Monday, October 20
2:30 pm-4:00 pm

204 EH&S 101: The Nuts and Bolts of Dealing with EPA and OSHA

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Faculty Biographies

Gary Epperley

Gary Epperley is an in-house attorney for the Boeing Company, the world's leading aerospace company and the largest manufacturer of commercial jetliners, and military aircraft combined. Mr. Epperley is a member of Boeing's EHS Law Group and is based in Bellevue, Washington.

Before joining Boeing, Mr. Epperley was an in-house EHS lawyer at American Airlines in Fort Worth, Texas. Prior to that, he was an attorney with the Heller Ehrman law firm, based in San Francisco. Before entering private practice, Mr. Epperley clerked for the Honorable William C. Canby, Jr. of the United States Court of Appeals for the Ninth Circuit.

Mr. Epperley received his JD from the University of California at Berkeley, and holds an AB, magna cum laude, from Harvard College.

Damaris (Demi) Fisher

Demi Fisher is in-house counsel with Micron Technology, Inc., a Fortune 500 semiconductor manufacturer with global operations. As associate general counsel for Micron, Ms. Fisher advises internal clients on a wide-range of environmental, safety, health, security, and product compliance issues, in addition to other responsibilities.

Prior to joining Micron, Ms. Fisher was in private practice with the environmental and product liability sections of Thompson Hine, LLP in Cleveland, Ohio. Before joining Thompson Hine, Ms. Fisher clerked for the Honorable Dee Benson, United States District Court, District of Utah. Between undergraduate and law school, Ms. Fisher served as a professional staff member on a subcommittee of the Government Reform and Oversight Committee in the United States House of Representatives in Washington, DC.

Ms. Fisher received her BA, with honors, from Bates College and her JD from the University of Utah College of Law.

Ron Peppe

Ron Peppe is vice president legal and human resources, and corporate secretary for Canam Steel Corporation, the US subsidiary of Canam Group Inc., a publicly traded manufacturing and construction company with operations in Canada, the US, China, Romania, India, Dubai, Saudi Arabia, Vietnam and Russia. Canam operates five production facilities in the US and builds large-scale projects such as professional sports stadiums, convention centers, highway bridges, and high-rise office buildings. Mr. Peppe manages all legal and human resources issues in the US and assists with risk management and other issues internationally.

Previously, Mr. Peppe served as vice president law and technology for ACC. At ACC, he managed five departments that developed content and provided legal resources, including the website, the *ACC Docket* magazine, the annual meeting and other educational programs, and national practice committees. Mr. Peppe also oversaw the technology used by the association. Mr. Peppe previously served as associate general counsel for The Prudential Insurance Company of America, and vice president of Prudential Home Mortgage.

We will cover three areas:

- Introduction to OSHA
- US Environmental Law 101
- Avoiding Problems, Cleaning up Messes

Introduction to OSHA

Gary Epperley
The Boeing Company

Introduction to OSHA

- This segment of EH&S 101 addresses:
  - OSHA and its mission
  - OSHA's jurisdiction
  - OSHA's relationship to state OSHA programs
  - Fundamentals of OSHA regulation
  - Most frequently cited OSHA standards
  - OSHA enforcement methods
  - OSHA citations and contests (appeals)
  - OSHA voluntary programs

OSHA and its Mission

- Regulates workplace safety and health
- Established by OSH Act of 1970 (29 USC §§ 651, et seq.)
- ~ 2000 employees, ½ of whom are inspectors
- Federal HQ, 10 regions, numerous area offices
- ~ $500MM budget (to cover 9 million worksites)
- Substantial progress made since 1970
  - Workplace deaths have decreased by more than 60%, and other work-related injuries and illnesses by 40%
- However, room for improvement remains
  - In 2005, 4.2 million recorded injuries and illnesses among private sector firms (33% manufacturing, 67% services)
  - In 2006, 5,703 employee deaths

OSHA Jurisdiction

- Reaches virtually all "employers" of "employees" in the 50 states, Puerto Rico, and U.S. territories
- Self-employed persons excluded
- So too are working conditions regulated by certain other federal agencies (e.g., FAA)
- Workplaces employing 10 or fewer employees are excluded from *most* OSHA requirements
- Application at multi-employer worksites

26 States and Territories Have Approved OSHA Plans

Alaska	Arizona	California	Connecticut*
Hawaii	Indiana	Iowa	Kentucky
Maryland	Michigan	Minnesota	Nevada
New Jersey*	New Mexico	New York*	North Carolina
Oregon	Puerto Rico	South Carolina	Tennessee
Utah	Vermont	Virginia	Virgin Islands*
Washington	Wyoming		

* = These State Plans cover public sector employees only.

Relationship to State OSHA Programs

- Federal preemption of state OSHA regulation
- "State Plan" approval allows states to regulate in lieu of the federal OSHA program
- State OSHA standards must be "at least as effective" as their federal counterparts
  - State standards may be (and often are) more stringent than federal standards
  - State standards may address issues not covered by existing federal regulations (e.g., ergonomics)

OSHA Fundamentals: General Duty Clause

- Section 5(a)(1) of OSH Act (29 U.S.C. § 654(a)(1))
- Keep workplace free of "recognized hazards" causing or likely to cause death or serious physical harm to employees
- Gap-filler when no OSHA standard applies
- "Recognized hazard" = recognized by the individual employer *or* its industry
- Duty to implement *feasible* mitigation measures
- Voluntary industry consensus standards (e.g., ANSI) often play key roles in General Duty Clause cases

OSHA Fundamentals: Regulatory Standards

- OSHA standards address specific hazards
- Several types exist, including "General Industry" and "Construction" standards
- OSHA may incorporate voluntary industry standards by reference, making them enforceable OSHA rules
- Congress may overturn controversial OSHA standards (e.g., 2001 ergonomics rule)
- Employers may apply to OSHA for variances
- OSHA standards may be relevant in private tort suits (e.g., to define a standard of care)

Most Frequently Cited OSHA Standards in 2007

1. **Scaffolding, general requirements, construction (29 CFR §1926.451)**
2. **Fall protection, construction (29 CFR § 1926.501)**
3. **Hazard communication standard, general industry (GI) (29 CFR § 1910.1200)**
4. **Control of hazardous energy (lockout / tagout), GI (29 CFR § 1910.147)**
5. **Respiratory protection, GI (29 CFR § 1910.134)**
6. **Powered industrial trucks, GI (29 CFR § 1910.178)**
7. **Electrical, wiring methods, components, and equipment, GI (29 CFR § 1910.305)**
8. **Ladders, construction (29 CFR § 1926.1053)**
9. **Machines, general requirements, GI (29 CFR § 1910.212)**
10. **Electrical systems design, general requirements, GI (29 CFR § 1910.303)**

OSHA Fundamentals: Regulatory Standards

- OSHA may initiate rulemaking or others may petition it to do so
- OSHA must comply with criteria and restrictions on standard setting contained in the OSH Act
- "Significant risk" of harm to employees must exist absent change in practices required by a standard
- OSHA considers technical and economic feasibility in developing standards, but need not conduct a cost-benefit analysis

Some Other Important OSHA Standards

- Recording and reporting occupational injuries and illnesses (29 CFR Part 1904)
- Eight-hour reporting of work-related deaths / hospitalizations (29 CFR §1904.39; **state reporting thresholds vary**)
- Access to employee exposure and medical records (29 CFR §1910.1020)
- Personal protective equipment (29 CFR Part 1910, Subpart I)
- Occupational noise exposure (29 CFR §1910.95)
- Permit-required confined spaces (29 CFR §1910.146)
- Emergency action plans (29 CFR §1910.38)
- Fire prevention plans (29 CFR §1910.39)
- Medical services and first aid (29 CFR §1910.151)
- Bloodborne pathogens (29 CFR § 1910.1030)
- Toxic / hazardous substances (29 CFR Part 1910, Subpart Z)

OSHA Enforcement Methods: Complaint Letters

- OSHA typically writes an employer when it receives an employee complaint
- OSHA keeps the employee's identity confidential
- **NEVER** retaliate against employees who exercise any of their rights under the OSH Act
- If an employer's response is timely and complete, OSHA generally does not inspect
  - State OSHA agencies may inspect in response to employee complaints more frequently than does federal OSHA
- OSHA also conducts other types of whistleblower investigations

OSHA Enforcement Methods: Inspections

- "Programmed" inspections target high-hazard industries and individual establishments (e.g., on the basis of workplace injury / illness rates)
- Other inspections occur in response to workplace accidents, employee complaints, or agency referrals
- Follow-up inspections may be conducted to verify abatement of items previously cited
- Generally, no prior notice of OSHA inspections
- No warrantless inspections without employer consent
- Carefully assess pros and cons before demanding a warrant (e.g., impact on relationship with OSHA)

OSHA Citations and Contests (Appeals)

- Citations identify standards (allegedly) violated, proposed penalties, and abatement dates
- Citations must be issued within six months of the underlying inspection or complaint
- OSHA sends citations to employers by certified mail
  - Employer receipt starts the contest clock (***15 working days in federal practice; state contest deadlines vary***)
  - Receipt by any employee may be sufficient—not merely those who would appreciate the document's significance
  - Good idea to check date of receipt according to OSHA (and avoid a nasty surprise later if you do contest)
- Must post copy in the workplace

OSHA Citations and Contests (Appeals): Citation Types

- **Willful** violations
  - Intentional, knowing, or voluntary disregard of OSHA requirements or plain indifference to employee safety
  - $5,000-$70,000 per violation
    - Per day, per instance, or per employee penalties may be imposed in egregious cases, if cited standard allows
  - May abrogate workers' compensation immunity
  - May lead to criminal sanctions under OSH Act if employee death involved
  - May expose employers or managers to criminal prosecution under other federal or state laws

OSHA Citations and Contests (Appeals): Citation Types

- **Repeat** violations
  - Employer cited previously for a substantially similar condition and that citation has become final
  - OSHA looks back three years
  - Prior violation need not have been at the same site, nor classified as "willful" or "serious"
  - Same financial penalty range as for a willful violation

OSHA Citations and Contests (Appeals): Abatement

- Abatement must be completed on or before the date specified in a citation, unless:
  - OSHA grants a petition to modify abatement date
  - Employer negotiates a later date as part of a settlement
    - Abatement plan and progress reports may be required
  - Employer contests a citation, which typically stays abatement dates until the contest is resolved
- Written "abatement verification" must be submitted within 10 calendar days after abatement date
- Willful, repeat, and (at OSHA's discretion) serious items also require "abatement documentation"

OSHA Citations and Contests (Appeals): Citation Types

- **Serious** Violations
  - Up to $7,000 per violation
  - Employer knew or should have known (supervisors' knowledge or negligence imputed to employer)
  - Poses substantial probability of death or serious bodily harm if an accident (however unlikely) were to occur
- **Other-Than-Serious** (or **Non-Serious**) Violations
  - Direct relation to workplace safety and health, but unlikely to cause death or serious bodily harm
  - Up to $7,000 per violation, but typically much less

OSHA Citations and Contests (Appeals): Informal Conferences

- Opportunity to negotiate "informal settlement" without having to contest a citation
  - In some states, informal conferences may occur only if and after citations have been contested
- Usually a good idea if considering a contest
- However, an employer may educate OSHA on weaknesses in the Agency's case
- Must request before contest period expires
- May be unnecessary for employer's counsel to attend
- Must post date of informal conference
- Affected employees or their unions also may request and/or attend an informal conference

OSHA Citations and Contests (Appeals): Contest Procedure

- Citations may be contested only within 15 working days of their receipt
  - Excusable neglect claims rarely succeed
- Send to *OSHA Area Office* which issued the citations
  - Do not send to the OSHA Review Commission in D.C.
  - No extension of time for sending to wrong place
- Short letter will suffice, no argument required
- State contest deadlines and procedures often differ from federal rules, so research carefully

OSHA Citations and Contests (Appeals): Examples of Affirmative Defenses

- Infeasibility
  - Compliance infeasible (not merely difficult or expensive)
  - Alternative measures used or unavailable
- Greater hazard
  - Hazards of compliance greater than non-compliance
  - Alternative measures used or unavailable
  - Variance inappropriate or unavailable
- Unpreventable employee misconduct
  - Employer work rules implemented to prevent violation
  - Employees trained to follow those rules
  - Reasonable means used to detect rule violations
  - Employees disciplined for rule violations

OSHA Citations and Contests (Appeals): OSHA's Prima Facie Case

- Cited standard applies
- Standard violated
- Employees exposed
- Employer knowledge (actual or constructive)

OSHA Citations and Contests (Appeals): OSHA Review Commission Procedures

- Docketing
- ALJ assignment
- DOL Solicitor Office's role
- Employer representation
- Employee / union participation
- Simplified vs. conventional proceedings
- Pleadings, discovery, motions, and briefing
- "Formal" settlement agreements
- ALJ hearing and decision
- Appeal to full Review Commission
- Appeal to federal appellate courts

OSHA Voluntary Programs

- Voluntary Protection Programs (VPP)
- Safety and Health Achievement Recognition Program (SHARP)
- On-Site Consultation Service
- Alliances
- Strategic Partnerships

US Environmental Law 101

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Micron Technology, Inc.

By in-house counsel, for in-house counsel.℠

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US Environmental Law 101

- This segment will provide an abbreviated overview of:
  - The Regulators
  - Air
  - Water
  - Waste (for hazardous waste generators)
  - Hazmat Transportation (for shippers)
  - Emergency Planning/Release Response
  - Chemical Regulation

The Regulators

- Federal, State, and Local Regulators
  - Authority may be primary or delegated
- Multiple Regulators = Risk
  - Each regulator may enforce independent and distinct legal requirements applicable to the same operation/media
  - Primary regulators may disagree with determinations made by regulators delegated authority

Air

- The Clean Air Act (CAA)
  - Cornerstone of US air regulation
  - National Ambient Air Quality Standards (NAAQs) for sulfur dioxide, nitrogen oxide, particulate matter, carbon monoxide, ozone and lead
    - States develop State Implementation Plan (SIPs) to achieve and maintain NAAQs
  - Technology based performance standards for certain facilities and toxic air pollutants
  - Permitting programs
  - Visibility requirements
  - Emission standards for mobile sources (cars, trucks, aircraft, etc), fuel and engines
  - Stratospheric ozone protection programs
  - Acid rain program
  - Risk Management Plans (RMP)
- State/local air pollution control laws

Air

- Key Permit Elements
  - Emission Limits
  - Mandatory Pollution Controls
  - Monitoring and Recordkeeping Obligations
  - Reporting Obligations
  - Certification

Air

- Air Permitting
  - Pre-Construction Permits
  - Operating Permits
    - "Major Sources" – Title V permits
    - Minor Sources – State operating permits
    - Synthetic Minor Sources – State operating permits
  - Permits by Rule

Air

- Climate Change

Water

- Clean Water Act (CWA)
  - Prohibition of discharge "of any pollutant by any person" into waters of the United States unless authorized
    - CWA§301 (33 U.S.C. § 1311(a))
  - CWA regulates:
    - Wastewater
    - Stormwater
    - Water Quality
    - Wetlands
    - Spill Prevention Control and Countermeasures (SPCC)

Water

- Wastewater Permitting
  - Indirect Dischargers
    - Discharge wastewater to Publicly Owned Treatment Works (POTWs)
    - Permits
      - Issued by POTWs
      - No Pass-Through or Interference
      - Include federal pretreatment requirements and local limits
      - Include monitoring, reporting and recordkeeping obligations

Water

- Wastewater Permitting
  - "Point Source" Dischargers
    - Discharge directly to surface waters (e.g. river)
    - Require NPDES Permits
- National Pollution Discharge Elimination System (NPDES) Permits
  - Contain effluent limitations
    - Technology based
    - Water Quality Based
    - Toxicity Based

Water

- Stormwater Permitting
  - Multi-Sector General Permits (MSGP)
    - Applies to 29 industrial sectors
    - Protects "waters of the United States" from contaminants associated with industrial activity
    - Published in Federal Register
      - Outlines stormwater management requirements
      - Mandates site-specific Stormwater Pollution Prevention Plan (SWPPP)
      - Last MSGP expired in October, 2005

Water

- Stormwater Permitting
  - Construction General Permits (CGP)
    - Applies to all land disturbing projects equal to or greater than 1 acre – or part of a common plan
    - Prevents sediment loading to waters of the U.S.
    - Published in Federal Register
      - Outlines requirements for stormwater management, including SWPPP requirements
      - Requires pre-construction notification and post-construction termination
  - Individual Permits

Water

- Wetlands
  - §404 Permits required to dredge or fill "waters of the United States"
    - Issued by Army Corps of Engineers
    - Jurisdictional limits apply to "waters of the United States"
      - *See Rapanos v. United States*
- Spill Prevention Control and Countermeasures (SPCC) Plans
  - Control plans required for certain facilities storing oil with potential for discharge to jurisdictional waters

Waste

- Resource Conservation and Recovery Act (RCRA)
  - Provides "cradle-to-grave" regulation of hazardous wastes
  - Regulates generators, transporters and Treatment, Storage and Disposal Facilities (TSDFs)

Waste

- Hazardous Waste
  - Only "solid wastes" may be RCRA hazardous wastes
    - "Solid wastes" is broadly defined (discarded material)
    - Numerous exceptions to "solid waste" definition
  - "Hazardous wastes" include:
    - Characteristic wastes
      - Toxicity, ignitability, corrosivity, reactivity
    - Listed wastes
  - Universal Wastes
  - Electronic Waste

Waste

- RCRA Generators
  - Three types
    - Large Quantity Generators (LGQ)
    - Small Quantity Generators (SQG)
    - Conditionally Exempt Generators
  - Receive EPA ID numbers (LQG/SQG)
  - Perform waste analysis
  - Observe storage accumulation limitations (e.g. 90 days for LQG)
  - Observe labeling and other storage requirements
  - Prepare and maintain hazardous waste manifests prior to shipment offsite
  - Prepare for shipment in keeping with requirements pertaining to transport of hazardous waste

DoT Hazmat

- Shipper obligations
  - Train all "hazmat employees"
  - Identify and classify material offered into shipment
  - Select and prepare compliant packaging
  - Ensure proper labeling and placarding
  - Register with DOT as Hazmat Shipper

DoT Hazmat

- Transportation of Hazardous Materials (DOT)
  - "Shippers" have regulatory obligations concerning hazardous materials offered into commerce
    - Shippers are those who "offer" hazardous materials for transport
  - Potential joint and several liability with carriers for pre-transport activities

Emergency Planning/Release Reporting

- CERCLA/EPCRA
  - Require *immediate* reporting of the release of Reportable Quantities (RQ's) of hazardous substances or extremely hazardous substances
    - RQ triggers can vary for each program
      - Check List of Lists
    - Reporting contacts also vary
      - National Response Center (NRC)
      - State and Local Emergency Planning Commissions
  - Separate reporting requirements for "continuous releases" of hazardous substances

Emergency Planning/Release Reporting

- Other EPCRA Reporting
  - Toxic Release Inventory (TRI) – Section 313
    - Requires owners and operators of affected facilities to comply with annual 313 reporting obligations
      - Report releases to environment of certain toxic chemicals
      - Does not impose monitoring requirements
  - Section 311
    - Compels reporting to state and local emergency planning committees, as well as local Fire Department regarding hazardous materials on site in excess of threshold quantities
      - May submit MSDS to satisfy reporting requirement
      - One-time obligation

Chemical Regulation

- Toxic Substances Control Act (TSCA)
  - Provides EPA broad authority to regulate the manufacture, use distribution and disposition of "chemical substances"
    - "Articles" are exempt
  - TSCA Inventory lists approved chemical substances

Emergency Planning/Release Reporting

- CWA – Oil Discharge Rule
  - Requires reporting of releases resulting in oil sheens in waters of the United States
  - Report to NRC

Chemical Regulation

- Pre-manufacture Notification (PMN)
  - Requires registration and approval of new substances prior to manufacture or import
    - New substances are those that do not appear on TSCA Inventory
  - R&D exemptions and other exemptions apply
- Significant New Use Rule (SNUR)
  - EPA may approve chemicals subject to certain restrictions
  - Use of the substance outside these restrictions constitutes "new use"
    - May not proceed with "new use" until complete notification process
- Section 8 Obligations
- Export Notifications

Avoiding Problems, Cleaning up Messes

Ron Peppe

Canam Steel Corporation

By in-house counsel, for in-house counsel℠

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Step One: An Effective compliance program

- The concept of an "effective compliance program" predates all the Sarbanes-Oxley stuff
- Compliance is an operational, not legal, concept
- An effective program will help your company avoid problems and save $$$

Beyond the rules….

- We discussed the safety and environmental rules, but what should you actually do?
- We will discuss:
  - How to avoid problems
  - How to clean up messes

A Compliance Program:

- Written, readily accessible
- Starts with an attitude from the top
- Prominently displayed as part of the corporate culture
- Backed by sufficient resources

From to top down: Our Values

Safe, clean and orderly work environment
To develop commitment and take action to maintain standards to provide a safe, clean and orderly work environment with the latest equipment and technology.

Good corporate citizen
To respect laws and regulations, to protect the environment and to encourage corporate and employee involvement in the community.

- **The Company shall comply with health, safety and environmental laws and regulations to protect the environment as well as the health and safety of its personnel. The Company aims for a health and safety target of zero accidents, injuries and occupational illness among its employees.**
- **In order to achieve this safety target, Canam Group strives to eliminate any foreseeable hazards which may result in personal injury/ illness, fires, damage to property or security losses.**

The Canam Group Policy

In following with the Company's corporate mission statement and its guiding principles, Canam Group shall maintain standards which provide a safe, healthy, clean and orderly work environment. To maintain this objective, the Company is committed to develop Health and Safety programs and Environmental pollution prevention programs adapted to each of its manufacturing facilities. In the performance of its activities, the Company strives for continuous improvement in its Environmental and Health and Safety programs through, among other things, the annual revision of its environment, health and safety related objectives.

- **The success of these efforts depends on the cooperation of everyone involved at all levels of the organization.**
- **The Company is committed to creating a work environment that requires supervisors and management to become involved in environment, health and safety issues and encourages its personnel to observe and promote work practices which respect the policy.**
- **Our supervisors will carry out their responsibilities in such a manner that they ensure that safe and healthy work conditions are maintained in their assigned work area.**
- **All employees will perform their jobs properly and in accordance with legislated and employer Safe Work Procedures and Practices.**
- **Environment, Health and Safety is everyone's concern.**

That all sounds good, but…

- How do you apply it?
- How do you obtain sufficient resources to make it work?

Implementation of a compliance program

- Know your operations
- Know the rules
- Create a framework to manage application of the rule to your operations
- Monitor its application and effectiveness
- Report results and make them count

Know your operations

– Get out on the shop floor
– Talk to supervisors
– Get ahead of the curve on production changes and product development
– Also think about rules that apply during transportation and at the destination

Find out:

– Kinds of work being done
– Materials used in the process
– Emissions into the air, water
– Waste created and disposed

The Canam "Management of Change" Policy

This procedure will help to review new or modified processes. Any changes in chemicals, equipment, facilities, process technology, software must be evaluated in advance to prevent adverse impact on the environment, health or safety.

