read as follows:

Authority: 29 U.S.C. 1302(b); E.O. 11222, 30 FR 6469; 5 CFR 735.104.

PART 4904—[REMOVED]

■ 2. Part 4904 is removed.

Issued in Washington, DC this 10th day of February, 2004.

Steven A. Kandarian,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 04-3246 Filed 2-12-04; 8:45 am]

BILLING CODE 7708-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 19 and 27

[FRL-7623-5]

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is issuing this final Civil Monetary Penalty Inflation Adjustment Rule, as mandated by the Debt Collection Improvement Act of 1996, to adjust EPA's civil monetary penalties ("CMPs") for inflation on a periodic basis. The Agency is required

to review its penalties at least once every four years and to adjust them as necessary for inflation according to a formula specified in the statute. A complete version of Table 1 from the regulatory text, which lists all of the EPA's civil monetary penalty authorities, appears near the end of this rule.

EFFECTIVE DATE: March 15, 2004.

FOR FURTHER INFORMATION CONTACT: David Abdalla, Office of Regulatory Enforcement, Special Litigation and Projects Division, Mail Code 2248A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564-2413.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 note, ("DCIA"), each federal agency is required to issue regulations adjusting for inflation the maximum civil monetary penalties that can be imposed pursuant to such agency's statutes. The purpose of these adjustments is to maintain the deterrent effect of CMPs and to further the policy goals of the laws. The DCIA requires adjustments to be made at least once every four years following the initial adjustment. The EPA's initial adjustment to each CMP was published in the *Federal Register* on December 31, 1996, at (61 FR 69360) and became effective on January 30, 1997.

This rule adjusts the amount for each type of CMP that EPA has jurisdiction to impose in accordance with these statutory requirements. It does so by revising the table contained in 40 CFR 19.4. The table identifies the statutes that provide EPA with CMP authority and sets out the inflation-adjusted maximum penalty that EPA may impose pursuant to each statutory provision. This rule also revises the effective date provisions of 40 CFR 19.2 to make the penalty amounts set forth in 40 CFR 19.4 apply to all applicable violations that occur after the effective date of this rule.

The DCIA requires that the adjustment reflect the percentage increase in the Consumer Price Index between June of the calendar year preceding the adjustment and June of the calendar year in which the amount was last set or adjusted. The DCIA defines the Consumer Price Index as the Consumer Price Index for all urban consumers published by the Department of Labor ("CPI-U"). As the initial adjustment was made and published on

December 31, 1996, the inflation adjustment for the CMPs set forth in this rule was calculated by comparing the CPI-U for June 1996 (156.7) with the CPI-U for June 2003 (183.7), resulting in an inflation adjustment of 17.23 percent. In addition, the DCIA's rounding rules require that an increase be rounded to the nearest multiple of: \$10 in the case of penalties less than or equal to \$100; \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and \$25,000 in the case of penalties greater than \$200,000.

The amount of each CMP was multiplied by 17.23 percent (the inflation adjustment) and the resulting increase amount was rounded up or down according to the rounding requirements of the statute. Certain CMPs were adjusted for the first time and were increased by only 10 percent without being subject to the rounding procedures as required by the DCIA. The table below shows the inflation-adjusted CMPs and includes only the CMPs as of the effective date of this rule. EPA intends to readjust these amounts in the year 2008 and every four years thereafter, assuming there are no further changes to the mandate imposed by the DCIA.

On June 18, 2002, the EPA published a direct final rule and a parallel proposed rule in the *Federal Register* (67 FR 41343). The direct final rule would have amended the Civil Monetary Penalty Inflation Adjustment Rule, as mandated by the DCIA, to adjust EPA's civil monetary penalties for inflation. EPA stated in the direct final rule that if we received adverse comment by July 18, 2002, EPA would publish a timely notice of withdrawal on or before the August 19, 2002 effective date, and then address that comment in a subsequent final action based on the parallel proposal published at (67 FR 41363). EPA subsequently received one adverse comment on the direct final rule from the General Accounting Office ("GAO"), which asserted that EPA had misinterpreted the rounding formula provided in the DCIA. Accordingly, EPA withdrew the direct final rule on August 19, 2002 (67 FR 53743).

