

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

In the Matter of:

The GEO Group, Inc.,

Respondent.

Docket No. FIFRA-09-2024-0066

**BUSINESS CONFIDENTIALITY ASSERTED**

The exhibits submitted with Respondent's Prehearing Exchange contain material claimed to be confidential business information ("CBI") pursuant to 40 C.F.R. § 2.203(b). The material claimed as CBI are Respondent's Exhibits RX2, RX3, RX4, RX6, RX8, RX13, RX16, and RX17. These exhibits contain photographs, training materials, purchasing data, and operational records that Respondent claims to be CBI. These exhibits are therefore filed under seal pursuant to 40 C.F.R. § 22.5(d).

A complete set of all exhibits and a set in which the exhibit containing CBI are omitted will be filed with the Office of Administrative Law Judges. If you have any questions, please contact Gregory Munson at 850-521-1980 or [gmunson@gunster.com](mailto:gmunson@gunster.com).

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	)	
_____ Respondent.	)	

**RESPONDENT’S PREHEARING EXCHANGE**

In accordance with the Administrative Law Judge’s August 6, 2024, Prehearing Order, Respondent, The GEO Group, Inc. (“GEO”), respectfully submits the following Prehearing Exchange.

**I. Potential Witnesses to be Called at Hearing and Brief Narrative of Expected Testimony**

At this time, Respondent expects to call or examine the following witnesses:

- Charles Leeper – The GEO Group, Inc. – Corporate Director of Safety and Risk Management: Fact and Expert Witness
  - Mr. Leeper will testify regarding the training and safety protocols, including the use of Halt at the Adelanto facility, and EPA inspection of the Adelanto facility.
- Joshua Johnson – The GEO Group, Inc. – Deputy Facility Administrator: Fact Witness
  - Mr. Johnson will testify regarding the operations and layout of the Adelanto facility, EPA inspection of the Adelanto facility, and the use of Halt at the Adelanto facility.
- James Janecka – The GEO Group, Inc. – Former Facility Administrator: Fact Witness
  - Mr. Janecka will testify regarding the operations and layout of the Adelanto facility, EPA inspection of the Adelanto facility, and the use of Halt at the Adelanto facility.
- Mark Bowen – The GEO Group, Inc. – Former Facility Administrator: Fact Witness
  - Mr. Bowen will testify regarding the operations and layout of the Adelanto facility, EPA inspection of the Adelanto facility, and the use of Halt at the Adelanto facility.

- Enanatu Arugu – The GEO Group, Inc. – Adelanto Business Manager: Fact Witness
  - Mr. Arugu will testify regarding the purchase of gloves at the Adelanto facility, including Lifeguard brand nitrile gloves.
- Todd Nadrich – The GEO Group, Inc. – Corporate Director, Sourcing and Supply: Fact Witness
  - Mr. Nadrich will testify regarding the purchase of gloves for the Adelanto facility, including Lifeguard brand nitrile gloves.
- Ms. Lucia Meza – The GEO Group, Inc. – Adelanto Fire Safety Manager: Fact Witness
  - Ms. Meza will testify regarding training and safety protocols at the Adelanto facility.
- Tyler Jenkins – ICS Laboratories, Inc. – Technical Manager Respiratory Protective Equipment, Chemical Protective Clothing: Expert Witness
  - Mr. Jenkins will testify regarding the ASTM standard testing method and associated procedures used for evaluation of permeation resistance performed on the Lifeguard brand nitrile gloves, and the results of such testing.
- Emily Goswami, MS, CIH – ROUX Inc. – Technical Director: Expert Witness
  - Ms. Goswami will testify regarding the chemical resistance of Lifeguard brand nitrile gloves as used at the Adelanto facility.
- Complainant’s Witnesses: Respondent lists by reference and respectfully reserves the right to call witnesses listed on Complainants’ Prehearing Exchange dated September 20, 2024, and to the extent they may be relevant to denials in Respondent’s Answer, affirmative defenses, or the penalty calculation, any witnesses listed on Complainant’s Rebuttal Prehearing Exchange.
- Other Witnesses: Pursuant to sections 22.19(f) and 22.22(a)(1) of the Consolidated Rules and the Presiding Officer’s Prehearing Order, Respondent respectfully reserves the right to amend or supplement its witness list upon adequate notice to Complainant and Presiding Officer.

## **II. Potential Document and Exhibits to be Introduced at Hearing**

At this time, Respondent expects to introduce into evidence at hearing the following exhibits:

**RX1** – June 15, 2023 letter from Gunster regarding March 15, 2023 EPA Inspection Report

- RX2** – Photos of Adelanto facility taken during March 15, 2023 EPA inspection and produced to EPA in response to EPA Records Request of March 31, 2023 **(CBI)**
- RX3** – Composite binder of disinfectant logs for Adelanto facility from April 2021 through March 2023, produced to EPA in response to EPA Records Request of March 31, 2023 **(CBI)**
- RX4** – Compilation of training materials produced to EPA in response to EPA Records Request of March 31, 2023 **(CBI)**
- RX5** – Spartan-led chemical transition training for Halt and Excelente
- RX6** – GEO Group housekeeping plan for housing units at Adelanto facility **(CBI)**
- RX7** – Staff training attendance records for annual in-service and chemical training
- RX8** – Sanitation Plan and Product Guidelines for ICE facilities **(CBI)**
- RX9** – Sample submission form submitted by Gunster to ICS Laboratories, Inc.
- RX10** – September 20, 2024 Test Report No. T18893-01-1 Issue 2 prepared by ICS Laboratories, Inc.
- RX11** – ASTM F739-20 – Standard Test Method for Permeation of Liquids and Gases Through Protective Clothing Materials Under Conditions of Continuous Contact
- RX12** – Resume of Mr. Tyler Jenkins, Technical Manager, Respiratory Protective Equipment, Chemical Protective Clothing at ICS Laboratories, Inc.
- RX13** – Purchasing data for nitrile gloves at Adelanto facility between 2020-2023 **(CBI)**
- RX14** – EPA email transmitting post-inspection records request dated March 31, 2023
- RX15** – Safety data sheet for Halt
- RX16** – Sanitation chemical product use and safety instructions for facility sanitation **(CBI)**
- RX17** – Instructions for employee protective glove usage **(CBI)**
- RX18** – Product information for Lifeguard brand nitrile gloves
- RX19** – Resume of Ms. Emily Goswami, MS, CIH, Technical Director at ROUX, Inc.
- RX20** – United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS), tenth revised edition (2023). Available at:  
<https://unece.org/transport/dangerous-goods/ghs-rev10-2023>.
- RX21** – Mackey, D., & Jorgensen, A. H. 2000. Nitrile rubber. Kirk-Othmer Encyclopedia of Chemical Technology (available upon request).

**RX22** – U.S. Occupational Safety and Health Administration (OSHA). 2023. Personal Protective Equipment. OSHA 3151-02R 2023. Available at: <https://www.osha.gov/sites/default/files/publications/osha3151.pdf>

**RX23** – U.S. Occupational Safety and Health Administration. 2022. OSHA Technical Manual (OTM). Available at: <https://www.osha.gov/otm>.

**Demonstrative Exhibits** – Respondent reserves the right to use demonstrative exhibits to aid in the understanding of admissible witness testimony presented at hearing.

**Complainant’s Exhibits** – Respondent lists by reference and respectfully reserves the right to introduce the exhibits listed on Complainants’ Prehearing Exchange dated September 20, 2024 and, to the extent they may be relevant to denials in Respondent’s Answer, affirmative defenses, or the penalty calculation, any exhibits listed on Complainant’s Rebuttal Prehearing Exchange.

**Other Document Exhibits** – Pursuant to sections 22.19(f) and 22.22(a)(1) of the Consolidated Rules and the Presiding Officer’s Prehearing Order, Respondent respectfully reserves the right to amend or supplement its document/exhibit list upon adequate notice to Respondent and the Presiding Officer.

### **III. Time for Direct Case and Translation Service Needs**

Respondent currently anticipates that it will need no more than 2 days to present its evidence in response to Complainant’s case in chief. Respondent does not anticipate that translation services will be necessary.

### **IV. Documents in Support of Denials in Respondent’s Answer**

Paragraphs 11, 15, 16, 19, 20, 21, 22 of the Complaint assert facts that are incorrect and/or not supported or supportable by reliable and probative evidence. To the extent that documents in support of these denials in Respondent’s Answer are involved, Respondent’s Exhibits RX1, RX2, RX3, RX9, RX10, RX11, RX12, RX13, RX15, RX18, RX19, RX20, RX21, RX22, RX23, and Complainant’s Exhibits CX1 and CX4 may be relevant.

### **V. Documents and Explanation of Arguments in Support of Asserted Affirmative Defenses**

Respondent asserts an affirmative defense on the basis that Respondent is entitled to a jury trial under the Seventh Amendment when EPA seeks civil penalties under FIFRA Section 14(a)(2), 7 U.S.C. 136l(a)(2). *See Securities and Exchange Commission v. Jarkesy et al.*, Slip Op. No. 22-859.

Respondent asserts an affirmative defense on the basis that FIFRA Section 14(a)(2), 7 U.S.C. 136l(a)(2) does not permit the assessment of civil penalties against a private applicator or

“other person” unless subsequent to EPA’s issuance of a written warning or following a prior violation for the alleged offense.

## **VI. Factual Information and Supporting Documentation Respondent Considers Relevant to the Assessment of a Penalty**

Although GEO maintains that no penalty is permitted, GEO provides the following factual information relevant to the assessment of Complainant’s proposed penalty.

The testimony of GEO’s witnesses and Respondent’s Exhibits RX1, RX2, RX3, RX9, RX10, RX11, RX12, RX13, RX14, RX15, RX18, RX19, RX20, RX21, RX22, RX23, and Complainant’s Exhibits CX1, CX2, CX4, CX7, CX8, and CX9 are relevant to the assessment of a penalty because they demonstrate there is insufficient evidence to support Complainant’s alleged number of incidents of misuse (i.e., alleged uses of Lifeguard nitrile gloves with HALT at the Adelanto facility), that any use of Lifeguard nitrile gloves with HALT at the Adelanto facility presents a negligible risk of harm to human health and a negligible risk of harm to the environment, that GEO has no prior FIFRA violations, that GEO did not commit a negligent, knowing, or willful violation of FIFRA, that GEO undertook good faith measures to correct the alleged violation, and that there was no economic benefit associated with the alleged noncompliance.

Respectfully submitted on this 11<sup>th</sup> day of October 2024.

/s/ Gregory M. Munson  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been submitted electronically using the OALJ E-Filing System and was further sent by email to [bussey.carol@epa.gov](mailto:bussey.carol@epa.gov).

Dated: October 11, 2024

/s/ Gregory M. Manson