How do you find out?

- Online
  - www.epa.gov
  - www.osha.gov
  - State websites
  - www.acc.com and the ACC listservs
- Trade associations
- Regulator and law firm newsletters

Then, find out what rules apply

- Operational requirements
- Permits
- Reports
- Recordkeeping

Use your insurers

- Worker's comp carrier
- Property and casualty carrier
- Health insurer

Call the regulators!

- You need to live with these folks, anyway
- Build a relationship before you are in trouble
- Many states have compliance assistance programs, esp. for smaller companies

- **Policies** demonstrate a commitment to regulators AND help you make sure things are being done properly
- **Procedures** spell out the details
- **Checklists** are vital to making it sustainable

THEN put it all in writing:

- Demonstrates you are in compliance to regulators and for internal audit purposes
- Makes it easy to know what to do when a problem comes up
- Helps ensure continuity when personnel come and go
- Focus on the operational requirements, not just statements of legal requirements- the point is to affect behavior

Training, training, training

- A binder full of rules and detailed procedures and checklists is worthless just sitting on a shelf
- All employees need to be trained, and trained on a regular basis

Monitor Compliance

- Written measurements
- Make sure management sees and signs off on the reports
- Monitor both the implementation AND the effectiveness
- Make each item someone's job
- Make it part of compensation
- See sample audit checklist in materials

Benefits-EPA Penalty Mitigation

- Voluntary, independent and Systematic discovery
- Prompt disclosure
- Prompt correction
- Prevention of recurrence
- "Cooperation"

Compliance Help and Self Audits

- Do you really want to know?
- EPA/State incentives for companies that discover and disclose
- Cal help avoid formal investigations and enforcement
- http://www.epa.gov/compliance/index.html

But

- Privilege issues, esp. when using outside consultants
- EPA can compel disclosure
- State laws vary

For Acquisitions

- On the operational side, new policy of tailored incentives for new owners to discover and disclose, start with a clean slate
- On the asset side, "all appropriate inquiry rule" – obtain a Phase I that meets the requirements!

When regulators show up

- Yes, you have to let them in
- But you have some control over what they see

Step Two: Be prepared when things go wrong

- Computer files are efficient, but nothing beats a binder you can grab from a shelf when something goes wrong, or a regulator shows up
- Detailed procedures and checklists help make sure you do not miss anything during a crisis

For EPA and OSHA- Manage the inspection

- Ask why they are there
- Lead them to what they have come to see
- Follow them around (though they can question employees without management present)
  - Note what they note
  - Take pictures when they take pictures
  - Split samples

Type of Inspections

- OSHA will generally let you know what they are there to see, though they can show up for a comprehensive inspection
- EPA might focus on one area, such as waste, air, water ("single media") or a comprehensive look at all environmental issues ("multi-media").

What about violations?

- Be aware of timelines for appeals
- Defend your legal rights, but focus on fixing the problem as a long term goal
- Almost everything is negotiable to some extent
- Consider internal charge backs to business units so they are motivated to solve problems
- Hold supervisors accountable

When the inspection is done

- Speak up. Ask if there are any violations
- Ask what you can do to fix things
- Fix those things on the spot
- Ask for a timeline for next steps

State and Federal Actions

- For OSHA, actions will involve state or federal regulators
- For EPA, you could get hit from both sides- the EPA can "overfile"
- Moral: Even if you are on great terms with the state, the feds can still come after you based on the exact same underlying issue

U.S. Environmental Protection Agency
Region III
Multi-Media Screening Checklist

General Information

FACILITY NAME_____

ADDRESS_____
(Street) (City) (State) (Zip)

CONTACT_____

PHONE NUMBER(____)_____(SIC CODE)_____

DESCRIPTION OF FACILITY OPERATIONS_____

_____

_____

_____

NUMBER OF EMPLOYEES_____

LATITUDE_____ LONGITUDE_____

INSPECTORS NAME_____

SIGNATURE_____

TITLE_____

DATE_____

NOTE: This checklist is single sided to allow space on reverse side to record additional information.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) - HAZARDOUS WASTE

1. **Ask -** Does the facility have an EPA RCRA ID Number?

_____ Yes _____ No If yes, provide_____

2. **Ask -** Has the facility submitted a Part A or Part B RCRA permit application? _____ Yes _____ No

_____If yes, describe_____

3. **Ask** - What are the hazardous wastes that the facility is generating?

_____

_____

4. **Ask -** What is the total quantity (kilograms/month) of hazardous waste generated?

_____

5. **Ask -** Has the facility classified its waste as hazardous based on test results or knowledge of process?

_____

6. Ask - Are hazardous wastes accepted from other facilities for storage, treatment, or disposal? If yes, list those facilities.

_____

_____

7. **Observe** - Are there any tanks or drums containing waste material? If yes, describe (i.e., physical condition, labels/ markings, secondary containment, spills/ leaks, open containers and approximate numbers). Indicate how long the waste has been stored in tanks or containers?

_____

8. **Observe** - Have any waste materials been dumped into pits, lagoons, etc. or placed on the ground in piles or landfills? If yes, list the waste material, approximate quantities and when and where it was dumped.

9. **Observe** - Are any waste materials being burned for energy recovery? If yes, describe the units in which burning occurs.

10. **Ask** - To see copies of manifests for the last year. Take a copy of a representative manifest for each type of waste. Don't worry about what it says, just copy it and all the attachments.

UNDERGROUND STORAGE TANKS (USTs)

1. **Ask** - Are there any underground storage tanks?
_____ Yes _____ No

2. **Ask** - Approximately how many? What are the contents? (wastes, virgin petroleum, or chemicals)

3. **Ask/Observe** - What type of leak (release) detection is used (see next page for possible methods)? Does the facility have records showing that the method is, in fact, still in use?

Tanks:

Piping:

4. **Ask/Observe** - Have tanks been upgraded for spill and overfill protection and are steel tanks provided with cathodic protection against corrosion? _____ Yes _____ No

5. **Observe** - Is there any evidence of leaks, spills, broken piping, broken fill/vent lines, or leaking pumps joints or valves? Provide location and description.

6. **Ask** - Have the USTs been registered with the appropriate State agency? _____ Yes _____ No If so, request a copy of the registration form.

UST CLOSURE

Closure of USTs must be performed according to regulation. If USTs are being closed, a notification of closure should be filed with the appropriate State agency 30 days prior to actual closure. Also, a site assessment should be performed.

1. **Ask/Observe** - Have any tanks been permanently closed/removed since registration form was submitted? _____ Yes _____ No

-If so, was notification of closure submitted to State?

_____ Yes _____ No

*** Methods of Release Detection for USTs:**

. Tank Tightness Testing and Inventory Control
. Automatic Tank Gauging System
. Interstitial Monitoring
. Groundwater Monitoring
. Manual Tank Gauging
. Vapor Monitoring
. Statistical Inventory Reconciliation

*** Methods of Release Detection for Piping:**

. Pressurized (P): Automatic flow restrictor; Automatic shutoff device, Continuous alarm system and Annual line testing
. Suction (S): Line testing every 3 years

*** Spill/Overfill Prevention:**

. Catchment Basins -and- .Automatic Shutoff Devices -or-
.Overfill Alarms -or-
.Ball Float Valves

WETLANDS

1. **Observe -** Are there any wet areas near the facility with wetland-type vegetation (cattails, rushes, sedges) that have been disturbed by waste disposal, excavation, or filling?

   - if yes - did facility obtain a federal Section 404 permit or any state or local permit authorizing the alteration?

SPILL PREVENTION, CONTAINMENT AND COUNTERMEASURE (SPCC)

1. **Ask/Observe**-Does the facility store oil above and/or below ground? _____ Yes _____ No

2. **Ask/Observe** - Does the facility store more than 660 gallons in a single tank or more than 1320 gallons in a number of tanks above ground or more than 42,000 gallons below ground? _____ Yes _____ No

   If yes, describe:

3. **Ask/Observe** - Does the facility have an SPCC (Spill prevention, Containment and Countermeasure) plan on hand? _____ Yes _____ No

4. **Ask/Observe** - Does the facility have a certified (engineers seal affixed) plan? _____ Yes _____ No

   If yes, was it signed by a registered professional engineer? _____ Yes _____ No

   When was it last updated?

5. **Ask** - Has there been any major changes to oil storage at the facility since the last modification of the plan? _____ Yes _____ No
   If yes, describe:

6. **Observe** - What type of secondary containment is used at the facility? Were there any deficiencies in the secondary containment (cracks, breaks, dikes left open)? Is it adequate to contain the entire contents of the largest tank?

7. **Ask** - Has the facility been identified, either through a self-selection process or by determination of the Regional Administrator, as one that could cause substantial harm to the environment (some criteria that apply are total storage capacity ≥42,000 gal and performs overwater oil transfers to or from vessels or total storage capacity ≥1,000,000 gal and inadequate secondary containment for ASTs or reportable spills ≥10,000 gal within the past 5 years or located in an environmentally sensitive area or one where a discharge would shut down a public drinking water intake)?
   _____ Yes _____ No

   If yes, answer the following:

   - Was a facility response plan prepared?
     _____ Yes _____ No

   - Was the plan approved by EPA? _____ Yes _____ No

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)

1. **Ask/Observe** - Does the facility manufacture or distribute any pesticides? _____ Yes _____ No

2. **Ask** - If yes, what is the establishment's EPA FIFRA registration number?

3. **Ask/Observe** - Where are these materials stored?

4. **Ask/Observe** - Does the facility apply pesticides?
_____ Yes _____ No

5. **Ask** - If yes, what is the registration number of the pesticide?

AIR: STATIONARY SOURCE COMPLIANCE

1. **Observe** - Is opaque smoke being emitted from a smokestack (Dark enough not to observe anything behind the plume?
_____ Yes _____ No

   - If yes - which process unit(s) is emitting the opaque smoke (be specific, i.e., Boiler No. 4, incinerator, etc.)?

2. **Observe** - Describe areas where fugitive emissions (both gaseous and visible) are likely to occur (includes emissions from treatment systems, open top tanks, valves, flanges, etc.)

3. **Ask/Observe** - Do any of the process units have any air pollution control equipment to control emissions?
_____ Yes _____ No

   If yes, describe process/equipment:

   - Is any air pollution control equipment out of service?
   _____ Yes _____ No

   - If yes, when will it be back on line?

4. **Ask/Observe** - Does the facility have any coating* operations?
_____ Yes _____ No

   - If yes, obtain list of coatings and lb/gal VOC content. Are these water-based or solvent based coatings?

   - Are emissions from coating process lines controlled?

_____ Yes _____ No

   If yes, describe control devices:

5. **Ask/Observe** - Has the facility added any processes or expanded any pre-existing processes since 1980? ____ Yes ____ No

   - If yes, describe any state or federal air permits obtained (operating; PSD**)?

6. **Ask/Observe** - Is there any asbestos on site?
_____ Yes _____ No

7. **Ask/Observe** - Is the facility undergoing or has the facility undergone any renovations or demolitions during the last 18 months which involve the removal or disturbance of asbestos-containing materials? _____ Yes _____ No

If yes, describe how much asbestos (square feet or linear feet) was removed, where it was located and other details:

_____

_____

8. **Ask** - If asbestos was removed was notification provided to the State and EPA? _____ Yes _____ No

* Refers strictly to paints, lacquors, varnishes and inks and not to electroplating/metal finishing processes.
** Prevention of Significant Deterioration

9. **Ask/Observe** - Does the facility handle/emit any of the National Emission Standards for Hazardous Air Pollutants (NESHAP) chemicals other than asbestos (mercury, beryllium, vinyl chloride, benzene, arsenic, radionuclides)?
_____ Yes _____ No

If yes, describe process:

_____

_____

_____

10. **Ask/Observe** - Does the facility perform any service/maintenance on any type of refrigeration equipment involving a refrigerant? _____ Yes _____ No

If yes, answer the following:

- Does the facility have an EPA certified technician?
_____ Yes _____ No

  (If yes, get a copy of the certification card/certificate)

- Does the facility own and operate refrigerant recovery equipment? _____ Yes _____ No

  (If yes, get the model and serial number of the equipment)

- Does the facility have a file copy of its equipment registration that was sent to EPA? _____ Yes _____ No

- Does the facility have any refrigeration units with refrigerant charges of 50 lbs or greater?
_____ Yes _____ No

- What have been the leak rates on these larger units for the last three years? _____

- Does the facility keep all maintenance records for all units of 50 lbs or greater? _____ Yes _____ No

- Are leaks above the allowable leak rate (35%/ year) repaired within 30 days, or 120 days if an industrial process shut down is required? _____ Yes _____ No

- If the leaks have been repaired, was a follow-up verification test conducted before the refrigerant was recharged into the system? _____ Yes _____ No

- If no repairs were conducted or repairs failed, was a retrofit or retirement plan prepared and available for review? _____ Yes _____ No

11. **Ask/Observe** - Does the facility own and operate a dry clean machine? _____ Yes _____ No

If yes, answer the following:

- Did this facility file an initial notification with EPA? _____ Yes _____ No

- Did this facility file a pollution prevention compliance report with EPA? _____ Yes _____ No

- Did this facility file a Control Compliance Report with EPA? _____ Yes _____ No

- How much perc was purchased during each calender year?
  1997 _____
  1996 _____
  1995 _____

- Does the facility maintain purchasing records for these purchases of perc? _____ Yes _____ No

- Who is the facility's current perc supplier?

  Name:
  Phone Number:

- Obtain the following information for each dry cleaning machine: name of manufacturer, model #, serial #, and date installed.

- Does the facility have an O&M manual for each of its dry-cleaning machines? _____ Yes _____ No

- Does the facility maintain leak detection and repair logs? _____ Yes _____ No

- Does the facility have control equipment to control the perchloroethylene (perc) emissions? _____ Yes _____ No
  If yes, describe:

_____

_____

TOXIC SUBSTANCES CONTROL ACT (TSCA) - PCB

1. **Ask/Observe** - Does the facility use equipment (i.e., transformers, capacitors, hydraulic/heat transfer systems, etc.) that contains PCBs? _____ Yes _____ No

   - If yes, does the facility have analysis indicating the concentration of PCBs or is PCB status based on nameplate information?

     _____

   - Is equipment labelled (yellow labels) ____ Yes ____ No

2. **Ask/Observe** - Does the facility store PCBs on site?

   - If yes, describe storage area (including containment provisions) and its location and whether area itself and items stored there are labelled

_____

_____

_____

3. **Ask** - How long were items in storage?

   _____

4. **Observe** - Is there any evidence of PCB spills or leaking PCB equipment? _____ Yes _____ No

   If yes, describe:

   _____

   _____

5. **Ask** - If facility uses PCB transformer(s) (PCB >500 ppm), have they been registered with the local fire department?
   _____ Yes _____ No

6. **Ask** - Does the facility prepare annual documents for its PCBs
   _____ Yes _____ No

7. **Ask** - Does the facility perform quarterly inspections of its PCB transformers? _____ Yes _____ No

TSCA CORE

1. **Ask** - Does the facility manufacture or import chemicals?
   _____ Yes _____ No

   If yes, answer the following question:

2. **Ask** - Are chemical substances used solely for foods, drugs, or pesticide purposes? _____ Yes _____ No

   If no, answer the following questions:

3. **Ask** - What are the names and Chemical Abstract Service Registration Numbers (CASRN) of the chemical substances and what are their end uses, annual production and/or imported volumes (pounds)?

4. **Ask** - Has the facility ever submitted Inventory Updating Reports (IUR) under TSCA to EPA? _____ Yes _____ No

5. **Ask** - Does the facility have a working research and development laboratory (i.e., more than a simple QC lab?) _____ Yes _____ No

6. **Ask** - Has the facility ever submitted a Pre-Manufacturing Notification (PMN) under TSCA to the EPA? ____ Yes ____ No

If yes, describe:

NOTE: **Attached to this checklist are two copies of a TSCA Notice of Inspection and Receipt for Samples and Documents. These documents must be provided to the facility at the time of the inspection. Give one copy to the facility and retain one copy for EPA records.**

WATER

1. **Ask/Observe** - Does the facility use water in its manufacturing process? _____ Yes _____ No

If yes, does the facility discharge process wastewater, cooling, stormwater, or any other pollutant into the receiving stream, municipal sewer system or a subsurface disposal system (e.g., septic tank, well, cesspool, drywell, etc.)? _____ Yes _____ No

_____If yes, describe each discharge and where it goes:

2. **Ask** - Does the facility have a permit for each of these discharges? To streams: NPDES to POTW: Pre-Treatment To subsurface: Underground Injection Control _____ Yes _____ No

3. **Ask/Observe** - Does the facility treat its wastewater prior to discharging? _____ Yes _____ No

If yes, how? (what treatment systems are employed?

4. **Ask/Observe** - Is the effluent from the wastewater treatment facilities clear and free of solids? _____ Yes ____ No

5. **Ask/Observe** - Does the equipment appear to be operating properly, clean and well maintained? _____ Yes _____ No

6. **Observe** - Are there any unusual odors? _____ Yes _____ No

7. **Ask/Observe** - Does the facility have floor drains in its processing or chemical storage areas? _____ Yes _____ No

If yes, what materials are likely to be spilled down the floor drains?

If yes, where do the floor drains discharge (treatment facility, municipal sewer, directly to the receiving water or into the septic tank, cesspool, dry well)?

8. **Ask/Observe** - What is the disposal method for the wastewater sludges generated?

9. **Ask** - Is facility in compliance with discharge limitations? _____ Yes _____ No

10. **Ask** - Is the drinking water supply private or public? If private, where are the wells located?

11. **Ask** - Is the drinking water sampled and analyzed for contaminants? _____ Yes _____ No

If yes, are the results reported to the state or EPA?

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA) TITLE III

1. **Ask** - Has the facility had a release of a hazardous substance in excess of reportable Superfund quantities within the last year?* _____ Yes _____ No

If yes, what was the substance and approximate quantity?

Was EPA/State notified? _____ Yes _____ No

Was notification oral or written?

2. **Ask** - Does the facility manufacture, process, or otherwise use any toxic chemicals in a quantity greater than 10,000 lbs. per year? _____ Yes _____ No

If yes, identify them and approximate amounts manufactured, processed or used.

3. **Ask** - Are any of these toxic chemicals identified among those listed as Section 313 chemicals?* _____ Yes _____ No

4. **Ask** - Has the facility submitted any toxic chemical release forms (Form R) to EPA?

5. **Ask** - Does the facility have a threshold planning quantity of any substance (minimum of 10,000 lbs. of a hazardous substance and/or a minimum of 500 lbs. of an extremely hazardous substance)* that requires submission of a materials safety data sheet (MSDS) to the State Emergency Response Commission (SERC) and/or the Local Emergency Planning Committee (LEPC)?

_____ Yes _____ No

If yes, has the facility submitted any hazardous chemical inventory forms (Tier II) to the State Emergency Response Commission and/or Local Emergency Planning Committee?

_____ Yes _____ No

6. **Ask** - Are the MSDS sheets on site? ____ Yes ____ No

* The chemicals subject to these requirements can be found in EPA publication number 560/4-92-011, January 1992, "Title III, List of Lists".

ENVIRONMENTAL ASSESSMENT

1. Is there any evidence of environmental impacts that haven't been addressed? Possible examples include:

- additional evidence of spills, leaks
- vegetation damage in the surrounding area
- odors in the surrounding neighborhood
- neighborhood covered with "dusts"
- poor water quality in streams near the facility
- dead fish or other wildlife noted

2. Were there situations of possible excessive occupational exposures that should be referred to OSHA?

_____

_____

3. Has facility employed any pollution prevention techniques?

_____ Yes _____ No

If yes, describe: _____

_____

4. Is facility located in residential area? _____ Yes _____ No

If yes, does area appear to be economically depressed?

_____ Yes _____ No

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 21 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004)

FROM: Thomas V. Skinner TVS
Acting Assistant Administrator

TO: Regional Administrators

This memorandum modifies all existing civil penalty policies to conform to a final rule that increased statutory penalties. This amendment to our civil penalty policies will take effect on October 1, 2004. This memorandum also provides guidance on how to plead penalties and determine the new maximum penalty amounts that may be sought in administrative enforcement actions. On February 13, 2004, the United States Environmental Protection Agency (EPA) promulgated a final rule in the *Federal Register*, codified at 40 C.F.R. Part 19, Adjustment of Civil Penalties for Inflation and implementing the Debt Collection Improvement Act of 1996 (DCIA). At the same time, EPA also published minor conforming amendments to 40 C.F.R. Part 27, Program Fraud Civil Remedies. The rule took effect on March 15, 2004. Consequently, all violations occurring after March 15, 2004, are subject to statutory penalties that have been adjusted for inflation. We have attached a copy of the published rule for your convenience.

OVERVIEW

The primary purpose of the DCIA is to preserve the deterrent effect of civil statutory penalty provisions by adjusting them for inflation. In particular, the DCIA directed each federal agency to review its respective civil monetary penalty (CMP) provisions and to issue a regulation adjusting them for inflation. The DCIA also requires periodic review and adjustment of the CMPs at least once every four years.

The DCIA limited the first penalty inflation adjustment, effective on January 30, 1997, to 10% above the existing statutory provision's maximum amount. For EPA, this meant all the penalty provision maximums, with the exception of a few new penalty provisions added by the 1996 Safe Drinking Water Act (SDWA) amendments, which did not require any adjustment, were adjusted upward by 10%. By memorandum dated May 9, 1997 (1997 Memorandum), EPA modified all penalty policies to conform to the DCIA and the 1997 penalty inflation adjustment.

The second penalty inflation adjustment, pursuant to 40 C.F.R. Part 19, Adjustment of Civil Penalties for Inflation, became effective March 15, 2004. The statutory penalty provisions and the new maximum penalty amounts are found in the attached Table 1 of 40 C.F.R. 19.4. These increases in the penalty provisions apply only to violations that occur after the date the increases take effect; that is, violations after March 15, 2004. For example, Clean Water Act (CWA) Section 309 previously authorized judicial penalties of up to $27,500 per day per violation; since the new rule became effective, the new maximum penalty amount is $32,500. Therefore, if a violation subject to CWA section 309(d) started on March 1, 2004, and lasted through March 16, 2004, the maximum statutory penalty liability would consist of 15 days of violations at $27,500 per day, plus 1 day of violation at $32,500.