The formula for the amount of the penalty adjustment is prescribed by Congress in the DCIA and these changes are not subject to the exercise of discretion by EPA. However the

rounding requirement of the statute is subject to different interpretations. Some agencies rounded the increase based on the amount of the current penalty before adjustment, while other agencies have rounded the increase based on the amount of the increase resulting from the CPI percentage calculation. Still other agencies first added the CPI increase to the amount of the current penalty and then rounded the total based on the amount of the increased penalty. The penalties in EPA's direct final rule were rounded based on the amount of the increase resulting from the CPI percentage increase because this approach appears to achieve the intent of the DCIA by steadily tracking the CPI over time. However, the GAO's adverse comment asserts that a strict reading of the DCIA requires rounding the CPI increase based on the amount of the current penalty before adjustment.

On July 3, 2003, EPA published a proposed rule that appeared in the *Federal Register* at (68 FR 39882), entitled "Civil Monetary Penalty Inflation Adjustment Rule," as mandated by the Debt Collection Improvement Act of 1996, to adjust EPA's civil monetary penalties for inflation on a periodic basis. EPA subsequently published a technical correction in the *Federal Register* on August 4, 2003 at (68 FR 45788) to correct errors in the language of the proposal that mistakenly referred to the proposed effective date as July 3, 2003. EPA proposed to adopt GAO's interpretation of the DCIA rounding rules and, thus, proposed to round the CPI increases in the proposed rule based on the amount of the current penalty before adjustment.

In accordance with the DCIA, EPA's proposed rule used the CPI-U from June 2002 to calculate the penalty adjustments. EPA also stated in the proposal that it intends to use this formula for calculating future adjustments to the CMPs and will not provide additional comment periods at the time future adjustments are made. EPA received comments on the proposed rule from two commenters.

One commenter supported the "greatest legal increase possible" to discourage polluters from treating the fines as just a "cost of doing business." This final rule enables EPA to impose the maximum fines provided under the law, but is not intended to address when a maximum fine is appropriate. Instead, EPA makes that decision on a case-by-case basis, and considers numerous factors in determining the appropriate penalty in each case, including the gravity of the violation

and the extent to which the violator gained an economic benefit as a result of violating the law.

Another commenter argued that any ambiguity in the rounding requirement of the statute was due to a "scrivener's error." This commenter supported an interpretation that penalties be rounded based on the amount of the increase resulting from the CPI adjustment, rather than the amount of the penalty. However, we determined after carefully considering GAO's comment and examining the practices of other agencies, that following the plain meaning of the statutory language is appropriate. As GAO's adverse comment states "[n]othing in the plain language of the statute, nor the legislative history, permits an agency to use the size of the increase to determine the appropriate category of rounding." This commenter also noted that EPA had not published this second round of adjustments within four years of the initial adjustments as set forth in the statute. EPA's earlier direct final rulemaking was delayed due to EPA's need to analyze and reconcile the potential ambiguities arising from the statutory language including review of other agencies rulemakings under DCIA and discussions with other agencies regarding their approaches to interpreting the DCIA. Prior to GAO's involvement in the process, no federal agency had assumed a leadership in providing guidance on how the DCIA rounding rule should be implemented. Since the time that GAO became involved in the process, including the submission of its adverse comment on EPA's direct final rule, EPA has worked with GAO and other agencies to resolve the appropriate interpretation of the statutory language. Finally, the commenter also suggested that all of the penalties should be adjusted from their original base and not their adjusted base. The statute does not provide for a return to the original base penalty in calculating the adjustment but provides that the adjustment "shall be determined by increasing the maximum civil penalty * * * by the cost-of-living adjustment."

As discussed above, EPA's proposed rule used the CPI-U from June 2002 because EPA proposed the rule in 2003. However, since EPA is issuing the final rule in 2004 and DCIA requires EPA to use the CPI-U for June of the calendar year preceding the adjustment, the penalty adjustments in this final rule use the CPI-U for June 2003 which result in an inflation adjustment of 17.23 percent rather than the 14.8 percent adjustment in the proposed rule. Thus, to derive the CMPs for this

final rule, the amount of each CMP was multiplied by 17.23 percent and the resulting increase was rounded according to the rounding rules of DCIA as EPA proposed and is adopting in this final rule. As a result of using the June 2003 CPI-U, some of the adjusted CMPs in this final rule are different than those in the July 2003 proposed rule. However, this difference results solely from the requirement in DCIA to use the June 2003 CPI-U and application of the same rounding rules that EPA proposed in July 2003.

