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October 31, 2011

UNITED PARCEL SERVICES

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

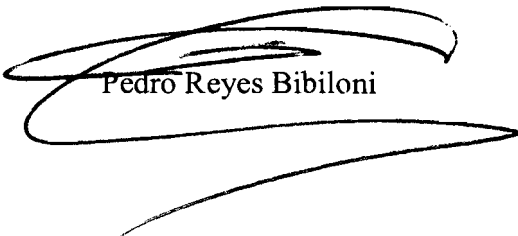
U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2011 NOV - 1 A 10:45
REGIONAL HEARING
CLERK

**RE: In the Matter of Laser Products, Inc.
Docket No. CAA-02-2011-1218**

Dear Ms. Maples:

Enclosed please find original and two (2) copies of Answer to Complaint, Request for Hearing and Informal Settlement Conference in the case of reference. Please file the original and return stamped copy to undersigned in the enclosed addressed envelope.

Cordially,


Pedro Reyes Bibiloni

Enclosure

tvv

c: Carolina Jordan-García, Esq.

**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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
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REGIONAL HEARING
CLERK

**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.

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By:


Pedro Reyes-Bibiloni