PENALTY POLICY CALCULATION CHANGES

By this memorandum, the Office of Enforcement and Compliance Assurance (OECA) modifies all existing penalty policies to increase the initial gravity component of the penalty calculation by 17.23 percent for those violations subject to the new rule. The inflation adjustment for the penalty provisions set forth in the rule was calculated by comparing the Consumer Price Index-Urban (CPI-U) for June 1996 with the CPI-U for June 2003. While not required by the DCIA, we believe this is consistent with the congressional intent in passing the DCIA and is necessary to effectively implement the mandated penalty increases set forth in 40 C.F.R. Part 19. Accordingly, each penalty policy is now modified to apply the appropriate guidelines set forth below. These new guidelines apply to all penalty policies, regardless of whether the policy is used for determining a specific amount to plead in a complaint or a bottom-line settlement amount. A complete list of all of our existing penalty policies is provided at the end of this memorandum.

A. If all of the violations in a particular case occurred on or before the effective date of the new rule, penalty policy calculations should be consistent with the 1997 Memorandum.

B. For those judicial and administrative cases in which some, but not all, of the violations occurred after the effective date of the new rule, the penalty policy calculations are modified by following these five steps:

1. Perform the economic benefit calculation for the entire period of the violation. Do not apply any mitigation or adjustment factors (such as good faith, ability to pay, or litigation considerations) at this point.

2. Apply the gravity component of the penalty policy in the standard way for all violations as follows. Do not apply any mitigation or adjustment factors at this point.

3. (a) For those penalty policies that were issued prior to January 31, 1997: Calculate the gravity component according to the penalty policy. For violations

that occurred on or after January 31, 1997, through March 15, 2004, multiply the gravity component by 1.1, reflecting the 10% increase. For violations that occurred after March 15, 2004, multiply the gravity component by 1.2895, reflecting both the 10% increase and the 17.23% increases [1.10 x 1.1723 = 1.2895]. For example, if 40% of the violations occurred on or after January 31, 1997, through March 15, 2004, the gravity adjustment factor for those violations would be calculated as follows: [1.1 x .40 = .44]. If 40% of the violations occurred after March 15, 2004, the gravity adjustment factor for those violations would be as follows: [1.2895 x .40 = .52].

(b) For those penalty policies that were issued or revised on or after January 31, 1997, through March 15, 2004: Calculate the gravity component according to the penalty policy. For violations that occurred on or after January 31, 1997, through March 15, 2004, use the gravity component set forth in the penalty policy, as the 10% increase is reflected in those policies. For violations that occurred after March 15, 2004, multiply the gravity component by 1.1723, reflecting the 17.23% increase. For example, if 40% of the violations occurred on or after January 31, 1997, through March 15, 2004, the gravity adjustment factor for those violations would be .40. If 40% of the violations occurred after March 15, 2004, the gravity adjustment factor for those violations would be as follows: [1.1723 x .40 = .47].

(c) Where all the violations in a particular case occurred after March 15, 2004: As discussed in subparagraphs (a) and (b) above, apply the penalty policy in the standard way to calculate the gravity component. Do not apply any mitigation or adjustment factors at this point. For those penalty policies that were issued to prior to January 31, 1997, multiply the gravity component by 1.2895, reflecting both the 10% increase and the 17.23% increase. For those penalty policies that were issued or revised after January 31, 1997, through March 15, 2004, multiply the gravity component by 1.1723, reflecting the 17.23% increase.

4. Add the economic benefit calculation and the total applicable gravity (the gravity-based penalty should be rounded to the nearest unit of 100) from above and adjust the total, as appropriate, pursuant to the mitigation factors in the applicable policy.

PENALTY PLEADING

If all of the violations in a particular case occurred on or before the effective date of the new rule, the pleading practices set forth in the 1997 Memorandum should be applied. If some of the violations in a particular case occurred after the effective date, then any penalty amount pled should use the newly adjusted maximum amounts. For example, in a civil judicial complaint alleging violations of Section 301 of the Clean Water Act, the prayer for relief would be written as follows:

> Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19, assess civil penalties against [name] not to exceed $27,500 per day for each violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), that occurred on or after January 31, 1997 through March 15, 2004; and $32,500 per day for each violation of Section 301 of the Act, 33 U.S.C. § 1311, that occurred after March 15, 2004, up to the date of judgment herein.

If all of the violations in a particular case occurred after the effective date of the new rule, then any penalty amount pled should use the newly adjusted maximum amounts. For example, in a civil judicial complaint alleging violations of Section 301 of the Clean Water Act, the prayer for relief would be written as follows:

> Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19, assess civil penalties against [name] not to exceed $32,500 per day for each violation of Section 301 of the Act, 33 U.S.C. § 1311, up to the date of judgment herein.

ADMINISTRATIVE PENALTY CAPS FOR CWA, SDWA, AND CAA

The Debt Collection Improvement Act and 40 C.F.R. Part 19 raised the maximum penalty amounts that may be sought for individual violations in administrative enforcement actions, as well as the total amounts that may be sought in one administrative enforcement action. This increase is particularly relevant for administrative enforcement actions under the CWA, SDWA, and CAA, which are limited by penalty maximums that may be sought in a single action (commonly called "caps")[1]. For example, prior to the DCIA and 40 C.F.R. Part 19, CWA Class II administrative penalties were authorized up to $11,000 per violation and not to exceed $137,500 in one administrative action; since the effective date of the new rule, the new penalty maximums are now $11,000 and $157,500, respectively. Similarly, Part 19 also raised the total penalty amounts that may be sought in a single administrative enforcement action under the CAA from $220,000 to $270,000 (although higher amounts may still be pursued with the joint approval of the Administrator and Attorney General). Note that the adjusted penalty caps apply if an action is filed or a complaint is amended after March 15, 2004, even if some or all of the violations occurred on or before March 15, 2004.

CHALLENGES IN THE COURSE OF ENFORCEMENT PROCEEDINGS

If a defendant challenges the validity of applying the adjusted penalty provisions on the grounds that EPA did not have the authority to promulgate the rule that adjusted the penalty maximums, please notify the Special Litigation and Projects Division of the challenge, so that OECA and the Region can coordinate our response before a response is filed.

[1] *See* CWA 33 U.S.C. § 309(g)(2)(A)-(B); CWA 33 U.S.C. § 311(b)(6)(B)(i)-(ii); SDWA 42 U.S.C. § 300g-3(g)(3)(B); SDWA 42 U.S.C. § 300h-2(c)(1)(B), (2)(B); CAA 42 U.S.C. § 113(d)(1); CAA 42 U.S.C. § 205(c).

FURTHER INFORMATION

Any questions concerning the new rule and implementation can be directed to David Abdalla of ORE's Special Litigation and Projects Division at (202) 564-2413 or by email at abdalla.david@epa.gov.

LIST OF EXISTING EPA CIVIL PENALTY POLICIES MODIFIED BY THIS MEMORANDUM

General

Policy on Civil Penalties (2/14/84)
A Framework for Statute-Specific Approaches to Penalty Assessments (2/14/84)
Guidance on Use of Penalty Policies in Administrative Litigation (12/15/95)

Clean Air Act - Stationary Sources

Clean Air Act Stationary Source Civil Penalty Policy (7/23/95) (This is a generic policy for stationary sources).
Clarifications to the October 25, 1991 Clean Air Act Stationary Source Civil Penalty Policy (1/17/92)
Combined Enforcement Policy for Section 112(r)Risk of the Clean Air Act [Risk Management Plan] (8/15/01)

There are a series of appendices that address certain specific subprograms within the stationary source program.

Appendix I - Permit Requirements for the Construction or Modification of Major Stationary Sources of Air Pollution (Not Dated)
Clarification of the Use of Appendix I of the Clean Air Act Stationary Source Civil Penalty Policy (7/13/95)
Appendix II - Vinyl Chloride Civil Penalty Policy (Not Dated)
Appendix III - Asbestos Demolition and Renovation Civil Penalty Policy (Revised 5/5/92)
Appendix IV - Volatile Organic Compounds Where Reformulation of Low Solvent Technology is the Applicable Method of Compliance (Not Dated)
Appendix V - Air Civil Penalty Worksheet
Appendix VI - Volatile Hazardous Air Pollutant Civil Penalty Policy (Revised 3/2/88)
Appendix VII - Residential Wood Heaters (Not Dated)
Appendix VIII - Manufacture or Import of Controlled Substances in Amounts Exceeding Allowances Properly Held Under Protection of Stratospheric Ozone (11/24/89)
Appendix IX - Clean Air Act Civil Penalty Policy Applicable to Persons Who Perform Service for Consideration on a Motor Vehicle Air Conditioner Involving the Refrigerant

or Who Sell Small Containers of Refrigerant in Violation of 40 C.F.R. Part 82, Protection of Stratospheric Ozone, Subpart B (Not Dated)
Appendix X - Clean Air Act Civil Penalty Policy for Violations of 40 C.F.R. Part 82, Subpart F: Maintenance, Service, Repair, and Disposal of Appliances Containing Refrigerant (6/1/94)
Appendix XI - Clean Air Act Civil Penalty Policy for Violations of 40 C.F.R. Part 82, Subpart C: Ban on Nonessential Products Containing Class I Substances and Ban on Nonessential Products Containing or Manufactured with Class II Substances (Not Dated)

Clean Air Act - Mobile Sources

Volatility Civil Penalty Policy (12/1/89)
Civil Penalty Policy for Administrative Hearings (1/14/93)
Manufacturers Programs Branch Interim Penalty Policy (3/31/93)
Interim Diesel Civil Penalty Policy (2/8/94)
Tampering and Defeat Device Civil Penalty Policy for Notices of Violation (2/28/94)
Draft Reformulated Gasoline and Anti-Dumping Settlement Policy (6/3/96)

TSCA

Guidelines for the Assessment of Civil Penalties Under Section 16 of TSCA (7/7/80) (Published in *Federal Register* on 9/10/80. Note that the first PCB penalty policy was published along with it, but the PCB policy is now obsolete). This is a generic policy for TSCA sources. There are a series of policies that address certain specific subprograms within TSCA. They are as follows:

Record keeping and Reporting Rules TSCA Sections 8, 12, and 13 (3/31/99)
PCB Penalty Policy (4/9/90)
TSCA Section 5 Enforcement Response Policy (6/8/89), amended (7/1/93)
TSCA Good Laboratory Practices Regulations Enforcement Policy (4/9/85)
TSCA Section 4 Test Rules (5/28/86)
TSCA Title II - Asbestos Hazard Emergency Response Act (AHERA)
Interim Final ERP for the Asbestos Hazard Emergency Response Act (1/31/89)
ERP for Asbestos Abatement Projects; Worker Protection Rule (11/14/89)
Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act - Disclosure Rule Enforcement Response Policy (2/2000)

Safe Drinking Water Act - UIC

Interim Final UIC Program Judicial and Administrative Order Settlement Penalty Policy -- Underground Injection Control Guidance No. 79 (9/27/93)

Safe Drinking Water Act - PWS

New Public Water System Supervision Program Settlement Penalty Policy (5/25/94)

EPCRA

Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right to Know Act/Enforcement Response Policy for Section 103 of the Comprehensive Enforcement Response, Compensation, and Liability Act (9/30/99)

Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (Amended)(4/12/01)

Clean Water Act

Revised Interim Clean Water Act Settlement Penalty Policy (3/1/95) (3/3/98)
Clean Water Act Section 404 Civil Administrative Penalty Actions Guidance on Calculating Settlement Amounts (12/21/01)
Civil Penalty Policy for Section 311(b)(3) and Section 311 (j) of the Clean Water Act (8/98)
Pilot Enforcement Approach for MOM [Management, Operation and Maintenance] Cases in Region IV (1/23/03)

RCRA

RCRA Civil Penalty Policy (6/23/03)
Guidance on the Use of Section 7003 of RCRA (10/97)

UST

U.S. EPA Penalty Guidance for Violations of UST Regulations (November 1990)
Guidance for Federal Field Citation Enforcement (OSWER Directive- No. 9610-16) (October 1993)

CERCLA

Interim Policy on Settlement of CERCLA Section 106 (b)(1) and Section 107 (c)(3)
Punitive Damage Claims for Noncompliance with Administrative Orders (9/30/97)

FIFRA

General FIFRA Enforcement Response Policy (7/2/90)
FIFRA Section 7(c) ERP (2/10/86)
Enforcement Response Policy for the Federal Insecticide, Fungicide and Rodenticide Act:
Good Laboratory Practice (GLP) Regulations (9/30/91)
FIFRA Worker Protection Standard Penalty Policy, Interim Final (9/97)

Attachment

cc: (w/attachment)
Regional Counsel, Regions I - X
Director, Office of Environmental Stewardship, Region I
Director, Division of Enforcement and Compliance Assurance, Region II
Director, Office of Enforcement, Compliance, and Environmental Justice, Region III
Director, Office of Enforcement and Compliance Assurance, Region V
Director, Compliance Assurance and Enforcement Division, Region VI
Director, Office of Enforcement, Compliance and Environmental Justice, Region VIII
Director, Office of Civil Rights, Enforcement and Environmental Justice, Region X
Regional Media Division Directors
Regional Enforcement Coordinators, Regions I - X
Dana Ott, OGC-CCID
OECA Office Directors
ORE Division Directors
OSRE Division Directors
Bruce Gelber, Chief, EES, DOJ
Deputy and Assistant Chiefs, EES, DOJ

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.

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. 300i–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 $6,500 [1] 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 6,500 [2] 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, 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.

[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).

Federal Register

Tuesday,
April 11, 2000

Part VII

Environmental Protection Agency

Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6576–3]

Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations

AGENCY: Environmental Protection Agency (EPA, or Agency).

ACTION: Final Policy Statement.

SUMMARY: EPA today issues its revised final policy on ''Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations,'' commonly referred to as the ''Audit Policy.'' The purpose of this Policy is to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, promptly disclose and expeditiously correct violations of Federal environmental requirements. Incentives that EPA makes available for those who meet the terms of the Audit Policy include the elimination or substantial reduction of the gravity component of civil penalties and a determination not to recommend criminal prosecution of the disclosing entity. The Policy also restates EPA's long-standing practice of not requesting copies of regulated entities' voluntary audit reports to trigger Federal enforcement investigations. Today's revised Audit Policy replaces the 1995 Audit Policy (60 FR 66706), which was issued on December 22, 1995, and took effect on January 22, 1996. Today's revisions maintain the basic structure and terms of the 1995 Audit Policy while clarifying some of its language, broadening its availability, and conforming the provisions of the Policy to actual Agency practice. The revisions being released today lengthen the prompt disclosure period to 21 days, clarify that the independent discovery condition does not automatically preclude penalty mitigation for multi-facility entities, and clarify how the prompt disclosure and repeat violation conditions apply to newly acquired companies. The revised Policy was developed in close consultation with the U.S. Department of Justice (DOJ), States, public interest groups and the regulated community. The revisions also reflect EPA's experience implementing the Policy over the past five years.

DATES: This revised Policy is effective May 11, 2000.

FOR FURTHER INFORMATION CONTACT: Catherine Malinin Dunn (202) 564–2629 or Leslie Jones (202) 564–5123. Documentation relating to the development of this Policy is contained in the environmental auditing public docket (#C–94–01). An index to the docket may be obtained by contacting the Enforcement and Compliance Docket and Information Center (ECDIC) by telephone at (202) 564–2614 or (202) 564–2119, by fax at (202) 501–1011, or by email at docket.oeca@epa.gov. ECDIC office hours are 8:00 am to 4:00 pm Monday through Friday except for Federal holidays. An index to the docket is available on the Internet at www.epa.gov/oeca/polguid/enfdock.html. Additional guidance regarding interpretation and application of the Policy is also available on the Internet at www.epa.gov/oeca/ore/apolguid.html.

SUPPLEMENTARY INFORMATION: This Notice is organized as follows:

I. Explanation of Policy

A. Introduction

On December 22, 1995, EPA issued its final policy on ''Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations'' (60 FR 66706) (Audit Policy, or Policy). The purpose of the Policy is to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of Federal environmental law. Benefits available to entities that make disclosures under the terms of the Policy include reductions in the amount of civil penalties and a determination not to recommend criminal prosecution of disclosing entities.

Today, EPA issues revisions to the 1995 Audit Policy. The revised Policy reflects EPA's continuing commitment to encouraging voluntary self-policing while preserving fair and effective enforcement. It lengthens the prompt disclosure period to 21 days, clarifies that the independent discovery condition does not automatically preclude Audit Policy credit in the multi-facility context, and clarifies how the prompt disclosure and repeat violations conditions apply in the acquisitions context. The revised final Policy takes effect May 11, 2000.

B. Background and History

The Audit Policy provides incentives for regulated entities to detect, promptly disclose, and expeditiously correct violations of Federal environmental requirements. The Policy contains nine conditions, and entities that meet all of them are eligible for 100% mitigation of any gravity-based penalties that otherwise could be assessed. (''Gravity-based'' refers to that portion of the penalty over and above the portion that represents the entity's economic gain from noncompliance, known as the ''economic benefit.'') Regulated entities that do not meet the first condition—systematic discovery of violations—but meet the other eight conditions are eligible for 75% mitigation of any gravity-based civil penalties. On the criminal side, EPA will generally elect not to recommend criminal prosecution

by DOJ or any other prosecuting authority for a disclosing entity that meets at least conditions two through nine—regardless of whether it meets the systematic discovery requirement—as long as its self-policing, discovery and disclosure were conducted in good faith and the entity adopts a systematic approach to preventing recurrence of the violation.

The Policy includes important safeguards to deter violations and protect public health and the environment. For example, the Policy requires entities to act to prevent recurrence of violations and to remedy any environmental harm that may have occurred. Repeat violations, those that result in actual harm to the environment, and those that may present an imminent and substantial endangerment are not eligible for relief under this Policy. Companies will not be allowed to gain an economic advantage over their competitors by delaying their investment in compliance. And entities remain criminally liable for violations that result from conscious disregard of or willful blindness to their obligations under the law, and individuals remain liable for their criminal misconduct.

When EPA issued the 1995 Audit Policy, the Agency committed to evaluate the Policy after three years. The Agency initiated this evaluation in the Spring of 1998 and published its preliminary results in the **Federal Register** on May 17, 1999 (64 FR 26745). The evaluation consisted of the following components:

- An internal survey of EPA staff who process disclosures and handle enforcement cases under the 1995 Audit Policy;
- A survey of regulated entities that used the 1995 Policy to disclose violations;
- A series of meetings and conference calls with representatives from industry, environmental organizations, and States;
- Focused stakeholder discussions on the Audit Policy at two public conferences co-sponsored by EPA's Office of Enforcement and Compliance Assurance (OECA) and the Vice President's National Partnership for Reinventing Government, entitled ''Protecting Public Health and the Environment through Innovative Approaches to Compliance'';
- A **Federal Register** notice on March 2, 1999, soliciting comments on how EPA can further protect and improve public health and the environment through new compliance and enforcement approaches (64 FR 10144); and
- An analysis of data on Audit Policy usage to date and discussions amongst EPA officials who handle Audit Policy disclosures.

The same May 17, 1999, **Federal Register** notice that published the evaluation's preliminary results also proposed revisions to the 1995 Policy and requested public comment. During the 60-day public comment period, the Agency received 29 comment letters, copies of which are available through the Enforcement and Compliance Docket and Information Center. (See contact information at the beginning of this notice.) Analysis of these comment letters together with additional data on Audit Policy usage has constituted the final stage of the Audit Policy evaluation. EPA has prepared a detailed response to the comments received; a copy of that document will also be available through the Docket and Information Center as well on the Internet at www.epa.gov/oeca/ore/apolguid.html.

Overall, the Audit Policy evaluation revealed very positive results. The Policy has encouraged voluntary self-policing while preserving fair and effective enforcement. Thus, the revisions issued today do not signal any intention to shift course regarding the Agency's position on self-policing and voluntary disclosures but instead represent an attempt to fine-tune a Policy that is already working well.

Use of the Audit Policy has been widespread. As of October 1, 1999, approximately 670 organizations had disclosed actual or potential violations at more than 2700 facilities. The number of disclosures has increased each of the four years the Policy has been in effect.

Results of the Audit Policy User's Survey revealed very high satisfaction rates among users, with 88% of respondents stating that they would use the Policy again and 84% stating that they would recommend the Policy to clients and/or their counterparts. No respondents stated an unwillingness to use the Policy again or to recommend its use to others.

The Audit Policy and related documents, including Agency interpretive guidance and general interest newsletters, are available on the Internet at www.epa.gov/oeca/ore/apolguid. Additional guidance for implementing the Policy in the context of criminal violations can be found at www.epa.gov/oeca/oceft/audpol2.html.

In addition to the Audit Policy, the Agency's revised Small Business Compliance Policy (''Small Business Policy'') is also available for small entities that employ 100 or fewer individuals. The Small Business Policy provides penalty mitigation, subject to certain conditions, for small businesses that make a good faith effort to comply with environmental requirements by discovering, disclosing and correcting violations. EPA has revised the Small Business Policy at the same time it revised the Audit Policy. The revised Small Business Policy will be available on the Internet at www.epa.gov/oeca/smbusi.html.

C. Purpose

The revised Policy being announced today is designed to encourage greater compliance with Federal laws and regulations that protect human health and the environment. It promotes a higher standard of self-policing by waiving gravity-based penalties for violations that are promptly disclosed and corrected, and which were discovered systematically—that is, through voluntary audits or compliance management systems. To provide an incentive for entities to disclose and correct violations regardless of how they were detected, the Policy reduces gravity-based penalties by 75% for violations that are voluntarily discovered and promptly disclosed and corrected, even if not discovered systematically.

EPA's enforcement program provides a strong incentive for compliance by imposing stiff sanctions for noncompliance. Enforcement has contributed to the dramatic expansion of environmental auditing as measured in numerous recent surveys. For example, in a 1995 survey by Price Waterhouse LLP, more than 90% of corporate respondents who conduct audits identified one of the reasons for doing so as the desire to find and correct violations before government inspectors discover them. (A copy of the survey is contained in the Docket as document VIII–A–76.)

At the same time, because government resources are limited, universal compliance cannot be achieved without active efforts by the regulated community to police themselves. More than half of the respondents to the same 1995 Price Waterhouse survey said that they would expand environmental auditing in exchange for reduced penalties for violations discovered and corrected. While many companies already audit or have compliance management programs in place, EPA believes that the incentives offered in this Policy will improve the frequency and quality of these self-policing efforts.

D. Incentives for Self-Policing

Section C of the Audit Policy identifies the major incentives that EPA

provides to encourage self-policing, self-disclosure, and prompt self-correction. For entities that meet the conditions of the Policy, the available incentives include waiving or reducing gravity-based civil penalties, declining to recommend criminal prosecution for regulated entities that self-police, and refraining from routine requests for audits. (As noted in Section C of the Policy, EPA has refrained from making routine requests for audit reports since issuance of its 1986 policy on environmental auditing.)

1. Eliminating Gravity-Based Penalties

In general, civil penalties that EPA assesses are comprised of two elements: the economic benefit component and the gravity-based component. The economic benefit component reflects the economic gain derived from a violator's illegal competitive advantage. Gravity-based penalties are that portion of the penalty over and above the economic benefit. They reflect the egregiousness of the violator's behavior and constitute the punitive portion of the penalty. For further discussion of these issues, see ''Calculation of the Economic Benefit of Noncompliance in EPA's Civil Penalty Enforcement Cases,'' 64 FR 32948 (June 18, 1999) and ''A Framework for Statute-Specific Approaches to Penalty Assessments,'' #GM–22 (1984), U.S. EPA General Enforcement Policy Compendium.