Under 5 U.S.C. 553(b)(B), EPA finds that there is good cause to promulgate this rule without providing for further public comment even though the rule uses a CPI-U value different than the CPI-U value used in the proposal. EPA already provided an opportunity for public comment on the rounding rules that EPA has used in this final rule and the DCIA requires that an agency use the CPI-U from June of the year prior to the adjustment. Therefore, further public comment is unnecessary because EPA has no discretion to do other than to use the June 2003 CPI-U.

Statutory and Executive Order Review

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, [58 FR 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Burden means the total time, effort, financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as (1) a small business as defined in the Small Business Administration regulations at 13 CFR Part 121; (2) a small governmental jurisdiction that is a government of a city, county, town school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. EPA is required by the DCIA to adjust

civil monetary penalties for inflation. The formula for the amount of the penalty adjustment is prescribed by Congress and is not subject to the exercise of discretion by EPA. EPA's action implements this statutory mandate and does not substantively alter the existing regulatory framework. This rule does not affect mechanisms already in place, including statutory provisions and EPA policies, that address the special circumstances of small entities when assessing penalties in enforcement actions.

Although this rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. Small entities may be affected by this rule only if the federal government finds them in violation and seeks monetary penalties. EPA's media penalty policies generally take into account an entity's "ability to pay" in determining the amount of a penalty. Additionally, the final amount of any civil penalty assessed against a violator remains committed to the discretion of the federal judge or administrative law judge hearing a particular case.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed a

small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, or tribal governments or the private sector because the rule implements mandate(s) specifically and explicitly set forth by the Congress without the exercise of any policy discretion by EPA. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

Executive Order 13132: Federalism

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." As this rule will not have substantial direct effects on tribal

governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, Executive Order 13175 does not apply to this rule.

Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Because this action does not involve technical standards, EPA did not consider the use of any voluntary consensus standards under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act

of 1995 ("NTTAA"), Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. Because this action does not involve technical standards, EPA did not consider the use of any voluntary consensus standards under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. § 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 19

Environmental protection, Administrative practice and procedure, Penalties.

40 CFR Part 27

Administrative practice and procedure, Assessments, False claims, False statements, Penalties.

Dated: February 8, 2004.

Michael O. Leavitt,
Administrator, Environmental Protection Agency.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

■ 1. Revise part 19 to read as follows:

PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

Sec.

- 19.1 Applicability.
- 19.2 Effective Date.
- 19.3 [Reserved].
- 19.4 Penalty Adjustment and Table.

Authority: Pub. L. 101-410, 28 U.S.C. 2461 note; Pub. L. 104-134, 31 U.S.C. 3701 note.

§ 19.1 Applicability.

This part applies to each statutory provision under the laws administered by the Environmental Protection Agency concerning the maximum civil monetary penalty which may be assessed in either civil judicial or administrative proceedings.

§ 19.2 Effective Date.

The increased penalty amounts set forth in this part apply to all violations under the applicable statutes and regulations which occur after March 15, 2004.

§ 19.3 [Reserved].

§ 19.4 Penalty Adjustment and Table.

The adjusted statutory penalty provisions and their maximum applicable amounts are set out in Table 1. The last column in the table provides the newly effective maximum penalty amounts.