Under the Audit Policy, EPA will not seek gravity-based penalties for disclosing entities that meet all nine Policy conditions, including systematic discovery. (''Systematic discovery'' means the detection of a potential violation through an environmental audit or a compliance management system that reflects the entity's due diligence in preventing, detecting and correcting violations.) EPA has elected to waive gravity-based penalties for violations discovered systematically, recognizing that environmental auditing and compliance management systems play a critical role in protecting human health and the environment by identifying, correcting and ultimately preventing violations.

However, EPA reserves the right to collect any economic benefit that may have been realized as a result of noncompliance, even where the entity meets all other Policy conditions. Where the Agency determines that the economic benefit is insignificant, the Agency also may waive this component of the penalty.

EPA's decision to retain its discretion to recover economic benefit is based on two reasons. First, facing the risk that the Agency will recoup economic benefit provides an incentive for regulated entities to comply on time. Taxpayers whose payments are late expect to pay interest or a penalty; the same principle should apply to corporations and other regulated entities that have delayed their investment in compliance. Second, collecting economic benefit is fair because it protects law-abiding companies from being undercut by their noncomplying competitors, thereby preserving a level playing field.

2. 75% Reduction of Gravity-based Penalties

Gravity-based penalties will be reduced by 75% where the disclosing entity does not detect the violation through systematic discovery but otherwise meets all other Policy conditions. The Policy appropriately limits the complete waiver of gravity-based civil penalties to companies that conduct environmental auditing or have in place a compliance management system. However, to encourage disclosure and correction of violations even in the absence of systematic discovery, EPA will reduce gravity-based penalties by 75% for entities that meet conditions D(2) through D(9) of the Policy. EPA expects that a disclosure under this provision will encourage the entity to work with the Agency to resolve environmental problems and begin to develop an effective auditing program or compliance management system.

3. No Recommendations for Criminal Prosecution

In accordance with EPA's Investigative Discretion Memo dated January 12, 1994, EPA generally does not focus its criminal enforcement resources on entities that voluntarily discover, promptly disclose and expeditiously correct violations, unless there is potentially culpable behavior that merits criminal investigation. When a disclosure that meets the terms and conditions of this Policy results in a criminal investigation, EPA will generally not recommend criminal prosecution for the disclosing entity, although the Agency may recommend prosecution for culpable individuals and other entities. The 1994 Investigative Discretion Memo is available on the Internet at http://www.epa.gov/oeca/ore/ aed/comp/acomp/a11.html.

The ''no recommendation for criminal prosecution'' incentive is available for entities that meet conditions D(2) through D(9) of the Policy. Condition D(1) ''systematic discovery'' is not required to be eligible for this incentive, although the entity must be acting in good faith and must adopt a systematic approach to preventing recurring violations. Important limitations to the incentive apply. It will not be available, for example, where corporate officials are consciously involved in or willfully blind to violations, or conceal or condone noncompliance. Since the regulated entity must satisfy conditions D(2) through D(9) of the Policy, violations that cause serious harm or which may pose imminent and substantial endangerment to human health or the environment are not eligible. Finally, EPA reserves the right to recommend prosecution for the criminal conduct of any culpable individual or subsidiary organization.

While EPA may decide not to recommend criminal prosecution for disclosing entities, ultimate prosecutorial discretion resides with the U.S. Department of Justice, which will be guided by its own policy on voluntary disclosures (''Factors in Decisions on Criminal Prosecutions for Environmental Violations in the Context of Significant Voluntary Compliance or Disclosure Efforts by the Violator,'' July 1, 1991) and by its 1999 Guidance on Federal Prosecutions of Corporations. In addition, where a disclosing entity has met the conditions for avoiding a recommendation for criminal prosecution under this Policy, it will also be eligible for either 75% or 100% mitigation of gravity-based civil penalties, depending on whether the systematic discovery condition was met.

4. No Routine Requests for Audit Reports

EPA reaffirms its Policy, in effect since 1986, to refrain from routine requests for audit reports. That is, EPA has not and will not routinely request copies of audit reports to trigger enforcement investigations. Implementation of the 1995 Policy has produced no evidence that the Agency has deviated, or should deviate, from this Policy. In general, an audit that results in expeditious correction will reduce liability, not expand it. However, if the Agency has independent evidence of a violation, it may seek the information it needs to establish the extent and nature of the violation and the degree of culpability.

For discussion of the circumstances in which EPA might request an audit report to determine Policy eligibility, see the explanatory text on cooperation, section I.E.9.

E. Conditions

Section D describes the nine conditions that a regulated entity must

meet in order for the Agency to decline to seek (or to reduce) gravity-based penalties under the Policy. As explained in section I.D.1 above, regulated entities that meet all nine conditions will not face gravity-based civil penalties. If the regulated entity meets all of the conditions except for D(1)—systematic discovery—EPA will reduce gravity-based penalties by 75%. In general, EPA will not recommend criminal prosecution for disclosing entities that meet at least conditions D(2) through D(9).

1. Systematic Discovery of the Violation Through an Environmental Audit or a Compliance Management System

Under Section D(1), the violation must have been discovered through either (a) an environmental audit, or (b) a compliance management system that reflects due diligence in preventing, detecting and correcting violations. Both ''environmental audit'' and ''compliance management system'' are defined in Section B of the Policy.

The revised Policy uses the term ''compliance management system'' instead of ''due diligence,'' which was used in the 1995 Policy. This change in nomenclature is intended solely to conform the Policy language to terminology more commonly in use by industry and by regulators to refer to a systematic management plan or systematic efforts to achieve and maintain compliance. No substantive difference is intended by substituting the term ''compliance management system'' for ''due diligence,'' as the Policy clearly indicates that the compliance management system must reflect the regulated entity's due diligence in preventing, detecting and correcting violations.

Compliance management programs that train and motivate employees to prevent, detect and correct violations on a daily basis are a valuable complement to periodic auditing. Where the violation is discovered through a compliance management system and not through an audit, the disclosing entity should be prepared to document how its program reflects the due diligence criteria defined in Section B of the Policy statement. These criteria, which are adapted from existing codes of practice—such as Chapter Eight of the U.S. Sentencing Guidelines for organizational defendants, effective since 1991—are flexible enough to accommodate different types and sizes of businesses and other regulated entities. The Agency recognizes that a variety of compliance management programs are feasible, and it will determine whether basic due diligence criteria have been met in deciding whether to grant Audit Policy credit.

As a condition of penalty mitigation, EPA may require that a description of the regulated entity's compliance management system be made publicly available. The Agency believes that the availability of such information will allow the public to judge the adequacy of compliance management systems, lead to enhanced compliance, and foster greater public trust in the integrity of compliance management systems.

2. Voluntary Discovery

Under Section D(2), the violation must have been identified voluntarily, and not through a monitoring, sampling, or auditing procedure that is required by statute, regulation, permit, judicial or administrative order, or consent agreement. The Policy provides three specific examples of discovery that would not be voluntary, and therefore would not be eligible for penalty mitigation: emissions violations detected through a required continuous emissions monitor, violations of NPDES discharge limits found through prescribed monitoring, and violations discovered through a compliance audit required to be performed by the terms of a consent order or settlement agreement. The exclusion does not apply to violations that are discovered pursuant to audits that are conducted as part of a comprehensive environmental management system (EMS) required under a settlement agreement. In general, EPA supports the implementation of EMSs that promote compliance, prevent pollution and improve overall environmental performance. Precluding the availability of the Audit Policy for discoveries made through a comprehensive EMS that has been implemented pursuant to a settlement agreement might discourage entities from agreeing to implement such a system.

In some instances, certain Clean Air Act violations discovered, disclosed and corrected by a company prior to issuance of a Title V permit are eligible for penalty mitigation under the Policy. For further guidance in this area, see ''Reduced Penalties for Disclosures of Certain Clean Air Act Violations,'' Memorandum from Eric Schaeffer, Director of the EPA Office of Regulatory Enforcement, dated September 30, 1999. This document is available on the Internet at www.epa.gov/oeca/ore/apolguid.html.

The voluntary requirement applies to discovery only, not reporting. That is, any violation that is voluntarily discovered is generally eligible for Audit Policy credit, regardless of whether reporting of the violation was required after it was found.

3. Prompt Disclosure

Section D(3) requires that the entity disclose the violation in writing to EPA within 21 calendar days after discovery. If the 21st day after discovery falls on a weekend or Federal holiday, the disclosure period will be extended to the first business day following the 21st day after discovery. If a statute or regulation requires the entity to report the violation in fewer than 21 days, disclosure must be made within the time limit established by law. (For example, unpermitted releases of hazardous substances must be reported immediately under 42 U.S.C. 9603.) Disclosures under this Policy should be made to the appropriate EPA Regional office or, where multiple Regions are involved, to EPA Headquarters. The Agency will work closely with States as needed to ensure fair and efficient implementation of the Policy. For additional guidance on making disclosures, contact the Audit Policy National Coordinator at EPA Headquarters at 202–564–5123.

The 21-day disclosure period begins when the entity discovers that a violation has, or may have, occurred. The trigger for discovery is when any officer, director, employee or agent of the facility has an objectively reasonable basis for believing that a violation has, or may have, occurred. The ''objectively reasonable basis'' standard is measured against what a prudent person, having the same information as was available to the individual in question, would have believed. It is not measured against what the individual in question thought was reasonable at the time the situation was encountered. If an entity has some doubt as to the existence of a violation, the recommended course is for the entity to proceed with the disclosure and allow the regulatory authorities to make a definitive determination. Contract personnel who provide on-site services at the facility may be treated as employees or agents for purposes of the Policy.

If the 21-day period has not yet expired and an entity suspects that it will be unable to meet the deadline, the entity should contact the appropriate EPA office in advance to develop disclosure terms acceptable to EPA. For situations in which the 21-day period already has expired, the Agency may accept a late disclosure in the exceptional case, such as where there are complex circumstances, including where EPA determines the violation could not be identified and disclosed within 21 calendar days after discovery.

EPA also may extend the disclosure period when multiple facilities or acquisitions are involved.

In the multi-facility context, EPA will ordinarily extend the 21-day period to allow reasonable time for completion and review of multi-facility audits where: (a) EPA and the entity agree on the timing and scope of the audits prior to their commencement; and (b) the facilities to be audited are identified in advance. In the acquisitions context, EPA will consider extending the prompt disclosure period on a case-by-case basis. The 21-day disclosure period will begin on the date of discovery by the acquiring entity, but in no case will the period begin earlier than the date of acquisition.

In summary, Section D(3) recognizes that it is critical for EPA to receive timely reporting of violations in order to have clear notice of the violations and the opportunity to respond if necessary. Prompt disclosure is also evidence of the regulated entity's good faith in wanting to achieve or return to compliance as soon as possible. The integrity of Federal environmental law depends upon timely and accurate reporting. The public relies on timely and accurate reports from the regulated community, not only to measure compliance but to evaluate health or environmental risk and gauge progress in reducing pollutant loadings. EPA expects the Policy to encourage the kind of vigorous self-policing that will serve these objectives and does not intend that it justify delayed reporting. When violations of reporting requirements are voluntarily discovered, they must be promptly reported. When a failure to report results in imminent and substantial endangerment or serious harm to the environment, Audit Policy credit is precluded under condition D(8).

4. Discovery and Disclosure Independent of Government or Third Party Plaintiff

Under Section D(4), the entity must discover the violation independently. That is, the violation must be discovered and identified before EPA or another government agency likely would have identified the problem either through its own investigative work or from information received through a third party. This condition requires regulated entities to take the initiative to find violations on their own and disclose them promptly instead of waiting for an indication of a pending enforcement action or third-party complaint.

Section D(4)(a) lists the circumstances under which discovery and disclosure will not be considered independent. For example, a disclosure will not be independent where EPA is already investigating the facility in question. However, under subsection (a), where the entity does not know that EPA has commenced a civil investigation and proceeds in good faith to make a disclosure under the Audit Policy, EPA may, in its discretion, provide penalty mitigation under the Audit Policy. The subsection (a) exception applies only to civil investigations; it does not apply in the criminal context. Other examples of situations in which a discovery is not considered independent are where a citizens' group has provided notice of its intent to sue, where a third party has already filed a complaint, where a whistleblower has reported the potential violation to government authorities, or where discovery of the violation by the government was imminent. Condition D(4)(c)—the filing of a complaint by a third party—covers formal judicial and administrative complaints as well as informal complaints, such as a letter from a citizens' group alerting EPA to a potential environmental violation.

Regulated entities that own or operate multiple facilities are subject to section D(4)(b) in addition to D(4)(a). EPA encourages multi-facility auditing and does not intend for the ''independent discovery'' condition to preclude availability of the Audit Policy when multiple facilities are involved. Thus, if a regulated entity owns or operates multiple facilities, the fact that one of its facilities is the subject of an investigation, inspection, information request or third-party complaint does not automatically preclude the Agency from granting Audit Policy credit for disclosures of violations self-discovered at the other facilities, assuming all other Audit Policy conditions are met. However, just as in the single-facility context, where a facility is already the subject of a government inspection, investigation or information request (including a broad information request that covers multiple facilities), it will generally not be eligible for Audit Policy credit. The Audit Policy is designed to encourage regulated entities to disclose violations before any of their facilities are under investigation, not after EPA discovers violations at one facility. Nevertheless, the Agency retains its full discretion under the Audit Policy to grant penalty waivers or reductions for good-faith disclosures made in the multi-facility context. EPA has worked closely with a number of entities that have received Audit Policy credit for multi-facility disclosures, and entities contemplating multi-facility auditing are encouraged to contact the Agency with any questions concerning Audit Policy availability.

5. Correction and Remediation

Under Section D(5), the entity must remedy any harm caused by the violation and expeditiously certify in writing to appropriate Federal, State, and local authorities that it has corrected the violation. Correction and remediation in this context include responding to spills and carrying out any removal or remedial actions required by law. The certification requirement enables EPA to ensure that the regulated entity will be publicly accountable for its commitments through binding written agreements, orders or consent decrees where necessary.

Under the Policy, the entity must correct the violation within 60 calendar days from the date of discovery, or as expeditiously as possible. EPA recognizes that some violations can and should be corrected immediately, while others may take longer than 60 days to correct. For example, more time may be required if capital expenditures are involved or if technological issues are a factor. If more than 60 days will be required, the disclosing entity must so notify the Agency in writing prior to the conclusion of the 60-day period. In all cases, the regulated entity will be expected to do its utmost to achieve or return to compliance as expeditiously as possible.

If correction of the violation depends upon issuance of a permit that has been applied for but not issued by Federal or State authorities, the Agency will, where appropriate, make reasonable efforts to secure timely review of the permit.

6. Prevent Recurrence

Under Section D(6), the regulated entity must agree to take steps to prevent a recurrence of the violation after it has been disclosed. Preventive steps may include, but are not limited to, improvements to the entity's environmental auditing efforts or compliance management system.

7. No Repeat Violations

Condition D(7) bars repeat offenders from receiving Audit Policy credit. Under the repeat violations exclusion, the same or a closely-related violation must not have occurred at the same facility within the past 3 years. The 3-year period begins to run when the government or a third party has given the violator notice of a specific violation, without regard to when the original violation cited in the notice

actually occurred. Examples of notice include a complaint, consent order, notice of violation, receipt of an inspection report, citizen suit, or receipt of penalty mitigation through a compliance assistance or incentive project.

When the facility is part of a multi-facility organization, Audit Policy relief is not available if the same or a closely-related violation occurred as part of a pattern of violations at one or more of these facilities within the past 5 years. If a facility has been newly acquired, the existence of a violation prior to acquisition does not trigger the repeat violations exclusion.

The term ''violation'' includes any violation subject to a Federal, State or local civil judicial or administrative order, consent agreement, conviction or plea agreement. Recognizing that minor violations sometimes are settled without a formal action in court, the term also covers any act or omission for which the regulated entity has received a penalty reduction in the past. This condition covers situations in which the regulated entity has had clear notice of its noncompliance and an opportunity to correct the problem.

The repeat violation exclusion benefits both the public and law-abiding entities by ensuring that penalties are not waived for those entities that have previously been notified of violations and fail to prevent repeat violations. The 3-year and 5-year ''bright lines'' in the exclusion are designed to provide regulated entities with clear notice about when the Policy will be available.

8. Other Violations Excluded

Section D(8) provides that Policy benefits are not available for certain types of violations. Subsection D(8)(a) excludes violations that result in serious actual harm to the environment or which may have presented an imminent and substantial endangerment to public health or the environment. When events of such a consequential nature occur, violators are ineligible for penalty relief and other incentives under the Audit Policy. However, this condition does not bar an entity from qualifying for Audit Policy relief solely because the violation involves release of a pollutant to the environment, as such releases do not necessarily result in serious actual harm or an imminent and substantial endangerment. To date, EPA has not invoked the serious actual harm or the imminent and substantial endangerment clauses to deny Audit Policy credit for any disclosure.

Subsection D(8)(b) excludes violations of the specific terms of any order, consent agreement, or plea agreement. Once a consent agreement has been negotiated, there is little incentive to comply if there are no sanctions for violating its specific requirements. The exclusion in this section also applies to violations of the terms of any response, removal or remedial action covered by a written agreement.

9. Cooperation

Under Section D(9), the regulated entity must cooperate as required by EPA and provide the Agency with the information it needs to determine Policy applicability. The entity must not hide, destroy or tamper with possible evidence following discovery of potential environmental violations. In order for the Agency to apply the Policy fairly, it must have sufficient information to determine whether its conditions are satisfied in each individual case. In general, EPA requests audit reports to determine the applicability of this Policy only where the information contained in the audit report is not readily available elsewhere and where EPA decides that the information is necessary to determine whether the terms and conditions of the Policy have been met. In the rare instance where an EPA Regional office seeks to obtain an audit report because it is otherwise unable to determine whether Policy conditions have been met, the Regional office will notify the Office of Regulatory Enforcement at EPA headquarters.

Entities that disclose potential criminal violations may expect a more thorough review by the Agency. In criminal cases, entities will be expected to provide, at a minimum, the following: access to all requested documents; access to all employees of the disclosing entity; assistance in investigating the violation, any noncompliance problems related to the disclosure, and any environmental consequences related to the violations; access to all information relevant to the violations disclosed, including that portion of the environmental audit report or documentation from the compliance management system that revealed the violation; and access to the individuals who conducted the audit or review.

F. Opposition to Audit Privilege and Immunity

The Agency believes that the Audit Policy provides effective incentives for self-policing without impairing law enforcement, putting the environment at risk or hiding environmental compliance information from the public. Although EPA encourages environmental auditing, it must do so without compromising the integrity and enforceability of environmental laws. It is important to distinguish between EPA's Audit Policy and the audit privilege and immunity laws that exist in some States. The Agency remains firmly opposed to statutory and regulatory audit privileges and immunity. Privilege laws shield evidence of wrongdoing and prevent States from investigating even the most serious environmental violations. Immunity laws prevent States from obtaining penalties that are appropriate to the seriousness of the violation, as they are required to do under Federal law. Audit privilege and immunity laws are unnecessary, undermine law enforcement, impair protection of human health and the environment, and interfere with the public's right to know of potential and existing environmental hazards.

Statutory audit privilege and immunity run counter to encouraging the kind of openness that builds trust between regulators, the regulated community and the public. For example, privileged information on compliance contained in an audit report may include information on the cause of violations, the extent of environmental harm, and what is necessary to correct the violations and prevent their recurrence. Privileged information is unavailable to law enforcers and to members of the public who have suffered harm as a result of environmental violations. The Agency opposes statutory immunity because it diminishes law enforcement's ability to discourage wrongful behavior and interferes with a regulator's ability to punish individuals who disregard the law and place others in danger. The Agency believes that its Audit Policy provides adequate incentives for self-policing but without secrecy and without abdicating its discretion to act in cases of serious environmental violations.

Privilege, by definition, invites secrecy, instead of the openness needed to build public trust in industry's ability to self-police. American law reflects the high value that the public places on fair access to the facts. The Supreme Court, for example, has said of privileges that, '' [w]hatever their origins, these exceptions to the demand for every man's evidence are not lightly created nor expansively construed, for they are in derogation of the search for truth.'' *United States* v. *Nixon*, 418 U.S. 683, 710 (1974). Federal courts have unanimously refused to recognize a privilege for environmental audits in the context of government investigations. See, *e.g., United States* v. *Dexter Corp.,* 132 F.R.D. 8, 10 (D.Conn. 1990)

(application of a privilege ''would effectively impede [EPA's] ability to enforce the Clean Water Act, and would be contrary to stated public policy.'') Cf. In re Grand Jury Proceedings, 861 F. Supp. 386 (D. Md. 1994) (company must comply with a subpoena under Food, Drug and Cosmetics Act for self-evaluative documents).

G. Effect on States

The revised final Policy reflects EPA's desire to provide fair and effective incentives for self-policing that have practical value to States. To that end, the Agency has consulted closely with State officials in developing this Policy. As a result, EPA believes its revised final Policy is grounded in commonsense principles that should prove useful in the development and implementation of State programs and policies.

EPA recognizes that States are partners in implementing the enforcement and compliance assurance program. When consistent with EPA's policies on protecting confidential and sensitive information, the Agency will share with State agencies information on disclosures of violations of Federally-authorized, approved or delegated programs. In addition, for States that have adopted their own audit policies in Federally-authorized, approved or delegated programs, EPA will generally defer to State penalty mitigation for self-disclosures as long as the State policy meets minimum requirements for Federal delegation. Whenever a State provides a penalty waiver or mitigation for a violation of a requirement contained in a Federally-authorized, approved or delegated program to an entity that discloses those violations in conformity with a State audit policy, the State should notify the EPA Region in which it is located. This notification will ensure that Federal and State enforcement responses are coordinated properly.

For further information about minimum delegation requirements and the effect of State audit privilege and immunity laws on enforcement authority, see ''Statement of Principles: Effect of State Audit/Immunity Privilege Laws on Enforcement Authority for Federal Programs,'' Memorandum from Steven A. Herman et al, dated February 14, 1997, to be posted on the Internet under www.epa.gov/oeca/oppa.

As always, States are encouraged to experiment with different approaches to assuring compliance as long as such approaches do not jeopardize public health or the environment, or make it profitable not to comply with Federal environmental requirements. The Agency remains opposed to State legislation that does not include these basic protections, and reserves its right to bring independent action against regulated entities for violations of Federal law that threaten human health or the environment, reflect criminal conduct or repeated noncompliance, or allow one company to profit at the expense of its law-abiding competitors.

H. Scope of Policy

EPA has developed this Policy to guide settlement actions. It is the Agency's practice to make public all compliance agreements reached under this Policy in order to provide the regulated community with fair notice of decisions and to provide affected communities and the public with information regarding Agency action. Some in the regulated community have suggested that the Agency should convert the Policy into a regulation because they feel doing so would ensure greater consistency and predictability. Following its three-year evaluation of the Policy, however, the Agency believes that there is ample evidence that the Policy has worked well and that there is no need for a formal rulemaking. Furthermore, as the Agency seeks to respond to lessons learned from its increasing experience handling self-disclosures, a policy is much easier to amend than a regulation. Nothing in today's release of the revised final Policy is intended to change the status of the Policy as guidance.

I. Implementation of Policy

1. Civil Violations

Pursuant to the Audit Policy, disclosures of civil environmental violations should be made to the EPA Region in which the entity or facility is located or, where the violations to be disclosed involve more than one EPA Region, to EPA Headquarters. The Regional or Headquarters offices decide whether application of the Audit Policy in a specific case is appropriate. Obviously, once a matter has been referred for civil judicial prosecution, DOJ becomes involved as well. Where there is evidence of a potential criminal violation, the civil offices coordinate with criminal enforcement offices at EPA and DOJ.

To resolve issues of national significance and ensure that the Policy is applied fairly and consistently across EPA Regions and at Headquarters, the Agency in 1995 created the Audit Policy Quick Response Team (QRT). The QRT is comprised of representatives from the Regions, Headquarters, and DOJ. It meets on a regular basis to address issues of interpretation and to coordinate self-disclosure initiatives. In addition, in 1999 EPA established a National Coordinator position to handle Audit Policy issues and implementation. The National Coordinator chairs the QRT and, along with the Regional Audit Policy coordinators, serves as a point of contact on Audit Policy issues in the civil context.

2. Criminal Violations

Criminal disclosures are handled by the Voluntary Disclosure Board (VDB), which was established by EPA in 1997. The VDB ensures consistent application of the Audit Policy in the criminal context by centralizing Policy interpretation and application within the Agency.

Disclosures of potential criminal violations may be made directly to the VDB, to an EPA regional criminal investigation division or to DOJ. In all cases, the VDB coordinates with the investigative team and the appropriate prosecuting authority. During the course of the investigation, the VDB routinely monitors the progress of the investigation as necessary to ensure that sufficient facts have been established to determine whether to recommend that relief under the Policy be granted.

At the conclusion of the criminal investigation, the Board makes a recommendation to the Director of EPA's Office of Criminal Enforcement, Forensics, and Training, who serves as the Deciding Official. Upon receiving the Board's recommendation, the Deciding Official makes his or her final recommendation to the appropriate United States Attorney's Office and/or DOJ. The recommendation of the Deciding Official, however, is only that—a recommendation. The United States Attorney's Office and/or DOJ retain full authority to exercise prosecutorial discretion.

3. Release of Information to the Public

Upon formal settlement, EPA places copies of settlements in the Audit Policy Docket. EPA also makes other documents related to self-disclosures publicly available, unless the disclosing entity claims them as Confidential Business Information (and that claim is validated by U.S. EPA), unless another exemption under the Freedom of Information Act is asserted and/or applies, or the Privacy Act or any other law would preclude such release. Presumptively releasable documents include compliance agreements reached under the Policy (see Section H) and descriptions of compliance management systems submitted under Section D(1).

Any material claimed to be Confidential Business Information will be treated in accordance with EPA regulations at 40 CFR Part 2. In determining what documents to release, EPA is guided by the Memorandum from Assistant Administrator Steven A. Herman entitled ''Confidentiality of Information Received Under Agency's Self-Disclosure Policy,'' available on the Internet at www.epa.gov/oeca/sahmemo.html.

II. Statement of Policy—Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations

A. Purpose

This Policy is designed to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of Federal environmental requirements.

B. Definitions

For purposes of this Policy, the following definitions apply:

''Environmental Audit'' is a systematic, documented, periodic and objective review by regulated entities of facility operations and practices related to meeting environmental requirements.

''Compliance Management System'' encompasses the regulated entity's documented systematic efforts, appropriate to the size and nature of its business, to prevent, detect and correct violations through all of the following:

(a) Compliance policies, standards and procedures that identify how employees and agents are to meet the requirements of laws, regulations, permits, enforceable agreements and other sources of authority for environmental requirements;

(b) Assignment of overall responsibility for overseeing compliance with policies, standards, and procedures, and assignment of specific responsibility for assuring compliance at each facility or operation;

(c) Mechanisms for systematically assuring that compliance policies, standards and procedures are being carried out, including monitoring and auditing systems reasonably designed to detect and correct violations, periodic evaluation of the overall performance of the compliance management system, and a means for employees or agents to report violations of environmental requirements without fear of retaliation;

(d) Efforts to communicate effectively the regulated entity's standards and procedures to all employees and other agents;

(e) Appropriate incentives to managers and employees to perform in accordance with the compliance policies, standards and procedures, including consistent enforcement through appropriate disciplinary mechanisms; and

(f) Procedures for the prompt and appropriate correction of any violations, and any necessary modifications to the regulated entity's compliance management system to prevent future violations.

''Environmental audit report'' means the documented analysis, conclusions, and recommendations resulting from an environmental audit, but does not include data obtained in, or testimonial evidence concerning, the environmental audit.

''Gravity-based penalties'' are that portion of a penalty over and above the economic benefit, *i.e.,* the punitive portion of the penalty, rather than that portion representing a defendant's economic gain from noncompliance.

''Regulated entity'' means any entity, including a Federal, State or municipal agency or facility, regulated under Federal environmental laws.

C. Incentives for Self-Policing

1. No Gravity-Based Penalties

If a regulated entity establishes that it satisfies all of the conditions of Section D of this Policy, EPA will not seek gravity-based penalties for violations of Federal environmental requirements discovered and disclosed by the entity.

2. Reduction of Gravity-Based Penalties by 75%

If a regulated entity establishes that it satisfies all of the conditions of Section D of this Policy except for D(1)—systematic discovery—EPA will reduce by 75% gravity-based penalties for violations of Federal environmental requirements discovered and disclosed by the entity.

3. No Recommendation for Criminal Prosecution

(a) If a regulated entity establishes that it satisfies at least conditions D(2) through D(9) of this Policy, EPA will not recommend to the U.S. Department of Justice or other prosecuting authority that criminal charges be brought against the disclosing entity, as long as EPA determines that the violation is not part of a pattern or practice that demonstrates or involves:

(i) A prevalent management philosophy or practice that conceals or condones environmental violations; or

(ii) High-level corporate officials' or managers' conscious involvement in, or willful blindness to, violations of Federal environmental law;

(b) Whether or not EPA recommends the regulated entity for criminal prosecution under this section, the Agency may recommend for prosecution the criminal acts of individual managers or employees under existing policies guiding the exercise of enforcement discretion.

4. No Routine Request for Environmental Audit Reports

EPA will neither request nor use an environmental audit report to initiate a civil or criminal investigation of an entity. For example, EPA will not request an environmental audit report in routine inspections. If the Agency has independent reason to believe that a violation has occurred, however, EPA may seek any information relevant to identifying violations or determining liability or extent of harm.

D. Conditions

1. Systematic Discovery

The violation was discovered through:

(a) An environmental audit; or

(b) A compliance management system reflecting the regulated entity's due diligence in preventing, detecting, and correcting violations. The regulated entity must provide accurate and complete documentation to the Agency as to how its compliance management system meets the criteria for due diligence outlined in Section B and how the regulated entity discovered the violation through its compliance management system. EPA may require the regulated entity to make publicly available a description of its compliance management system.

2. Voluntary Discovery

The violation was discovered voluntarily and not through a legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement. For example, the Policy does not apply to:

(a) Emissions violations detected through a continuous emissions monitor (or alternative monitor established in a permit) where any such monitoring is required;

(b) Violations of National Pollutant Discharge Elimination System (NPDES) discharge limits detected through required sampling or monitoring; or

(c) Violations discovered through a compliance audit required to be performed by the terms of a consent order or settlement agreement, unless the audit is a component of agreement terms to implement a comprehensive environmental management system.

3. Prompt Disclosure

The regulated entity fully discloses the specific violation in writing to EPA within 21 days (or within such shorter time as may be required by law) after the entity discovered that the violation has, or may have, occurred. The time at which the entity discovers that a violation has, or may have, occurred begins when any officer, director, employee or agent of the facility has an objectively reasonable basis for believing that a violation has, or may have, occurred.

4. Discovery and Disclosure Independent of Government or Third-Party Plaintiff

(a) The regulated entity discovers and discloses the potential violation to EPA prior to:

(i) The commencement of a Federal, State or local agency inspection or investigation, or the issuance by such agency of an information request to the regulated entity (where EPA determines that the facility did not know that it was under civil investigation, and EPA determines that the entity is otherwise acting in good faith, the Agency may exercise its discretion to reduce or waive civil penalties in accordance with this Policy);

(ii) Notice of a citizen suit;

(iii) The filing of a complaint by a third party;

(iv) The reporting of the violation to EPA (or other government agency) by a ''whistleblower'' employee, rather than by one authorized to speak on behalf of the regulated entity; or

(v) imminent discovery of the violation by a regulatory agency.

(b) For entities that own or operate multiple facilities, the fact that one facility is already the subject of an investigation, inspection, information request or third-party complaint does not preclude the Agency from exercising its discretion to make the Audit Policy available for violations self-discovered at other facilities owned or operated by the same regulated entity.

5. Correction and Remediation

The regulated entity corrects the violation within 60 calendar days from the date of discovery, certifies in writing that the violation has been corrected, and takes appropriate measures as determined by EPA to remedy any environmental or human harm due to the violation. EPA retains the authority to order an entity to correct a violation within a specific time period shorter than 60 days whenever correction in such shorter period of time is feasible and necessary to protect public health and the environment adequately. If more than 60 days will be needed to correct the violation, the regulated entity must so notify EPA in writing before the 60-day period has passed. Where appropriate, to satisfy conditions D(5) and D(6), EPA may require a regulated entity to enter into a publicly available written agreement, administrative consent order or judicial consent decree as a condition of obtaining relief under the Audit Policy, particularly where compliance or remedial measures are complex or a lengthy schedule for attaining and maintaining compliance or remediating harm is required.

6. Prevent Recurrence

The regulated entity agrees in writing to take steps to prevent a recurrence of the violation. Such steps may include improvements to its environmental auditing or compliance management system.

7. No Repeat Violations

The specific violation (or a closely related violation) has not occurred previously within the past three years at the same facility, and has not occurred within the past five years as part of a pattern at multiple facilities owned or operated by the same entity. For the purposes of this section, a violation is:

(a) Any violation of Federal, State or local environmental law identified in a judicial or administrative order, consent agreement or order, complaint, or notice of violation, conviction or plea agreement; or

(b) Any act or omission for which the regulated entity has previously received penalty mitigation from EPA or a State or local agency.

8. Other Violations Excluded

The violation is not one which (a) resulted in serious actual harm, or may have presented an imminent and substantial endangerment, to human health or the environment, or (b) violates the specific terms of any judicial or administrative order, or consent agreement.

9. Cooperation

The regulated entity cooperates as requested by EPA and provides such information as is necessary and requested by EPA to determine applicability of this Policy.

E. Economic Benefit

EPA retains its full discretion to recover any economic benefit gained as a result of noncompliance to preserve a ''level playing field'' in which violators do not gain a competitive advantage over regulated entities that do comply. EPA may forgive the entire penalty for violations that meet conditions D(1) through D(9) and, in the Agency's opinion, do not merit any penalty due to the insignificant amount of any economic benefit.

F. Effect on State Law, Regulation or Policy

EPA will work closely with States to encourage their adoption and implementation of policies that reflect the incentives and conditions outlined in this Policy. EPA remains firmly opposed to statutory environmental audit privileges that shield evidence of environmental violations and undermine the public's right to know, as well as to blanket immunities, particularly immunities for violations that reflect criminal conduct, present serious threats or actual harm to health and the environment, allow noncomplying companies to gain an economic advantage over their competitors, or reflect a repeated failure to comply with Federal law. EPA will work with States to address any provisions of State audit privilege or immunity laws that are inconsistent with this Policy and that may prevent a timely and appropriate response to significant environmental violations. The Agency reserves its right to take necessary actions to protect public health or the environment by enforcing against any violations of Federal law.

G. Applicability

(1) This Policy applies to settlement of claims for civil penalties for any violations under all of the Federal environmental statutes that EPA administers, and supersedes any inconsistent provisions in media-specific penalty or enforcement policies and EPA's 1995 Policy on ''Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations.''

(2) To the extent that existing EPA enforcement policies are not inconsistent, they will continue to apply in conjunction with this Policy. However, a regulated entity that has received penalty mitigation for satisfying specific conditions under this Policy may not receive additional penalty mitigation for satisfying the same or similar conditions under other policies for the same violation, nor will this Policy apply to any violation that has received penalty mitigation under other policies. Where an entity has failed to meet any of conditions D(2) through D(9) and is therefore not eligible for penalty relief under this Policy, it may still be eligible for penalty

relief under other EPA media-specific enforcement policies in recognition of good faith efforts, even where, for example, the violation may have presented an imminent and substantial endangerment or resulted in serious actual harm.

(3) This Policy sets forth factors for consideration that will guide the Agency in the exercise of its enforcement discretion. It states the Agency's views as to the proper allocation of its enforcement resources. The Policy is not final agency action and is intended as guidance. This Policy is not intended, nor can it be relied upon, to create any rights enforceable by any party in litigation with the United States. As with the 1995 Audit Policy, EPA may decide to follow guidance provided in this document or to act at variance with it based on its analysis of the specific facts presented. This Policy may be revised without public notice to reflect changes in EPA's approach to providing incentives for self-policing by regulated entities, or to clarify and update text.

(4) This Policy should be used whenever applicable in settlement negotiations for both administrative and civil judicial enforcement actions. It is not intended for use in pleading, at hearing or at trial. The Policy may be applied at EPA's discretion to the settlement of administrative and judicial enforcement actions instituted prior to, but not yet resolved, as of the effective date of this Policy.

(5) For purposes of this Policy, violations discovered pursuant to an environmental audit or compliance management system may be considered voluntary even if required under an Agency ''partnership'' program in which the entity participates, such as regulatory flexibility pilot projects like Project XL. EPA will consider application of the Audit Policy to such partnership program projects on a project-by-project basis.

(6) EPA has issued interpretive guidance addressing several applicability issues pertaining to the Audit Policy. Entities considering whether to take advantage of the Audit Policy should review that guidance to see if it addresses any relevant questions. The guidance can be found on the Internet at www.epa.gov/oeca/ore/apolguid.html.

H. Public Accountability

EPA will make publicly available the terms and conditions of any compliance agreement reached under this Policy, including the nature of the violation, the remedy, and the schedule for returning to compliance.

I. Effective Date

This revised Policy is effective May 11, 2000.

Dated: March 30, 2000.

Steven A. Herman,

Assistant Administrator for Enforcement and Compliance Assurance.

[FR Doc. 00–8954 Filed 4–10–00; 8:45 am]

BILLING CODE 6560–50–P

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Safety and Health Safety Policy

Canam Steel Corporation – Jacksonville believes its employees are its most valuable resources. Therefore, all operations will be performed in a safe and healthful manner. Safety must be viewed as a company value.

In order to provide a safe and healthful work environment, as well as to compete with other companies and stay profitable, Canam Steel – Jacksonville must reduce the number of accidents, injuries and illnesses and their severity. Our goal is total elimination of accidents and to be the safest most productive workers in the industry. The development and implementation of our Corporate Safety and Management System will help us accomplish this goal.

All levels of management are expected to take a proactive role and participate in the safety process. We must lead by setting the example and standard for our peers and employees to follow. Management's safety efforts must be visible, vocal and continuous if we are to achieve a Total Safety Culture.

All employees are expected to take a proactive role in the safety and health process. Each employee will be expected to participate in safety program activities and functions.

Canam Steel - Jacksonville will attempt to provide all personnel with a reasonably safe and healthful workplace. All this will be accomplished by management and employees accepting their safety responsibilities. Following government regulations and company rules will help accomplish this.

_____
General Manager

_____
Date

Safety Goals and Objectives

Safety Goal: Canam Steel Corporation will seek to eliminate accidents, injuries and illnesses in the workplace.

Objectives:

1. Develop and implement a comprehensive Safety and Health Management System and written programs.
2. Managers, superintendents, supervisors and safety committee members will assist with the development and implementation of the Safety and Health Management System.
3. Managers, superintendents, supervisors and members of the safety committee will manage the safety and health management system.
4. Employees will be involved in the development and implementation of the Safety and Health Management System.
5. Develop and implement a management, superintendent, supervisor, and employee Safety training program.
6. Assign managers, superintendents, supervisors, members of the safety committee, and all employees the responsibility to carry out safety tasks and ensure each is held accountable for completion of these tasks.

Top Management Leadership

In order for Canam Steel Corporation's Safety and Health Management System to be effective, all levels of management must become actively involved in safety. Management must lead by example. Leadership will include all of the following:

- Learn how to manage employee safety and health.
- Learn how the Safety and Health Management System functions.
- Assist with the development and implementation of the Safety and Health Management System.
- Train all company personnel on Canam Steel Corporation safety programs and procedures.
- Assign various employees (managers, supervisors, safety committee, etc.) safety tasks and hold these employees accountable for completion of each task.
- Attend safety meetings and other safety functions.
- Follow safety procedures.
- Ensure employees have a safe and healthful workplace by eliminating hazards
- Address and correct all safety and health hazards in a reasonable time span.
- Provide the necessary resources to achieve a safe and healthful workplace.

Safety & Environmental Coordinator Responsibilities

The job responsibilities have been divided into four different sections that include Floor Presence, Safety Program Development and Implementation, Training Activities, and Professional Competence and Development.

Floor Presence - Dedicate a minimum of 50% of their time physically within the manufacturing facility and visible on all shifts.

- Safety Coaching for managers, superintendents, supervisors and employees
- Observe the production process
- Perform Hazard Assessments
- Perform safety and environmental inspections, make recommendations and follow-up on corrective action
- Develop managers, superintendents, supervisor and employees to increase the presence of safety
- Ongoing communication with shop personnel

Safety Program Development and Implementation

- Perform a trend analysis - review the past 5 years of OSHA 200 logs and First Reports of Injury (or Accident Investigations).
- Develop and share monthly Pareto Charts for types of injuries, source of injuries, number of injuries each supervisor had on his/her line, etc.)
- Develop safety goals and objectives with managers, superintendents, and supervisors (goals and objectives should be based on the trend analysis).
- Assist with the development and implementation of a comprehensive safety and health management system that includes the 4 major elements (Management Leadership & Employee Involvement, Workplace Analysis, Hazard Prevention & Control, and Safety Training).
- Measure and evaluate the effectiveness of the safety programs (i.e. Emergency Action, Hazwoper, etc.)
- Regularly review and revise safety programs
- Coordinate activities (i.e. Industrial Hygiene Monitoring, Audiograms, etc.) with external agencies.
- Organize and lead the safety committee (i.e., First Aid Room inspections & inventory, crane inspections, hazardous waste inspections, Job Hazard Analysis, etc.)
- Assist the Corporate Safety Manager with the development, implementation, measurement, and evaluation of the safety and health program.
- Assist the Corporate Safety Manager and Environmental Coordinator with the development, implementation, measurement, and evaluation of the environmental programs (i.e. Storm Water Pollution Prevention Plan, Hazardous and Non-Hazardous Waste disposal, etc.)

Safety & Environmental Coordinator Responsibilities

Training Activities

- Develop and implement a formal safety and environmental training program (i.e. Hazard Communication, Lockout/Tagout, Hazardous Waste Management, etc.)
- Develop and implement a safety and environmental training schedule.
- Assist with management and supervisor training
- Organize training performed by external agencies (i.e., First Aid & CPR, Hazwoper, Fire Fighting, etc.)
- Communicate safety information (such as industrial hygiene results, number of injuries, cost effectiveness, etc.) to management, supervisors, and employees.

Professional Competence and Development:

- Demonstrate competence in all regulations (i.e., Federal and State OSHA, EPA/DOE, DOT, Workers' Compensation Claims management, etc.)
- Continuing education and training by attending seminars, classes, professional association meetings, etc.)
- Achieve professional certification (Associate Safety Professional or Certified Safety Professional).
- Maintain a positive work atmosphere by behaving and communicating in an effective manner with customers, co-workers, clients, and supervisors.

Safety and Health Responsibilities
Management

- Lead by example
- Provide a safe and healthful work environment.
- Provide the leadership and resources to carry out the safety function.
- Provide support to the safety coordinator and other personnel assisting with safety.
- Comply with federal and state regulatory requirements.
- Assign responsibility to managers, superintendents, supervisors, safety committee members and employees.
- Ensure the Corporate Safety and Health Management Program and system are developed and implemented.
- Continuously improve the Safety and Health Management System.
- Perform audits to ensure the Safety and Health Management System is meeting the company's needs.
- Ensure safety and environmental inspections are completed as necessary
- Require all vendors, customers, subcontractors and visitors to comply with company safety procedures.
- Provide a reliable system for employees to give suggestions, provide solutions and report hazards.
- Establish a preventive maintenance program to ensure care and functioning of machinery, equipment and facilities and ensure safety hazards receive priority in scheduling repairs
- Provide a medical program, emergency response system and first aid facilities adequate for the size and hazards of the work-site.
- Establish a training program that improves the ability of managers, superintendents, supervisors and employees.

Safety and Health Responsibilities
Superintendents and Supervisors' Responsibilities

- Lead by example.
- Become actively involved the Safety and Health Management System.
- Assist management with the development and implementation of the Safety and Health Management System.
- Know and understand the Canam Steel Corporation Safety and Health Management System.
- Ensure employees know and understand the hazards and potential hazards of their work environment (provide on-the-job training).
- Provide informal and formal employee training.
- Supervise and evaluate employee's safe behavior and work methods.
- Encourage and actively support employee involvement in the Safety and Health Management System.
- Provide positive reinforcement and recognition of outstanding individual and group performance.
- Attend training sessions and use the knowledge to provide a safe and healthful workplace for employees.
- Maintain good housekeeping in your work area.
- Find tasks that meet medical restrictions of workers injured on the job and participate fully in return to work programs
- Ensure the preventive maintenance program is being performed by checking with the maintenance supervisor and looking at preventive maintenance records.

Safety and Health Responsibilities
Superintendents and Supervisors' Responsibilities

- Ensure each employee knows and understands the Canam Steel Corporation Safety and Health Management System.
- Provide feedback to employees.
- Perform accident / incident investigations and determine how to prevent a reoccurrence of incidents.
- Enforce the safety and environmental rules and regulations within the plant
- Hold accountable all employees not in compliance with the safety and environmental rules and regulation, under the companies discipline procedures.
- Conduct frequent inspections of your work area and correct identified hazards.