TABLE 1 OF SECTION 19.4.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. code citation	Civil monetary penalty description	Penalties effective between January 30, 1997 and March 15, 2004	New maximum penalty amount
7 U.S.C. 136l.(a)(1)	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—GENERAL—COMMERCIAL APPLICATORS, ETC.	\$5,500	\$6,500
7 U.S.C. 136l.(a)(2)	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—PRIVATE APPLICATORS—FIRST AND SUBSEQUENT OFFENSES OR VIOLATIONS.	\$550/\$1000	\$650/\$1,200
15 U.S.C. 2615(a)	TOXIC SUBSTANCES CONTROL ACT CIVIL PENALTY	\$27,500	\$32,500
15 U.S.C. 2647(a)	ASBESTOS HAZARD EMERGENCY RESPONSE ACT CIVIL PENALTY	\$5,500	\$6,500
15 U.S.C. 2647(g)	ASBESTOS HAZARD EMERGENCY RESPONSE ACT—CONTRACTOR VIOLATIONS.	\$5000	\$5,500
31 U.S.C. 3802(a)(1)	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE CLAIM.	\$5,500	\$6,500
31 U.S.C. 3802(a)(2)	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE STATEMENT.	\$5,500	\$6,500
33 U.S.C. 1319(d)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY	\$27,500	\$32,500
33 U.S.C. 1319(g)(2)(A)	CLEAN WATER ACT VIOLATION/ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	\$11,000/\$27,500	\$11,000/\$32,500
33 U.S.C. 1319(g)(2)(B)	CLEAN WATER ACT VIOLATION/ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	\$11,000/ \$137,500.	\$11,000/ \$157,500
33 U.S.C. 1321(b)(6)(B)(i)	CLEAN WATER ACT VIOLATION/ADMIN PENALTY OF SEC 311(b)(3)&(j) PER VIOLATION AND MAXIMUM.	\$11,000/\$27,500	\$11,000/\$32,500
33 U.S.C. 1321(b)(6)(B)(ii)	CLEAN WATER ACT VIOLATION/ADMIN PENALTY OF SEC 311(b)(3)&(j) PER VIOLATION AND MAXIMUM.	\$11,000/ \$137,500.	\$11,000/ \$157,500
33 U.S.C. 1321(b)(7)(A)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION PER DAY OR PER BARREL OR UNIT.	\$27,500 or \$1,100 per barrel or unit.	\$32,500 or \$1,100 per barrell or unit
33 U.S.C. 1321(b)(7)(B)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(c)&(e)(1)(B).	\$27,500	\$32,500
33 U.S.C. 1321(b)(7)(C)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(j).	\$27,500	\$32,500
33 U.S.C. 1321(b)(7)(D)	CLEAN WATER ACT VIOLATION/MINIMUM CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION OR PER BARREL/UNIT.	\$110,000 or \$3,300 per barrel or unit.	\$130,000 or \$4,300 per barrel or unit.
33 U.S.C. 1414b(d)	MARINE PROTECTION, RESEARCH & SANCTUARIES ACT VIOL SEC 104b(d).	\$660	\$760
33 U.S.C. 1415(a)	MARINE PROTECTION RESEARCH AND SANCTUARIES ACT VIOLATIONS—FIRST & SUBSEQUENT VIOLATIONS.	\$55,000/ \$137,500.	\$65,000/ \$157,500
42 U.S.C. 300g-3(b)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(b).	\$27,500	\$32,500
42 U.S.C. 300g-3(c)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(c).	\$27,500	\$32,500
42 U.S.C. 300g-3(g)(3)(A)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(g)(3)(a).	\$27,500	\$32,500
42 U.S.C. 300g-3(g)(3)(B)	SAFE DRINKING WATER ACT/ MAXIMUM ADMINISTRATIVE PENALTIES PER SEC 1414(g)(3)(B).	\$5,000/\$25,000	\$6,000/\$27,500
42 U.S.C. 300g-3(g)(3)(C)	SAFE DRINKING WATER ACT/THRESHOLD REQUIRING CIVIL JUDICIAL ACTION PER SEC 1414(g)(3)(C).	\$25,000	\$27,500
42 U.S.C. 300h-2(b)(1)	SDWA/CIVIL JUDICIAL PENALTY/VIOLATIONS OF REQS—UNDERGROUND INJECTION CONTROL (UIC).	\$27,500	\$32,500
42 U.S.C. 300h-2(c)(1)	SDWA/CIVIL ADMIN PENALTY/VIOLATIONS OF UIC REQS—PER VIOLATION AND MAXIMUM.	\$11,000/ \$137,500.	\$11,000/ \$157,500
42 U.S.C.300h-2(c)(2)	SDWA/CIVIL ADMIN PENALTY/VIOLATIONS OF UIC REQS—PER VIOLATION AND MAXIMUM.	\$5,500/\$137,500	\$6,500/\$157,500
42 U.S.C. 300h-3(c)(1)	SDWA/VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL.	\$5,500	\$6,500
42 U.S.C. 300h-3(c)(2)	SDWA/WILLFUL VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL.	\$11,000	\$11,000
42 U.S.C. 300i(b)	SDWA/FAILURE TO COMPLY WITH IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER.	\$15,000	\$16,500
42 U.S.C. 300l-1(c)	SDWA/ATTEMPTING TO OR TAMPERING WITH PUBLIC WATER SYSTEM/CIVIL JUDICIAL PENALTY.	\$22,000/\$55,000	\$100,000/ \$1,000,000
42 U.S.C. 300j(e)(2)	SDWA/FAILURE TO COMPLY W/ORDER ISSUED UNDER SEC. 1441(c)(1).	\$2,750	\$2,750
42 U.S.C. 300j-4(c)	SDWA/REFUSAL TO COMPLY WITH REQS. OF SEC. 1445(a) OR (b)	\$27,500	\$32,500
42 U.S.C. 300j-6(b)(2)	SDWA/FAILURE TO COMPLY WITH ADMIN. ORDER ISSUED TO FEDERAL FACILITY.	\$25,000	\$27,500
42 U.S.C. 300j-23(d)	SDWA/VIOLATIONS/SECTION 1463(b)—FIRST OFFENSE/REPEAT OFFENSE.	\$5,500/\$55,000	\$6,500/\$65,000