Safety and Health Responsibilities
Employees' Responsibilities

- Provide safety solutions.
- Perform Job Hazard Analysis.
- Perform daily workplace inspections and preventive maintenance.
- Keep work areas clean.
- Follow safety and environmental procedures, rules, and regulations.
- Attend Safety training sessions and use the knowledge to help prevent exposures to hazards and potential hazards.
- Set an example for co-workers to follow.
- Assist with the development and implementation of the Safety and Health Management System.
- Actively participate in the safety function.
- Participate fully in return to work programs
- Have a positive attitude towards work and safety.

Employee Involvement

Canam Steel Corporation's goal is to provide a safe and healthful workplace for our employees. Therefore it is imperative to get employees involved in the safety process. One way of getting employees involved is to establish a safety committee.

The Safety Committee will be made up of at least equal representation of management and employees. For example, if two managers are appointed to the committee at least two employees must be on the committee as well (or structured as stated in the collective bargaining agreements).

The Safety Committee will meet on a periodic basis (at least once a month) and the plant Safety Coordinator will be the facilitator of the meetings, then posts minutes on the safety bulletin board and circulate to all managers.

The main purpose of the safety committee is to perform the following task:

- Make recommendations to Management on how to achieve a safe and healthful workplace.
- Safe behavior observations.
- Review accidents and trends
- Safety and environmental inspections.
- Review safety and health programs and procedures.
- May assist the Safety Coordinator with accident investigations of major accidents or incidents.
- Assist with the development and implementation of the Safety and Health Management System.
- Assist in training other employees.
- Set a positive example for other personnel to follow.
- May serve as emergency responders.

The committee will be made up of sub-committees such as Emergency Responders, First Aid Responders and Hazardous Waste Emergency Responders, etc.

Resources

Canam Steel Corporation will provide time, space, materials and money for safety functions (i.e. training, rewards, etc). Some of the other resources used are companies that provide safety, environmental, or health services. **List your plant's resources here.**

Annual Review

In order to ensure Canam Steel Corporation has achieved its safety goals, an audit of the Safety and Health Management System will be performed. This audit will focus on:

- Accident / Incident Trend Analysis
- Written Safety Programs (i.e. Confined Space Entry, Lockout / Tagout, etc.)
- Employee Interviews
- Inspection and maintenance records
- Safe work practice observations
- Training provided and needed
- Comprehensive plant inspections

The annual review could be performed by the following: the Corporate Safety Manager, the Worker's Compensation Carrier, and/or any other safety professional or industrial hygienist or Corporate Environmental Engineer.

Expert Survey

Canam Steel Corporation will use internal and external resources to audit the safety and health management system and program. This will allow the company to ensure quality and continuous improvement of the Safety and Health Management System and programs.

External agencies will be invited in at various intervals to perform audits (depending on how frequently their expertise is needed). These experts or professionals will be called upon at least annually.

Some of the external experts or professionals performing these audits are:

- State of employed safety consultants
- Liberty Mutual, or other third party administrator
- City Fire and Rescue
- Occupational Health Providers

The company will use internal resources as well as to perform the audit. Employees with experience or extensive knowledge in a specific field could be used during the audit. The following are examples of employees that will assist with the audit:

- The safety coordinator and safety committee
- The maintenance department
- Engineers
- Managers, superintendents, and supervisors

All recommendations, inspection records and reports of corrective action will be kept in the safety coordinator’s office and a copy sent to senior management

Contractor Safety Procedures

At the present time we are employing workers from various temporary agencies. The agencies usually send a representative to our site to tour our plants and review our safety programs. The safety coordinator reviews safety rules and regulations with the representative, explains protective equipment requirements, necessary training, and explains how the employee will be covered by our safety program.

Once the employee starts work, he/she receives the required personal protective equipment. The line supervisor or designee will train the employee how to do the job, explains the hazards of the job, and how to report hazards. The temporary employees will attend safety orientation.

If and when other workers (e.g. construction workers, installers, etc) come on site to do work, the safety coordinator will receive a copy of the contractor's safety program. Once the program is reviewed, the safety coordinator meets with the job superintendent. In the meeting it is determined which program is more stringent and that program will cover the contractor's workers.

Training:
If a work situation arises where specific safety training is required (i.e., hazard communication, respiratory protection, etc.), the safety coordinator will ask the contractor for documentation which indicates that the employee has received the specific type of safety training. If the training has not occurred or the contractor cannot provide documentation, the Canam Steel safety coordinator will provide the necessary safety training to all affected employees.

Selection Criteria:
The following criteria will be used to select contractors and will be verified by the Safety Coordinator:

- Proof of Industrial Insurance
- Experience Modification Rating

Enforcement:
The contractor will comply with all Federal and State safety standards, Canam Steel Corporation policies, and all other applicable workplace safety regulations. If the contract workers are out of compliance with any of the applicable regulations, the safety coordinator will address the issues with the job site superintendent. If the safety coordinator is not able to resolve the safety concerns with the job site superintendent, then the subcontractor's project manager will be contacted to ensure compliance if they are to remain contractors.

Hazard Reporting System

Each plant will implement a hazard reporting system that allows employees to report safety hazards. Hazards must be reported to the supervisor, superintendent, manager, or maintenance department. The hazard reporting system requires all Canam Steel personnel to report unsafe conditions and/or unsafe practices.

Physical Hazards:
At minimum the Hazard Report System will consist of a tracking and prioritization system as follows. When an employee discovers a safety hazard, the employee will report the hazard to his/her supervisor, superintendent, or manager:

- The manager, superintendent, or supervisor will complete a safety hazard reporting slip or maintenance repair slip and submit the slip to the maintenance department manager or supervisor.
- The maintenance department manager and supervisor will then negotiate the priority of the hazard and schedule a time to repair the hazard.
- The manager or supervisor will report to the employee the estimated time of hazard correction.
- Once the hazard is corrected the maintenance supervisor will report the correction to the manager or supervisor
- Then the manager or supervisor will report the hazard correction to the employee.

Note: If the manager or supervisor can repair the hazard, he/she will do so immediately. To exclude any electrical repairs or repairs that they are not authorized to make.

Unsafe practices:
At minimum unsafe practices will be reported as follows:

- Employees report unsafe practice to his/her manager, superintendent, or supervisor immediately.
- Manager, superintendent, or supervisor will address the unsafe practice immediately.
- If the manager, superintendent, or supervisor does not take action then the employee shall report the unsafe practice to the plant Safety Coordinator.

Job Hazard Analysis

Job Hazard Analysis (JHA) will be performed on essential duties for all production, shipping & receiving and core maintenance jobs. Each manager, superintendent, or supervisor will be trained how to perform a JHA. Then the manager, superintendent, or supervisor will train their employees how to perform a JHA.

Once the JHA's are completed, they will be used for the following tasks:

- On-the-job training.
- Accident / incident investigation.
- Eliminating or minimizing hazards.
- Guidelines for a safety observation.

Job Hazard Analysis will be performed anytime the following occur:

- New machines or equipment are purchased.
- New jobs are created or changes occur in a job process.
- Change in material or chemicals used.
- Anytime a new hazard or potential hazard is created.

Note: See the following page for a sample Job Hazard Analysis Form.

Self – Inspection

Canam Steel Corporation supervisors and employees will perform inspections of the equipment, machines, plant facilities, etc. These inspections will be performed at various time intervals. Federal or State safety standards have set most time intervals.

All self-inspection records will be kept in the safety coordinator's office, the maintenance supervisor's office, the department manager's office, superintendent's office or the traffic department. All deficiencies or hazards will be corrected in a timely manner.

Self – inspections include (but is not limited to) the following:

- Forklifts and other industrial trucks
- Cranes, and rigging equipment
- Fire extinguishers
- Machines and other equipment (preventive maintenance)
- Plant Facilities
- Hazardous materials and waste
- Self – Inspection Checklist

Note: See the following pages for self – inspection checklists

Accident / Incident Investigation

All accidents/incidents will be investigated to determine their root cause(s). A determination will be made whether an accident is as a result of an unsafe condition or an unsafe action. Once the root cause(s) are identified, corrective action and safety coaching will take place to prevent a reoccurrence.

Major accident / incident (i.e. crushing a finger, fires, etc.) will be investigated by the department manager, superintendent, or supervisor, and the safety coordinator or operations manager.

The supervisor will investigate minor accidents/incidents (i.e. flash burn, small laceration, etc.).

All accident / investigation documentation will be used as corrective action documentation and as a training tool.

Near Misses

It will be the responsibility of the supervisor to immediately report all near misses to the Safety Coordinator. A narrative as to what happened shall also be written and turned into the Safety Coordinator by the end of the shift. If a near miss occurs when the Safety Coordinator is not there then the narrative shall be left where it can be turned into the Safety Coordinator the next day. The supervisor will also make recommendations to the employee as to what they should do differently to avoid a potential accident. This shall also be documented in the same manner as prescribed by the accident investigations and turned into the Safety Coordinator.

Note: The following page is a sample Accident / Incident Investigation Report.

Injury / Illness Analysis

An Injury / Illness Analysis (Trend Analysis) will help identify the weakness in the Canam Steel Corporation Safety and Health Management System and program. This information will be used to develop a strategic action plan and set goals for safety.

During our annual review, a trend analysis will be performed. At this time, the company can evaluate the effectiveness of our safety efforts. Afterwards, the plans for improvements in the Safety and Health Management System and program can be established and new goals set.

The Canam Steel Corporation Trend Analysis is based on the following information:

- Accident / Incident Investigation
- OSHA Recordable cases
- First Report of Injury or Illness
- First Aid Reports

The results are based on the following; The number of incidents, the source of injury, the injury type, the body part injured, the type of injury, the primary cause of accident / incident and the secondary cause of accident / incident.

This information will be communicated monthly to all Canam Steel personnel. Depending on the level of the employee, he/she will receive the chart via e-mail, in hand, or posted on the safety bulletin board. A copy will be forwarded to general managers, corporate safety managers and the vice president, human resources within five days following the end of each month.

Note: This information is posted on the safety bulletin board. In the employee break room (non-smoking side).

Industrial Hygiene Monitoring

At least annually, a Certified Industrial Hygienist (CIH) will perform monitoring for air contaminants and industrial noise levels at each Canam Steel plant. The industrial hygienist will perform the following monitoring as a minimum:

Welding Fume Monitoring
- Using the PVC Filter (NIOSH 500 pre-weighted) in order to receive total welding fumes results and a metal scan
- Test the ceiling of Manganese according to the OSHA Standard
- Place the PVC Filter underneath the welding hood

Paint Vapor
- Use the Stoddard Solvents
- Perform personal and area sampling
- Use VM&P Naptha cassettes or NIOSH 1550 Charcoal tubes with a sampling pump

Noise Monitoring

Nuisance dust
Monitor if necessary

Eliminating and Controlling Hazards

In order to eliminate and control hazards in the workplace, the following steps and procedures will be taken:

1. **Use engineering methods to eliminate or control the hazard.** For example, Line #3 has had a number of back and muscle strain injuries. Therefore, Line #3 is redesigned with a hydraulic system, which eliminates the need for manual pushing, pulling and lifting.

2. **Use administrative controls to eliminate or control the hazard.** For example, employees have repeated cases of flash burn. An administrative control could be used to perform a Job Hazard Analysis (JHA). Then perform observations of employees doing the job covered by the JHA. Finally, take the necessary corrective action to prevent the injury from occurring.

3. **Address the employee's behavior to eliminate or control the hazard.** For example, an employee carries a load over other employee's heads. Identify the unsafe behavior, observe the behavior, use intervention methods (such as coaching the employee, performing JHA's, etc.) and test the intervention strategy to determine if it is effective.

4. **Use Personal Protective Equipment.** After trying all of the strategies mentioned above and only after trying all of the other strategies, resort to using Personal Protective Equipment (PPE). For example, the noise levels cannot be engineered out in the plant. Administrative controls such as shorter workdays (so employees' exposure to the noise levels does not exceed OSHA's requirements), but this is not feasible. Their behavior is not causing them to be exposed to the loud noise. Therefore, Canam provides and requires employees to wear hearing protection.
See the Corporate Personal Protective Equipment Policy or Plant Personal Protective Equipment Program for more details.

Safety and Health Procedures

The Canam Steel Corporate Safety Manual and safety programs are the safety procedures Canam Steel personnel and personnel working for Canam Steel (i.e. Contractors, etc.) will follow while working at a Canam Steel plant or job site.

All Canam Steel personnel and personnel employed by Canam Steel (i.e. contractors) must follow all safety and health rules and regulations set forth by the Occupational Safety and Health Act of 1970 and procedures outlined in the Canam Steel Corporation's Safety and Health Program.

Prior to new equipment or machines being installed in the plant, the General Manager, Plant Manager, or Maintenance Manager/supervisor will have the Safety Coordinator inspect the equipment or machine to insure the equipment or machine is in compliance with Federal and/or State safety standards and make recommendations around operational and safety training requirements. If the equipment or machine is not in compliance with Federal or State safety standards, the equipment or machine will be equipped with safety items (i.e. guarding, labels, etc.), prior to use in production.

Prior to new chemicals (i.e. paints, thinners, lubricants, etc.) begin used in the plant, the Vice President and General Manager, Plant Manager, Maintenance Manager/Supervisor, or Purchasing Personnel will insure Canam Steel Corporation receives a copy of the Material Safety Data Sheet (MSDS) from the supplier. Once the MSDS is received, a copy will be given to the Safety Coordinator for review. If the chemical presents potential hazards, management will use the suppliers recommended procedures to eliminate the hazard. The supervisor who uses the chemical will be responsible for training their employees in the safe handling and hazard control.

Preventive Maintenance Program

At a minimum, maintenance managers/supervisors are to develop and implement a preventative maintenance program for their plant's equipment, machines, and tools. In the PM program, production managers, superintendent, or supervisors are to ensure that preventive maintenance is performed periodically by checking records. Employees will be required to perform preventative maintenance on equipment, machines, and tools unless otherwise stated by the local collective bargaining agreement.

All Preventive maintenance will be performed on all equipment, machines, and tools as required by the Manufacture's Recommendations.

The maintenance manager/supervisor, safety coordinator and safety committee members will perform follow-ups to ensure preventative maintenance checks are performed.

Emergency Action and Contingency Plan

Canam Steel Corporation Emergency Action and Contingency Plan has been developed and implemented to meet the requirements of the Federal and/or State Occupational Safety and Health Administration (OSHA) and the Federal and/or State Environmental Protection Administration requires.

Note: For further information, read the Emergency Action or Contingency Plan

Occupational Medical Provider

The Occupational Health Provider will be used as a resource in the prevention and treatment of injuries & illness. The staff will be required to visit the plant at least once a year to ensure they have and understand the nature of the business, provider training, assistance with the improvement of the Return-to-work program, etc. At minimum the occupational provider will provide the following services:

- Provide pre-placement physical examinations and drug screening.
- Post accident / incident drug screening.
- Post accident / incident injury / illness treatment.
- Perform pulmonary function test and pre-respirator use physicals.
- Assist with getting Canam Steel personnel rehabilitated and back to work.
- Provide follow-up treatment and evaluation.

Modified Duty Assignment
(Return-To-Work Program)

Canam Steel Corporation will make an effort to assist employees of the company following a job-related injury or illness. Canam Steel will make efforts to allow employees who are injured on the job, the opportunity to maintain their full wages by bringing them back to work. If the employee can return to his/her regular job, Canam Steel will provide the opportunity for the employee to return to his/her regular job (even if he/she has restrictions). If the employee is unable to perform his/her regular job because of restrictions, Canam Steel will provide the employee with a job or tasks that accommodate the employees restrictions. The following is a general list of task an injured or ill employee may be asked to perform while rehabilitating.

Fire Extinguisher Inspector (Inspect fire extinguishers throughout the plant)

- Walk at your own pace
- Sit down and relax as often as needed
- Limited or no lifting (whatever is required by the doctor)
- Moderate bending or reaching
- No twisting, crawling, climbing, pulling or pushing
- Inspection forms are simple and easy to understand (elementary level)
- Elementary writing skills needed

Preventative Maintenance (PM) checks (look at the PM sheets)

- Walk at your own pace
- Sit down or relax as often as needed
- Moderate bending, reaching and twisting
- No crawling, climbing, pulling, pushing or lifting
- Inspection forms are easy to read (elementary level)

Safety Observations (observe plant employee safe behavior and complete checklist)

- Walk at your own pace
- Sit down or relax as needed
- No bending, crawling, twisting, reaching, climbing, pulling or pushing

Painting (paint yellow lines for aisle way clearance)

- Sit down and relax as needed
- Moderate bending, twisting, reaching, pushing or pulling
- No lifting or crawling

Return-to-work

Supplies (refill first aid kits and replace eyewash bottles)

- Walk at your own pace
- Sit down or relax as often as needed
- Lifting twelve (12) to sixteen (16) ounce bottles and five (5) pound first aid kits
- No bending, crawling, climbing, pulling or pushing
- Moderate twisting or reaching

Safety Assistant (miscellaneous functions)

- Make files, copies, etc.
- Deliver faxes, memos, etc.
- Prepare training materials (sharpen pencils, staple papers, etc)
- Open mail
- Post materials on the bulletin board
- Watch training videos
- Other miscellaneous tasks

Parking lot and grass clean-up (using a poker stick)

- Walk at your own pace
- Sit down or relax as needed
- Carry a small trash bag and stick (no more that five (5) pounds)
- No heavy lifting, crawling, climbing, pulling or pushing
- Moderate bending, twisting or reaching

Extension Cord Inspection (replace frayed or taped extension cords)

- Work at your own pace
- Sit down or relax as needed
- Moderate bending, twisting, pulling or reaching
- Lifting 2 – 3 pounds
- No crawling, climbing or pushing

Return-to-work

Machine Guard Inspection (fill out work order to give to maintenance)

- Work at your own pace
- Sit down and relax as needed
- No lifting, crawling, pulling, pushing or climbing
- Moderate bending or twisting

Note: Assignment of tasks will be the ultimate responsibility of the supervisor or superintendent

Record Keeping Procedures

Safety and Health Training:

In order to verify employees have attended a safety and health training session, they are required to sign an attendance sheet prior to the session beginning. Each attendance sheet is maintained in the Safety Coordinator's office, and additional copies are kept in the Human Resource Department. Those training records will be kept for at least thirty (30) years.

Other safety records (such as annual Lockout / Tagout Audits and Permit Required Confined Space Entry permits) will be kept in the Safety Coordinator's and/or the Maintenance Supervisor's office.

Injury / Illness Records:

Injury / Illness records will be maintained in the Safety Coordinator's office and Human Resource Department. The Safety Coordinator will maintain the occupational Safety and Health Administration (OSHA) 200 Log.
After an injury / illness, the Safety Coordinator will determine whether the injury / illness is work related and/or recordable within forty-eight hours. If it meets these requirements, it will be logged in the OSHA 200 log.

An annual summary of the log will be posted as required by Title 29 CFR 1904.5. The log will be posted on the safety bulletin board. It will remain posted for the month of February. Each log will be kept for five (5) years from year-end.

A trend analysis will be posted monthly. This trend analysis will show the number of accidents and illnesses with breakdowns as follows, body parts injured, injury type, lost or restricted days, job title, department, and supervisor.

All Workers' Compensation records will be kept in the Human Resource Department and Safety Coordinator's office. These records are confidential and employees must make an appointment to view these records.

Record Keeping Procedures

Access to Occupational Exposure and Medical Records

During new employee orientation and at least annually, employees are to be informed of their right to access their Occupational Exposure Records according to Title 29 CFR 1910.10 and .1020. The employee will receive the records within fifteen (15) workdays upon written request to the Human Resource Department. If Canam Steel cannot provide the employee with his/her medical records, the Human Resource Manager will provide the employee with a written letter stating why the company was unable to provide the requested medical records.

Preventative Maintenance and Repair Records

Preventative Maintenance and repair for equipment and machines in the plant will be kept in the Maintenance Supervisor's office on the MP2 system or hard copy document.

Preventative Maintenance and repair records for equipment (such as trucks and vehicles) will be kept in the Traffic Manager's office.

Inspection Records

Inspection records will be kept in the Maintenance Supervisor's office or the Safety Coordinator's office. These records will be kept at least five (5) years from year-end.

Management, Superintendent, and Training

In order to ensure our managers, superintendents, or supervisors know and understand how to manage employee safety and health, Canam Steel will provided managers, superintendents, and supervisors with the following training:

- Safety and the Supervisor (responsibility)
- Actively Caring for a Total Safety Culture
- Implementing Behavior Based Safety
- Motivating Safe Behavior
- Coaching Safe Behavior
- Accident / Incident Investigation
- Performing Job Hazard Analysis
- Managing Injured Workers
- Preventing Workplace Violence
- Drug Free Workplace

Other related development training maybe offered in the future

Employee Safety Training

Employees are the most important resource to Canam Steel Corporation. Therefore, it is important that each employee is provided a safe and healthful workplace. In order to accomplish that goal, the employee must know and understand the hazards and potential hazards of their work environment. By means of safety coaching, formal and informal safety health training, employees learn to recognize, eliminate and minimize hazards.

Employee Safety and Health Training is performed during:

- Weekly Safety Meetings (supervisor)
- New Employee Orientation
  - job specific (supervisor)
  - general safety orientation (safety coordinator)
- Accidents / Incident Investigations (supervisor)
- Scheduled safety training sessions (Mandatory Training) (safety coordinator and supervisor)
- The first day with the supervisor (Job Specific Training) (supervisor)

Mandatory Training

Affected employees will receive the following training annually:

- Bloodborne Pathogens
- Hazard Communication
- Hearing Conservation
- Fire Extinguisher use

Other specific job related training may include

- Confined Space Entry
- Contingency Plan
- Crane Training
- Emergency Action Plan
- Ergonomics
- Fall Protection
- Forklift Training
- Hot Work Permit
- Lockout/Tagout
- Personal Protective Equipment
- Respiratory Protection
- Workplace Violence Procedures

Job Specific Training

- During the first few days on the job, the employee receives job specific training from the supervisor. This training must include:

- How to recognize and report hazards and potential hazards
- How to eliminate or minimize hazards or potential hazards
- Information from the Job Hazard Analysis
- Work procedures and rules

New Employee Orientation

I know and understand Canam Steel Corporation's Hazard Communication Program.

I know and understand Canam Steel Corporation's safety rules.

I know and understand that I am not to operate any industrial powered trucks (forklifts, etc.) until I have received formal training by Canam Steel Corporation. If I operate or get on an industrial powered truck before I receive training, I will be subject to disciplinary action.

I know and understand that I am to insure a crane has been inspected before I use it.

I know and understand that I must report an injury and/or accident to my supervisor as soon at it occurs. If I fail to do so, I will be subject to disciplinary action.

I know and understand being involved in an accident / incident that results in my personnel injury, another employee's injury, property damage or destruction, or death of another employee, I will be subject to taking a drug and/or alcohol screening. Failing to submit to these tests will result in disciplinary action up to termination (see Drug Free Workplace Policy).

Signature_____
Date_____

Canam Steel Corporation
Jacksonville, FL

VPP Star Worksite

Safety Rules

- **Report all injuries**
- **Unsafe acts and conditions**
- **Don't remove guards**
- **Authorized operators only**
- **Proper clothing**
- **Securing of Joist**
- **Butane lighters prohibited**
- **Smoking is prohibited**
- **No contact lens**
- **Don't remove warning labels**
- **No loose jewelry or long hair**
- **Fire extinguisher, 36" space**
- **All containers need labels**
- **PPE is condition of employment**
- **Caution of point of operation**
- **Fall protection over 6'**
- **No electrical equipment**
- **Frayed and unsafe wiring**
- **Housekeeping**
- **No horseplay**
- **Fire Exits**
- **Hazard Communication**
- **Uses of compressed air**
- **Secure all compress gas cylinders**
- **Follow all safety rules**
- **Always wear PPE on the Job**

Safety Information

First Aid & Bloodborne Pathogen Kit Locations
- Tool Room in joist production Plant
- Foreman's office in joist production plant
- Human Resources Dept. in main office

Eye Wash Stations Locations
- Front entrance next to production employee break room
- Exit next to maintenance workshop
- Southeast designated walkway
- South Paint Bay
- Yard Mechanic Workshop
- Structural Dept. in Bldg. #3

Material Safety Data Sheets (MSDS) Locations
- Tool Room in joist production plant
- Human Resources Dept. in main office

In the event of an Emergency Evacuation, go out the nearest exit. Report to Dept. Supervisor immediately for Roll Call!

- Employees working in the joist production plant and shipping dept. should meet out in the joist shipping yard (west property).

- Employees working in the maintenance, structural, and decking departments should meet out in the main office should meet out in the south parking lot.

Canam Steel Corporation
Jacksonville, FL

VPP STAR WORKSITE

Disciplinary Action

1) The first safety violation (unsafe behavior or creating a safety hazard) will result in a verbal warning.

2) The second safety violation will result in a verbal and written warning

3) The third safety violation will result in a three (3) day suspension and the employee will not receive his or her safety incentive (these are not excused absences)

4) The fourth violation will result in termination.

5) Major safety violations (such as lifting crane loads over others heads, failure to follow lockout tagout procedures, smoking in flammable areas, sabotage of equipment, etc.) will result in immediate suspension or termination.

Safety Incentives

1) A safety cookout will be rewarded monthly to all production employees for working safely without an accident or when there is a significant injury/illness reduction.

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Purpose: This exposure Control Plan has been developed and implemented as procedures to prevent employees at Canam Steel Corporation-Jacksonville FL from being exposed to and/or contracting any Bloodborne Pathogen.

Bloodborne Pathogens are defined as any pathogenic microorganism in human blood that can cause disease in humans. These Pathogens include but are not limited to Human Immunodeficiency Virus (HIV) and Hepatitis B virus (HBV).

Exposure Determination

Canam Steel Corporation – Jacksonville Division has determined that employees in the following job classifications may have exposure to Bloodborne Pathogens:

1. Safety Coordinator
2. Safety Committee Members
3. Emergency Response Team Members

NOTE: This exposure determination has been made without regard to the use of Personal Protection Equipment.

In addition employees in the following job classifications may have exposure to Bloodborne Pathogens:

1. Department Managers
2. Supervisors
3. Leadmen
4. Labors
5. Shop and office clerks
6. Janitors
7. Quality Control Inspections
8. Truck Drivers

Tasks and procedures that will or may cause employees to be exposed to Bloodborne Pathogens:

1. Performing First Aid and CPR
2. Housekeeping
3. Other Rescue activities

Implementation Schedule and Methods: In order to comply with the requirements of Bloodborne Pathogens Standard, the following schedule and methods of compliance have been implemented. The following complies with the requirements:

Compliance Method:

Canam Steel will use universal Precautions to prevent the spread of Bloodborne Pathogens. This means all employees are to assume that all human bodily fluids and tissues are contained with the HIV Virus, the Hepatitis B Virus, or other diseases.

Engineering and safe work practices controls will be used to eliminate and/or minimize exposure to employees at Canam Steel. If engineering and safe work practice controls do not completely eliminate an employee's exposure, personal protective equipment will be used. Canam Steel will use Fluid Spill Clean Up Kits (disposable).

- Kits include:
  - dust pan
  - scraper
  - goggles
  - paper mask
  - latex gloves
  - instructions
  - disposable aprons
  - surface disinfectant
  - infectious waste bags with twist ties
  - hand sanitizer

The Safety Coordinator will check the contents of the disposable fluid spill kits on a monthly basis at the following locations:

Location

Foreman's Office

Tool Room

Facilities for hand washing must be readily accessible for employees that may contact infectious bodily fluid or tissue. The following are locations where employees can wash their hands:

- Front office – Both men and women's restrooms
- Plant- Both men and women's restrooms

If an employee is wearing protective latex gloves during the treatment of another employee, he or she will remove the gloves and wash his or her hands with soap and water as soon as possible. If employee comes in direct contact with human bodily fluids or other infectious material (by way of skin or mucous membrane contact), he or she will wash and flush those areas with water as soon as possible.

Personal Protective Equipment (PPE):

Canam Steel will provide personal protective equipment (such as latex gloves, face shields, etc.) to employees at no cost. PPE will be chosen based on the employees' potential exposure to blood and other infectious material. Protective equipment used to prevent exposure to blood and other infectious materials must prevent human bodily fluids and other infectious materials from contact with the employees' clothes, skin, eyes, mouth, or mucous membranes under normal conditions and for the duration of time which the PPE will be used.

Protective Equipment	Task
Latex gloves	Prevent direct contact with blood and other infectious Material
Face Shields	Prevent splashed, splattered, or droplets of blood or other Infectious materials from contact the eyes, mouth, and Other mucous membranes
Protective eyewear	Prevent splashed, splattered, or droplets of blood or other Infectious materials from reaching the eyes
CPR Mask	Prevent the rescuer from having direct skin contact with Blood or other infection materials

Personal Protective Equipment (continued):

All other personal protective equipment will be cleaned or disposed of by Canam Steel. PPE will not be laundered or repaired. It will be disposed of and replaced.

Clothing, boots, gloves, etc. that has been contaminated by blood or other infectious material will be removed and disposed of as soon as possible, but before the employee leaves the work area. Clothing, boots, gloves, PPE, etc. must be placed in 5 gallon Bio-Hazardous waste bag. These bags can be found in the fluid spill clean up kits, which are located in the:

- Foreman's Office
- Tool Room

Gloves will be worn when it is reasonably anticipated that employees will have direct hand contact with blood, other potential infectious material, non inact skin, and mucous membranes. Gloves will be stored in each First Aid Kit and spill kits:

First Aid Kits can be found in the following locations:

- Maintenance Office
- Front Office
- Forman's Office
- Tool Room

Gloves will be used for the following procedures:

- Performing First Aid & CPR
- Assisting with First Aid & CPR
- Housekeeping (disposing of waste)
- Decontaminating work areas, machines, equipment, etc.
- Removing Contaminated clothing, boots, and PPE
- Handling any containers containing blood or other infectious materials

Disposable latex gloves used at Canam Steel are not to be washed or decontaminated for re-use and will be replaced as soon as possible when they become contaminated or damaged in any way (such as punctured or torn). Utility gloved will be disposed of if there is damage (such as tears, punctures, cracks, etc.) to the gloves. Face shields and eye protection must be worn if it reasonably anticipated that blood or other infectious materials will become droplets or be sprayed, splashed, or splattered and potentially contact the rescuer's mouth, nose, or eyes. The following situation would require a face shield and protective eye wear:

- Amputation of a body part
- Decontamination of work areas, equipment, etc.

The cleaning and decontamination of areas where fluid spill clean up kits are stored will be performed according to the following schedule:

Location	Scheduled cleaning and decontamination
Tool Room	At the completion of First Aid or rescue activities
Forman's Office	At the completion of First Aid or rescue activities

All other contaminated working surfaces will be decontaminated as soon as possible after First Aid or rescue activities are completed.

Trash cans, mops, mop buckets, etc. will be visually inspected and decontaminated daily by janitorial personnel. Broken glass, tools with blades, and other sharp items will be picked up using a broom and dustpan in order to prevent employees from becoming exposed to Bloodborne Pathogens.

Regulated Waste Disposal

All protective equipment, clothes, shoes, first aids supplies, etc. contaminated with blood or other potentially infectious material will be disposed of in a Bio-Hazardous waste bags located in the fluid spill cleanup kit. The Bio-hazardous waste bags are in the following locations:

- Tool Room
- Forman's Office

Note: Never throw contaminated clothes, shoes, First-aid supplies, etc. in the trash or scrap bends.

Hepatitis B Vaccine:

All employees who have been identified as having exposure to blood or other potentially infectious materials will be offered the Hepatitis B Vaccine, at no cost to the employee. The vaccine will be offered within 10 working days of their initial assignment to work involving the potential for occupational exposure to blood or other potentially infectious materials unless the employee has previously had the vaccine or who wishes to submit to antibody testing which shows the employee to have sufficient immunity.

Employees who decline the Hepatitis B vaccine will sign a waiver, which uses the wording in Appendix A of the OSHA standard.

Employees who initially decline the vaccine but who later wish to have it may then have the vaccine provided at no cost. The Safety Coordinator will ensure the following:

- Employees receive the Hepatitis B Vaccine at no cost
- Employees refusing the Hepatitis B Vaccine sign a waiver

Post – Exposure Evaluation and Follow-up:

When employees are exposed to blood or other infectious materials, the incident must be reported to their supervisor and the safely coordinator (Brian Dowell).

All employees who incur an exposure incident will be offered post-exposure evaluation and follow-up in accordance with the OSHA standard.

This follow-up will include the following:

- Documentation of the route of exposure and the circumstances related to the incident
- If possible, the identification of the individual source and, if possible, the status of the individual source. The blood of the source individual will be tested (after consent is obtained) for HIV/HBV infections.
- Results of testing of the source individual will be made available to the exposed employee with the exposed employee informed about the applicable laws and regulations concerning disclosure of the identity and infections of the source individual
- The employee will be offered the option of having their blood collected for testing of the employees' HIV/HBV serological status. The blood sample will be preserved for at least 90 days to allow the employee to decide if the blood should be tested for HIV serological status. However, if the employee decides prior to that time that testing will be conducted then the appropriate action can be taken and the blood sample discarded.
- The employee will be offered post exposure prophylaxis in accordance with the current recommendations of the U.S. Public Health Service.
- The employee will be given appropriate counseling concerning precautions to take during the period after the exposure incident. The employee will also be given information on what potential illnesses to be alert for and to report any related experiences to appropriate personnel.
- The following person(s) has been designated to assure that the policy outlined here is effectively carried out as well as to maintain records related to this policy:

Brian Dowell Safety Coordinator
Barbara Moffett Human Resources Administrator

Interaction with Health Care Professionals:

A written option shall be obtained from the Regional Occupational Care Center, who evaluates Canam Steel employees. Written options will be obtained in the following instances:

1) When the employee us sent to obtain the Hepatitis B vaccine.

2) Whenever the employee us sent to a health care professional following an exposure incident.

Health care professionals shall be instructed to limit their options to:

1) Whether the Hepatitis B Vaccine is indicated and if the employee has received the vaccine, or for evaluation following an incident

2) That the employee has been informed of the results of the evaluation, and

3) That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials. (Note that the written opinion to the employer is not to reference any personal medical information)

Training

Training for all employees will be conducted prior to initial assignment to tasks where occupational exposure may occur. Training will be conducted in the following manner:

Training for employees will include the following an explanation of:

1) The OSHA standard for Bloodborne Pathogens
2) Epidemiology and symptomatology of bloodborne diseases
3) Modes of transmission of bloodborne pathogens
4) This Exposure Control Plan, (i.e. points of the plan, lines of responsibility, how the plan will be implemented, etc.)
5) Procedures which might cause exposure to blood or other potentially infectious materials at this facility
6) Control methods which will be used at the facility to control exposure to blood or other potentially infectious materials
7) Personal protective equipment available at this facility and who should be contacted concerning
8) Post Exposure evaluation and follow-up
9) Signs and labels used at the facility
10) Hepatitis B Vaccine program at the facility

The safety Coordinator (Brian Dowell) will provide Bloodborne Pathogen Training during new employee orientation, annually with all employees, or whenever an employee demonstrates he or she needs retraining. This training will be performed by means of videos, use of written pamphlets, group discussion, and lecture.

The training outline can be found in Appendix B of the manual

Recordkeeping:

All training records will be maintained by the Safety Coordinator (Brian Dowell) in the Human Resource Department.

Dates:

Requirements of the Bloodborne Pathogen Standard have been adopted by Canam Steel Corporation as of January, 2002.

APPENDIX A

Hepatitis B Vaccination Declination Form

I_____understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself; However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with Hepatitis B vaccine, I can receive the vaccination series at no charge to me.

_____	_____
Employee's signature	Supervisor's signature
_____	_____
date	date

Purpose: To protect employees from permit required spaces and control the entry into these spaces.

Definition of Permit Required Confined Spaces: (1) Contains or has the potential to contain a hazardous atmosphere; (2) contains a material or liquid that has the potential of engulfing entrant, (3) has slopped floors or inward converging walls that could cause an entrant to fall or slip into a smaller cross-section resulting in the entrant being trapped or asphyxiated; and/or (4) contains a safety or health hazard.

Procedures for permit-required confined space entry:
- Prevent unauthorized entry
- Identity and evaluate hazards
- Eliminate and control hazards
- Provide equipment
- Continuously evaluate the permit space while occupied
- Assign responsibilities
- Emergency preparedness
- Preparation, use, cancellation of permits
- Coordinate multiple employer occupancy
- Review the permit-space program
- Review entry operations/ Training

Preventing unauthorized entry
- Canam Steel's employees must receive training by or through the company prior to entry into any permit-required confined space. If an employee enters a confined space without first having received the training specified above and receiving a permit approved by the Safety Coordinator, the employee will be subject to disciplinary action up to termination.
- Contractors or contracted employees hired by Canam Steel must provide the Safety Coordinator documentation of training on Permit-required confined space prior to entry into any confined space. If an contractor or contracted employees enters a permit-required space without receiving approval by Canam Steel's Safety Coordinator, the contractor or contracted employee will be subject to cancellation of the work contract and dismissal from the job site.

Note: All Training must be in accordance with 29 CFR 1910.146(g)(1) through (g)(3)

Identifying permit- required confined space:

1. The Safety Coordinator and/or Maintenance Supervisor will evaluate the plant to determine if there are any permit- required confined spaces.
2. Each permit- required confined space will have a sign posted warning of the danger

Permit- required confined spaces at Canam Steel- Jacksonville:
1. Paint tank #3 (East), #4 (center), and #1 (west) including paint tank #3's underground spill containment area
2. Praxair Argon and Carbon Dioxide pump station
3. Bridging oven (Roll Forming Vacuum Paint System)
4. Underground Pit (Long Span/Girder Chain Flipper)

Confined Space	Location
Paint Tank #3	Joist Fabrication Building 2 (southeast wall)
Paint Tank #4	Joist Fabrication Building 2 (south end)
Paint Tank #1	Joist Fabrication Building 2(southwest wall)
Spill containment Pit #3	Joist Fabrication Building 2 (southeast wall)
Bridging Oven	Joist Fabrication Building 2 (northeast wall)
Underground Pit-Long Span/Girder Flipper	Joist Fabrication Building 2 (center)
Praxair Argon and CO2 pump station	Joist Storage Yard (westside of property)

Hazards

Oxygen deficiency:
- If the space is oxygen deficient, the space will be purged, flushed, or ventilated as necessary to eliminate or control the hazards
- Monitor of the oxygen level to determine if the space is safe to enter
- Use a self- contaminated breathing apparatus (SCBA) or supplied air respirator if necessary

Flammable gases and vapors:
- If flammable gases or vapors are present, the space will be purged, flushed, or ventilated as necessary to eliminate or control the hazard/
- Monitor the gases and vapors Upper and Lower Explosion Levels (UEL and LEL) to determine if it is safe to enter

Toxic gases and vapors:
- If the space is oxygen deficient, the space will be purged, flushed, or ventilated as necessary to eliminate or control the hazards
- Monitor the oxygen level to determine if the space is safe to enter
- Use a self-contained breathing apparatus (SCBA) or supplied air respirator if necessary

Note: Testing for oxygen deficiency, flammable and toxic gases and vapors must be performed in accordance with Appendix B of 29 CFR 1910.146

Engulfing hazards:
- Ensure rescue equipment is in place (e.g. equipment to retreat entrants
- Ensure each entrant is wearing a fall protection harness

Other safety and Health Hazards:
- Ensure all energy sources are locked and tagged out
- Ensure moving parts are secured
- Isolate the area around the confined space to prevent entrance by unauthorized personnel.

Equipment for entering a permit space:
The company will provide all equipment necessary for employees to enter a permit space (such as: testing and monitoring equipment, ventilating equipment, communication, equipment, PPE, lighting equipment, barriers, rescue equipment, egress equipment, and any other equipment necessary to safely enter the permit space).

Continuously monitoring permit spaces:

If it is determined that a permit space is oxygen deficient or contains flammable or toxic gasses or vapors, atmospheric monitoring will be continue while the space is occupied and until the work is completed

Responsibilities/Duties:
Authorized Attendant-
1. Know all hazards and potential hazards associated with the permit space (including the information on modes of entry, signs, and symptoms of oxygen deficiency, flammable or toxic gas or vapor exposure)
2. Know possible behavioral effects from being in an oxygen deficient atmosphere and exposed to flammable or toxic gases or vapors
3. Maintain an accurate count of entrants in the permit space and use means to identify authorized entrants
4. Remain outside the permit space until relieved by another Authorized Attendant
5. Communication via radio and/or mouth with authorized entrants to monitor their status and to alert them of the need to evacuate
6. Monitor activities inside and outside the permit space to determine if it is safe for authorized entrants to remain in the space or evacuate
7. Know how to and who to summon in a emergency situation
8. Ensure unauthorized personnel to do not enter the barriers isolating the permit space or the permit space itself
9. Perform non-entry rescue duties (i.e. First- aid and/or CPR)
10. Ensure emergency equipment is available and adequate
11. Perform no duties that will interfere with their primary duties as an Authorized Attendant

Entry Supervisor-
1. Know all hazards and potential hazards associated wit the permit space (including the information on modes of entry, signs, and symptoms of oxygen deficiency, flammable or toxic gas or vapor exposure)
2. Know possible behavior affects from being in an oxygen deficient atmosphere and exposed to flammable or toxic gases or vapors
3. Verify, by checking that the appropriate entries have been made on the permit
4. Terminate the entry and cancel the permit when work has been completed, conditions that are not allowed under the entry permit arise in or near the permit space
5. Maintain an accurate count of entrants in the permit space and use means to identify authorized entrants
6. Removed unauthorized entrants from the permit space or surrounding area
7. Determine, whenever responsibility for a permit space entry operation is transferred and at intervals dictated by the hazards and operations performed within the space, that entry operations remain consistent with terms of the entry permit and that acceptable entry conditions are maintained

Authorized Entrant-
1. Know all hazards and potential hazards associated with the permit space (including the information on modes of entry, signs, and symptoms of oxygen deficiency, flammable or toxic gas or vapor exposure)
2. Know possible behavioral affects from being in an oxygen deficient atmosphere and exposed to flammable or toxic gas or vapors
3. Communicate with the attendant as necessary to enable the attendant to monitor entrants status and to enable the attendant to alert entrants to evacuate

4. Alert the attendant of any signs or symptoms of exposure, when a condition prohibited by the permit is detected, or alert the attendant of an alarm detected
5. Exit from the permit space as quickly as possible whenever the order is given by the attendant, the entrant recognizes any warning signs or symptoms of exposure, the entrant detects a prohibited condition by the permit, or alarm sounds.

Emergency Preparedness

(1) The local fire department should review the permit confined space located on site to ensure they have the necessary equipment to rescue employees. (2) Prior to permit confined space entry, the authorized attendant will ensure the following emergency equipment is available and adequate:

- Radio and/or cell phone
- Emergency contact numbers
- Fall protection harness
- Lifting device
- Lights (if necessary)

Emergency Response Procedures

- Call or order 9-1-1 to be called (if necessary)
- Try to determine the nature or extent of the injury and/or illness
- Evacuate the permit space and surrounding area
- Contact the Safety Coordinator and/or the Operations Manager
- Account for authorized entrants
- Prevent anyone other than Jacksonville Fire & Rescue from entering the permit space
- Cancel the permit
- Conduct an incident investigation
- Attempt to contain spills
- Evacuate the area if there is a gas leak

Preparation, use, and cancellation of a permit

Preparation- (1) The Plant Safety Coordinator will inspect and evaluate the permit required confined space to ensure all hazards are eliminated and controlled. (2) The authorized attendant will obtain a permit signed by the Plant Safety Coordinator

Use- once the safety Coordinator signs the permit, the permit will be valid for use until the work is completed or the permit is canceled

Cancellation- A permit will be canceled once the work is completed, a situation prohibited by the permit occurs, an alarm sounds, signs and/or symptoms of an exposure are noticed, behavior effects of oxygen deficiency are noticed, etc. Anytime a permit is canceled the authorized attendant must turn it into the Plant Safety Coordinator and take the necessary steps to obtain a new permit.

Contractor and joint entry procedures

In order to prevent incidents from occurring, each contractor must meet with the Plant Safety Coordinator and Maintenance Supervisor prior to entering a permit space. The purpose of the meeting is to ensure the contractor has an written permit confined space program, the program fits

the type of work to be performed, and the contractor employees has received training in accordance with 29 CFR 1910.146(g)(1) through (g)(3).

If multiple contractors and/or Canam Steel Corporation employees must enter the permit space together, Canam Steel's Authorized Attendant will consume control of the operation. However, the authorized attendant must be assisted by one of the contractor's employees. This employee must know, understand, and have experience with permit required spaces.

Program and permit review

Program

At least annually, this program will be reviewed to determine its effectiveness. The program will be revised if it does not provide the necessary protection to employees, processes change, permit space change, etc.

Permits

Each permit will be maintained and review at least one year after it was canceled. The purpose of the review is to determine how the permit space entry process can be approved and to prevent accident/incidents in the future

Training

All personnel required to enter a permit space or assigned responsibilities under the permit space program will receive training before prior to entering a permit space and annually thereafter. The training will include review of Permit Required Confined Space Entry Standard, the Canam Steel-Jacksonville Permit Space Program, and a review of the past year's canceled entry permits. Methods of training included: A table drill, lecture, hands-on activities, etc.

Purpose: This plan has been developed to comply with both Title 40 CFR 262.34(d)(5)(ii) and Title 29 CFR 1910.38(a) and (b). The plan is designed to inform employees what to do in an emergency situation (such as fire, a chemical spill, a hurricane, etc.) how to prevent fires, and serve as a training tool.