TABLE 1 OF SECTION 19.4.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. code citation	Civil monetary penalty description	Penalties effective between January 30, 1997 and March 15, 2004	New maximum penalty amount
42 U.S.C. 4852d(b)(5)	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992, SEC 1018—CIVIL PENALTY.	\$11,000	\$11,000
42 U.S.C. 4910(a)(2)	NOISE CONTROL ACT OF 1972—CIVIL PENALTY	\$11,000	\$11,000
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C ASSESSED PER ORDER.	\$27,500	\$32,500
42 U.S.C. 6928(c)	RES. CONS. & REC. ACT/CONTINUED NONCOMPLIANCE OF COMPLIANCE ORDER.	\$27,500	\$32,500
42 U.S.C. 6928(g)	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C.	\$27,500	\$32,500
42 U.S.C. 6928(h)(2)	RES. CONS. & REC. ACT/NONCOMPLIANCE OF CORRECTIVE ACTION ORDER.	\$27,500	\$32,500
42 U.S.C. 6934(e)	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH SECTION 3013 ORDER.	\$5,500	\$6,500
42 U.S.C. 6973(b)	RES. CONS. & REC. ACT/VIOLATIONS OF ADMINISTRATIVE ORDER	\$5,500	\$6,500
42 U.S.C. 6991e(a)(3)	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH UST ADMINISTRATIVE ORDER.	\$27,500	\$32,500
42 U.S.C. 6991e(d)(1)	RES. CONS. & REC. ACT/FAILURE TO NOTIFY OR FOR SUBMITTING FALSE INFORMATION.	\$11,000	\$11,000
42 U.S.C. 6991e(d)(2)	RCRA/VIOLATIONS OF SPECIFIED UST REGULATORY REQUIREMENTS.	\$11,000	\$11,000
42 U.S.C. 14304(a)(1)	BATTERY ACT VIOLATIONS	\$10,000	\$11,000
42 U.S.C. 14304(g)	BATTERY ACT/VIOLATIONS OF CORRECTIVE ACTION ORDERS	\$10,000	\$11,000
42 U.S.C. 7413(b)	CLEAN AIR ACT/VIOLATION/OWNERS & OPERATORS OF STATIONARY AIR POLLUTION SOURCES—JUDICIAL PENALTIES.	\$27,500	\$32,500
42 U.S.C. 7413 (d)(1)	CLEAN AIR ACT/VIOLATION/OWNERS & OPERATORS OF STATIONARY AIR POLLUTION SOURCES—ADMINISTRATIVE PENALTIES PER VIOLATION & MAX.	\$27,500/ \$220,000.	\$32,500/ \$270,000
42 U.S.C. 7413(d)(3)	CLEAN AIR ACT/MINOR VIOLATIONS/STATIONARY AIR POLLUTION SOURCES—FIELD CITATIONS.	\$5,500	\$6,500
42 U.S.C. 7524(a)	TAMPERING OR MANUFACTURE/SALE OF DEFEAT DEVICES IN VIOLATION OF 7522(a)(3)(A) OR (a)(3)(B)—BY PERSONS.	\$2,750	\$2,750
42 U.S.C. 7524(a)	VIOLATION OF 7522(a)(3)(A) OR (a)(3)(B)—BY MANUFACTURERS OR DEALERS; ALL VIOLATIONS OF 7522(a)(1),(2), (4),&(5) BY ANYONE.	\$27,500	\$32,500
42 U.S.C. 7524(c)	ADMINISTRATIVE PENALTIES AS SET IN 7524(a) & 7545(d) WITH A MAXIMUM ADMINISTRATIVE PENALTY.	\$220,000	\$270,000
42 U.S.C. 7545(d)	VIOLATIONS OF FUELS REGULATIONS	\$27,500	\$32,500
42 U.S.C. 9604(e)(5)(B)	SUPERFUND AMEND. & REAUTHORIZATION ACT/NONCOMPLIANCE W/REQUEST FOR INFO OR ACCESS.	\$27,500	\$32,500
42 U.S.C. 9606(b)(1)	SUPERFUND/WORK NOT PERFORMED W/IMMINENT, SUBSTANTIAL ENDANGERMENT.	\$27,500	\$32,500
42 U.S.C. 9609(a)&(b)	SUPERFUND/ADMIN. PENALTY VIOLATIONS UNDER 42 U.S.C. SECT. 9603, 9608, OR 9622.	\$27,500	\$32,500
42 U.S.C. 9609(b)	SUPERFUND/ADMIN. PENALTY VIOLATIONS—SUBSEQUENT	\$82,500	\$97,500
42 U.S.C. 9609(c)	SUPERFUND/CIVIL JUDICIAL PENALTY/VIOLATIONS OF SECT. 9603, 9608, 9622.	\$27,500	\$32,500
42 U.S.C. 9609(c)	SUPERFUND/CIVIL JUDICIAL PENALTY/SUBSEQUENT VIOLATIONS OF SECT. 9603, 9608, 9622.	\$82,500	\$97,500
42 U.S.C. 11045(a)&(b)(1),(2)&(3).	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES.	\$27,500	\$32,500
42 U.S.C. 11045(b) (2)&(3)	EPCRA CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES—SUBSEQUENT VIOLATIONS.	\$82,500	\$97,500
42 U.S.C. 11045(c)(1)	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11022 OR 11023.	\$27,500	\$32,500
42 U.S.C. 11045(c)(2)	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11021 OR 11043(b).	\$11,000	\$11,000
42 U.S.C. 11045(d)(1)	EPCRA—FRIVOLOUS TRADE SECRET CLAIMS—CIVIL AND ADMINISTRATIVE PENALTIES.	\$27,500	\$32,500

PART 27—[AMENDED]

■ 2. The authority citation for Part 27 continues to read as follows:

Authority: 31 U.S.C. 3801–3812; Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note;

Pub L. 104–134, 110 Stat. 1321, 31 U.S.C. 3701 note.

■ 3. Section 27.3 is amended by revising paragraphs (a)(1)(iv) and (b)(1)(ii) to read as follows:

§ 27.3 Basis for civil penalties and assessments.

(a) * * *

(1) * * *

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be

subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$6,500¹ for each such claim [The regulatory penalty provisions of this part effective on January 30, 1997 remain in effect for any violation of law occurring between January 30, 1997 and March 15, 2004.

* * * * *

(b) * * *

(1) * * *

(ii) Contains, or is accompanied by, an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than 6,500² for each such statement.

* * * * *

[FR Doc. 04-3231 Filed 2-12-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL-91-200323(a); FRL-7622-1]

Approval and Promulgation of Implementation Plans; Florida: Southeast Florida Area Maintenance Plan Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the State Implementation Plan (SIP) submitted by the Florida Department of Environmental Protection (FDEP) on December 20, 2002. This SIP revision satisfies the requirement of the Clean Air Act (CAA) for the second 10-year update for the Southeast Florida area (Dade, Broward, and Palm Beach Counties) 1-hour ozone maintenance plan. For transportation purposes, EPA is also finalizing its adequacy determination of the new Motor Vehicle Emissions Budgets (MVEBs) for the year 2015. EPA has determined that the MVEBs for the year 2015 contained in this SIP revision are adequate for transportation conformity purposes.

DATES: This direct final rule is effective April 13, 2004 without further notice,

¹ As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, 110 Stat. 1321).

² As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, 110 Stat. 1321).

unless EPA receives adverse comment by March 15, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted by mail to: Heidi LeSane, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in Part I.B.1. through 3 of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Heidi LeSane, Air, Pesticides & Toxics Management Division, Air Planning Branch, Regulatory Development Section, U.S. Environmental Protection Agency Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Mrs. LeSane's phone number is 404-562-9035. She can also be reached via electronic mail at lesane.heidi@epa.gov or Lynorae Benjamin, Air, Pesticides & Toxics Management Division, Air Planning Branch, Air Quality Modeling & Transportation Section, U.S. Environmental Protection Agency Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Ms. Benjamin's phone number is 404-562-9040. She can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under FL-91. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Regulatory Development Section, Air Planning

Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

2. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment, at the State Air Agency, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulation.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking FL-91" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.