Introduction: Canam Steel Corporation- Jacksonville Division manufactures joist, decking, and structural steel members (beams, columns,trusses, etc.) for the construction industry. The plant employs approximately 200 employees and operates 16+hours a day, Monday through Saturday.

The facility covers approximately 17 acres and consists of three buildings: building #1 is the sales office, building #2 consists of joist manufacturing, and building #3 consists of structural steel and

decking manufacturing. The Loading/Shipping yard is approximately ¼ concrete slab and the rest is asphalt. There are two asphalt parking lots in front of the plant.

The plant is located on the West Side of Jacksonville, occupying the block generally defined as bordered by Beaver Street and CSX Railroad tracks (north), Ellis Road (east), Highway (south). The property on the westside is a former industrial site, currently vacant.

Stormwater runoff is contained in an on-site retention pond that overflows into an adjacent drainage/flood control ditch running along Highway Avenue. The property is fenced and gated (4 gate entrances, 1 railroad gate). Emergency entry is via gate and all parts of the property are accessible via a dedicated and clear roadway.

Canam Steel Corporation- Jacksonville Division is classified as a small quantity generator of hazardous waste. Waste is mainly paint and thinner (solvents). Small amounts of waste oil, oil filters, hydraulic oil, and antifreeze are also disposed of. Al l are classified as flammable or combustible waste (EPA ID # FLD 982 168 072).

WHAT TO DO IN AN EMERGENCY:

Small Fires

Extinguished with a portable fire extinguisher.

Report the incident to the Supervisor, Production Superintendent, Safety Manager, and /or Operations Managers.

Larger Fires

Immediately sound the evacuation horn (Production Superintendent's office) and fire alarm (Office Bldg. 1).

Call 9-1-1 (Jacksonville Fire and Rescue)

Attempt to extinguish or control the fire (if possible)

Evacuate the area

Begin emergency duties (emergency response team, first id, etc.).

Evacuate to your designated area

Perform an accident/incident investigation.

Clean up

Explosion- A sudden, violent release of energy.

Immediately sound the evacuation horn (Production Superintendent's Office) and fire alarm (office Bldg. 1).

Evacuate the area.

Call 9-1-1 (Jacksonville Fire and Rescue)

Begin emergency duties (emergency response team, first aid, etc.)

Evacuate your designated area

Perform an accident/incident investigation

Clean up

Severe Weather- Hail, heavy down pours (rain), etc.

Seek shelter

Employees should not attempt to drive home

Leave only after conditions have cleared

In case of flooding, remove chemical and hazardous waste containers to higher ground

Call the National Weather Service or listen to the weather on the radio and the Jacksonville Emergency Preparedness Division.

Hurricane- Very high wind and severe rain

Track the storm or bad weather by contacting the National Weather Service.

Prepare plant for a temporary shutdown.

Evacuate the plant

Clean up (after)

Tornado- Very severe wind funnel

Seek shelter

Track the bad weather or storm by contacting the National Weather Service

After the tornado, perform emergency duties

After the tornado evacuate the plant (if necessary)

Clean up (after)

Chemical Spill- Chemical or hazardous waste leaks or spills from containers or drums

Small spills:

Use spill containment kits to control the spill (located in the tool room).

Read the Material Safety Data Sheet (MSDS) for information on a spill clean up and personal protective equipment (PPE).

Report the spill to the emergency coordinator, the assistant emergency coordinator, and the emergency response team.

Clean up with disposal.

Perform an accident/incident report

Large spills and Leaks:

Evacuate the area.

Call 9-1-1 Dept of Environmental Protection- Emergency Response Bureau (if necessary)

Activate the emergency response team.

Contain the spill.

DO NOT attempt to contain compressed gas leaks.

Clean up and disposal.

Perform an accident/incident investigation

Flooding- High water due to heavy rain, hurricanes, storms, etc.

Remove all portable tools and material from the floor.

Move all chemical and hazardous waste containers to higher ground.

Shutdown electrical powers and waters.

Clean up (after)

Terrorism, Civil Unrest and Sabotage- Riot, bomb threat, fight, etc.

Call 9-1-1 Jacksonville Sheriff's office

Notify Canam Management immediately

Keep all employees calm

Work Accident- Injury or illness work (flash burn, cuts, smashed fingers, etc.)

Report the injury or illness to your supervisor (immediately)

Non serious injuries or illnesses go to Baptist Occupational Health- Westside (**7:30 am to 4:30 p.m. Mon-Fri)**

Call 9-1-1 (if necessary)

Serious injuries or illnesses contact the Production Superintendent, Safety Manager and/or Plant Manager

Managers and Supervisors perform accident/incident investigation (immediately)

All other Emergencies- Suicide, rape, etc.

Call an appropriate agency on the emergency telephone list

EMERGENCY EVACUATION PROCEDURES:

Evacuation: During evacuation or drills, all employees are to proceed to the following areas **(NO ONE IS TO REMAIN IN THE BUILDINGS):**

Building #1 **(Office personnel)** will report to the South parking lot (the corner of Ellis Road and Highway Ave.)

Building #2 **(Shop personnel)** will report to the Yard Area #3 (near traffic trailer)

Building #3 **(Structural & Deck personnel)** will report to the north parking lot.

Traffic personnel **(Shipping/Receiving)** will report to Yard Area #3 in the transportation yard.

Maintenance Personnel will report to the nearest assembly point

Evacuation Routes

Evacuation Routes are posted in the following areas:

Building #1- Office Break Room, Safety Manager's Office, & Human Resources Office.

Building #2- Shop Break Room, Tool Room, Operation Manager's Office and Supervisor's office.

Building #3- The main entrance.

Emergency Coordinator Donna Maxwell, Human Resources/Safety Manager

Alternate Coordinator Rollins Burks, Plant Manager

Emergency Response Team:

Rollins Burks	Nueal Rose	Warehouse/Desk Leadman
Wayne Fishburn	Sean Metzig	Tool Room
Mark Dancy	Bob Coker	Quality Control
Gene Thomsen	Ed Mellor	Joist Supervisor
Mike Fleming	Plant Manager	Tool Room
Brad Butler	Traffic Manager	Maintenance Leadman
Marcel Jordan	Maintenance Manager	(All Shifts)
(All Shifts)	1st Shift	1st Shift
1st Shift	1st Shift	1st Shift
1st Shift	1st Shift	2nd Shift

EMERGENCY DUTIES FOR ASSIGNED EMPLOYEES:

Public Relations:	Russ Rocco, Vice President/General Manager
Employee Recall:	Donna Maxwell- Human Resources
Power/Water Shutdown:	Maintenance personnel
Equipment Shutdown:	Supervisor (accountable for their area)
First Aid and CPR:	Certified employees (**STRICTLY VOLUNTARY)**

All other employees are to calmly evacuate and report their assigned mustering point.

EMERGENCY SHUTDOWN PROCEDURES;

Russ Rocco, Vice President/General Manager will make the final determination whether Canam Steel Corporation- Jacksonville Division will be temporarily shutdown. If the plant is temporarily shutdown, the following steps should be taken:

All power (electricity, gas, etc.) and water must be shut off

Shut down all equipment and machines (mechanic, pneumatic, electric, etc.) including computers.
Note: Do not shut off equipment such as security and fire alarms.

Lock doors and set the security alarm.

Ensure Personnel responsible for employee recall have a list of employees phone numbers.

Inform all customers and suppliers of the shutdown.

Secure all confidential company records.

Inform all employees of the shutdown (including the custodian).

SOURCES OF THE FIRE HAZARDS, CHEMICAL SPILLS, AND LEAKS:

The chemicals identified below could contribute to a major spill or fire:

Building #2

55- gallon drums of printer

55- gallon drums of thinners

55- gallon drums of hydraulic fluid

55- gallon drums of weld kleen

55- gallon drums of Xylene

55- gallon drums of phosphoric acid

55- gallon drums of Gray Vacuum Coat

55- gallon drums of Anticorit

5- gallon containers of spray paint

Compressed gas cylinders oxygen, propylene, argon/carbon dioxide

Roll Forming Vacuum

Dip tanks #3, #4, & #1

Small containers of lubricant oil

Building #3

5-gallon containers of enamel and paint

Small containers of lubricant oil

12 & 14 oz. Containers of spray paint

Compressed gas cylinder of oxygen, propylene, argon/carbon dioxide, & liquid oxygen

Traffic Yard

55-gallon drums of hazardous waste (paint and thinners)

55-gallon drums of waste oil

55-gallon drums of mineral spirits

55-gallon drums of hydraulic fluid

55-gallon drums of antifreeze

55-gallon drums of crushed oil filters

5- gallon containers of enamel and paint

Diesel Fuel Tank

Praxair Argon Tank

Gasoline Tank &Waste Oil Tank

Propane Tanks

FIRE PREVENTION AND CONTROL

Storage

Chemicals and hazardous waste will be stored in approved containers, which are labeled according to OSHA, NFPA, and DEP requirements.

Chemicals and hazardous waste will be stored in designated areas (NO SMOKING AREAS)

When drums and containers filled with chemicals or hazardous wastes are not in use, they will be closed.

Hazardous waste will be dated with an accumulation date (all containers will be disposed of 180 days after date of accumulation).

Oxygen and Propylene gas cylinders will be stored in designated areas.

When Oxygen and Propylene gas cylinders are not in use, the oxygen will be stored at least 20 feet from the Propylene or separated by a 5-foot high barrier with a ½ hour fire rating.

Shop rags used for clean up of chemical or hazardous waste will be placed in a covered 55-gallon drum for disposal.

Chemical containers will not have any other usage after they are empty (e.g., containers will not be used to store other chemicals or materials).

Disposal:

180 days after accumulation, U.S. Waste Logistics will dispose of hazardous waste.

BFI will dispose of non-hazardous waste.

Sources of Ignition

Table 1. Lists common sources of ignition that cause fires in the workplace, gives examples in each case, and suggests preventive measures.

Table 1.

Sources of Ignition	Examples	Preventive Measures
Electrical Equipment	Electrical defects, generally due to poor maintenance, mostly in Wiring motor switches, lamps and hot elements.	Use only approved equipment. Follow *National Electrical Code.* Establish regular maintenance
Friction	Hot bearings, abrasive grinding, broken machine parts, and poor adjustment.	Follow a regular schedule of Inspection, maintenance, and Lubrication.
Open Flames	Cutting and welding torches, gas and oil burners, misuses of gasoline torches	Follow established welding precautions. Keep burners clean and properly adjusted. Do not use open flames near Combustibles
Smoking and Matches	Dangerous near flammable liquids and in areas where combustibles are stored or used.	Smoke only in permitted areas. Make sure matches are out. Use appropriate receptacles
Static Electricity	Occurs where liquid flows from pipes.	Ground equipment. Use static Eliminators. Humidify the atmosphere.
Hot Surfaces	Exposure of combustibles to furnaces, Electric lamps or irons.	Provide ample clearance, insulation, air circulation, and check heating apparatus prior to leaving it unattended.

Fire Fighting Equipment

Portable A-B-C fire extinguishers are located 50 to 70 feet apart in various buildings throughout the plant and building #1.

Wheeled AAAF (foam) fire extinguishers units and twenty (20) pound Purple K extinguishers are located near the dip tanks in Building #2.

Wheeled Dry Chemical fire extinguisher units are located near the dip tank in Building #2.

All dip tanks are equipped with a dry chemical fire suppression system.

Emergency Response Team

Several employees have received fire fighting, First Aid, and CPR training.

Spill Containment

Spill containment kits are located in the Tool Room.

Containment curbs have been or will be installed around storage areas and paint tanks.

Maintenance, Inspection, and Audits

Bob Coker- Safety Officer has been assigned the responsibility to perform weekly inspections of hazardous waste containers and inspection of fire suppression systems.

Tool Room personnel have been assigned the responsibility of performing weekly inspections and housekeeping of portable fire extinguishers and wheeled units.

Painters will be responsible for the cleaning of paint tank fire suppression units and paint tanks.

Annual inspections of fire extinguishers & fire suppression systems will be performed by Fire Fighters Equipment (FFE Co.)

Management, supervisors, and the safety committee will audit this plan annually.

Chemical spill kits will be inspected as necessary.

Supervisors & employees will perform weekly plant inspections.

Fuel Source Control

The employees listed below are responsible for the correct storage, spill prevention and fire prevention of chemicals and hazardous waste in their work area:

Rollins Burks & Mike Mills- Steel Fabrication (First Shift)

Billy Vaughan- Structural (First Shift)

Gene Thomsen – Warehouse & Deck (Both Shifts)

Mark Dancy, Ed Mellor, & Bob Coker – Maintenance & Tool Room (Both Shifts)

Wayne Fishburn- Yard and Traffic (Both Shifts)

Housekeeping

Fire extinguishers, chemicals, and hazardous waste storage areas will not be blocked by machines, equipment, and other materials.

Dried paint will be scraped and swept from the floor and disposed of periodically.

Chemical and hazard waste spills will be cleaned up according to clean-up procedures.

Shop rags used in clean up will be placed in the appropriate container for disposal.

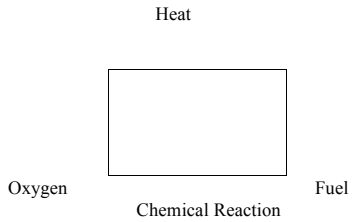
Fluid leaks will be covered with oil dry (or similar products) and cleaned up as soon as possible.

Dip tank fire suppression systems will be cleaned up periodically.

Flammable and combustible liquids, materials, and gases will not be stored near sources of ignition (fire, sparks, etc.)

DESCRIPTION OF FIRES

Fire- is a chemical reaction involving rapid oxidation or burning of a fuel. It needs four elements to occur as illustrated below in the tetrahedron.



The first component of the tetrahedron is fuel. Fuel can be any combustible material: solid (such as wood, paper, or cloth), liquid (such as gasoline), gas (such as acetylene or propane). Solids and liquids generally convert to gases or vapors before they will burn.

Another component of the tetrahedron is oxygen. Fire only needs an atmosphere with at least 16 percent oxygen.

Heat is also a component of the tetrahedron. Heat is the energy necessary to increase the temperature of the fuel source to a point in which sufficient vapors are emitted for ignition to occur.

The final side of the tetrahedron represents a chemical chain reaction. When these components are brought together in the proper conditions and preparations, fire will develop. Take away any one of the elements, and the fire cannot exist or will be extinguished if it was already burning.

Fires are classified into four groups according to sources of fuel: Class A, B, C, and D. Table 2 describes the classification of fire, which can be used in many hazard assessments.

Class A	Ordinary combustible materials such as paper, wood, cloth, and some rubber and plastic materials.
Class B	Flammable or combustible liquids, flammable gases, greases, and similar material, and some rubber and plastic materials.
Class C	Energized electrical equipment and power supply circuits and related material.
Class D	Combustible metals such as magnesium, titanium, zirconium, sodium, lithium, and potassium.

EMERGENCY TELEPHONE NUMBERS

Jacksonville Fire & Rescue	**911** 904-633-5457	Fire or Serious Injury Non Emergency
Jacksonville Sheriff's Office	911 904-630-0500	Emergency Non Emergency
FL. Dept. of Environmental	904-448-4320	Environmental Reporting
FL. Dept. of Environmental	850-488-0190	Waste Clean-Up
ACT Environmental Services	800-226-0911	Large Spills
Chemtrec	800-424-9300	Large Spills
National Response Center	800-424-8802	
Baptist Occupational Health- Westside	904-693-0866	Non Emergency (Primary)
Occupational Health & Wellness	904-757-5656	Non Emergency (Secondary)
Baptist Medical Center- ER	904-202-2000	Emergency (Primary)
St. Vincent's Medical Center- ER	904-308-7300	Emergency (Secondary)
FL Poison Information Center	904-549-4480	
Victims Services	904-353-8463	
Crisis Intervention	904-632-0600	
U.S. Waste Logistics	904-284-5675	Hazardous Waste Disposal
Jacksonville Electric Authority	904-665-6000	Power Outages

Jacksonville Water Division	904-630-5200	Customer Service
National Weather Service	904-741-4311	Severe Weather Alerts
Division of Emergency Preparedness	904-630-3254	Evacuation Information
American Red Cross	904-358-8091	Shelter Information
Duval County Health Dept.	904-630-3254	Health Issues
St. Paul Travelers	800-842-6771	

For Further Information on the Emergency Action Plan Contact:

Emergency Coordinator — Donna Maxwell, Human Resources
Office Ext. 221
Cell Phone: (904) 434-8009

Alternate Coordinator — Rollins Burks, Plant Manager
Office Ext. 228
Cell Phone: (904) 434-8019

Ed Mellor, Maintenance Leadman (2nd shift)
Cell Phone: (904) 434-8010

Canam Steel Corporation- Jacksonville Division has developed and implemented this emergency action plan for the safe and orderly response to emergencies. All employees covered by this plan will be trained on the following:

Purpose of the Emergency Action Plan

How to report an emergency

Evacuation procedures (**Fire drills will be scheduled at least annually)**

Accounting for employees

Emergency duties and other responsibilities

Emergency shutdown procedures

Source of fire, chemical spills, and leaks

Fire prevention

Types of emergencies and what to do

Emergency telephone numbers

Employees will be trained upon implementation of the plan, if duties and responsibilities change, the plan changes, upon being hired, and whenever training is necessary.

WORK RELATED INJURIES & ILLNESSES

Emergency Injuries & Illnesses:

Call 911 (give accident details and directions to plant)
Send injured employee to Baptist Medical Center Emergency Room.

Non Emergency Injuries & Illnesses:

(Primary) Monday- Friday 7:30 a.m. – 4:30 p.m. (after 3:30 p.m. call first)

Baptist Occupational Health – Westside
5805-1 Ramona Blvd.
Jacksonville, Fl 32005
Phone: (904) 693-0866 Fax (904) 693-0751

(Secondary) Monday-Friday 8:00 a.m. 5:00 p.m. (after 4:00 p.m. call first)

Jacksonville Occupational Health Center
1215 Dunn Avenue, Suite 6
Phone: (904) 757-5656 Fax: (904) 757-5650

(Primary) Saturday & Sunday
Baptist Medical Center- Emergency Room
800 Prudential Dr.
(904) 202-2000

(Secondary) Saturday & Sunday
St. Vincent's Medical Center- Emergency Room
1800 Barrs St.
(904) 308-7300

Post Accident Drug & Alcohol Screening

Page Baptist Occupational Health @ (904) 391-8544

1. Leave call back number 904-781-0898 (Mon-Fri after 5:00 p.m. & weekends leave cell number)

2. Baptist will call back for the Employer's Name, Injured Employee's Name, and Hospital Name where the injured employee was taken for treatment.

WHAT TO DO IF YOUR EMPLOYEE WAS INJURED AT WORK

Emergency Instructions:

1. **Call 911** (Give accident details and directions to plant)

2. **Contact Immediately:**

Donna Maxwell- Human Resources	**office:**	(904) 781-0898 ext. 221
	cell:	(904) 434-8009
Rollins Burks- Plant Manager	**cell:**	(904) 226-3595

First Shift Instructions:

1. **Fill out medical referral form** (get packet from Donna)
2. **Take employee to Baptist Occupational Health – Westside** (3 blocks down Ellis Rd. to Romona Blvd) **Hours:** Monday- Friday 7:30 a.m. 4:30 p.m.
3. **See Attached Map**
4. **Contact Donna Maxwell**- Safety Manager
5. **Fill out Accident/Incident Form & Employee Statement Form**

Second Shift & Weekend Instructions:

1. **Fill out medical referral form** (et packet from Donna)
2. **Take injured employee to Baptist Hospital- Emergency Room with Medical Referral & Drug Test Form**
3. **See Attached Map**
4. **Page Baptist Occupational Health for Drug & Alcohol Screen** (904)391-8544
5. **Contact Donna Maxwell** (see phone numbers above)
6. **Complete Accident/Incident Form & Employee Statement Form**

Baptist Occupational Health- Westside

5805-1 Ramona Boulevard

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Purpose

This Contractor Safety program has been developed to ensure Canam Steel Corporation's employees, Contractors, and temporary employees are provided with a safe workplace.

Definition of Contractors

- Any employee that is part of The Canam Group
- Contractors & sub- contractors- any company performing construction, renovation, electrical work, equipment installation & repair, hot work or welding, using hazardous substances, utility modification, vendors, etc.
- Temporary employees- any employees from an employee leasing company

Canam Steel's criteria for Contractors

The following criteria should be met in order to be considered a candidate as a Contractor for Canam Steel:

- Certificate of Insurance
- Workers' Compensation Modification Rate at or below 1.0
- A Safety Program & training documentation

Prior to beginning work the following requirements must be met:

1. Contractors & sub-contractors and employee leasing agencies must provide Canam Steel with a Certificate of Insurance.
2. Contractors must meet with the Plant Safety Coordinator and provide him/her with applicable Safety programs, Safety training documentation, OSHA 300 log, and any other pertinent Safety information.
3. Contractors must attend Start-up Safety Orientation and/ or watch the Contractor Safety Training Video; located in the traffic dept.

Certificate of Insurance: The certificate should list Canam Steel Corporation as a Certificate Holder with notification of cancellation or renewal. Note: employees of the Canam Manac Group need not provide a Certificate of Insurance.

Safety Programs & Training: If a Contractor does not have a Safety program (i.e. Fall Protection, Hot Work, etc.) applicable to the work to be performed, the contractor must develop and implement their program or comply with Canam Steel's Corporate Safety Program. If the Contractors cannot provide training documentation on an applicable Safety program, the Contractors' must provide the training prior to being work.

Contractors & Sub-contractors' Safety Orientation: At minimum the following topics will be covered

- A description of the Contractor's Site specific Safety program
- How, where, and when to report injuries, including instruction as to the location of First-aid kits.
- How to report unsafe conditions and practices
- The use and care of required personal protective equipment (PPE)
- The actions to take in the event of emergencies including the routes of exiting from areas during emergencies
- Hazard communication
- A description of Canam Steel's Safety Program (An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.)

Safety Rules

- **Report all accidents & incidents immediately to Project Manager, Plant Safety Coordinator, and Plant Manager**
- **All injuries & illnesses must be reported as soon as they occur**
- **No unsafe acts and conditions on Canam Steel Corp. premises**
- **No horseplay**
- **PPE is a condition of employment (NO EXCEPTIONS)**
- **Hardhats, ear plugs, safety glasses, & steel toe boots are required**
- **Short pants, sleeveless shirts, & athletic shoes are prohibited**
- **No loose jewelry or long hair**
- **No contact lens**
- **Only trained operators are authorized to use mobile equipment**
- **All contractors are responsible for daily housekeeping**
- **All contractors are responsible for safely storing and securing tools & materials**
- **Secure all compress gas cylinders**
- **Fall protection required when working above 6'**
- **Don't remove warning labels from containers and bottles**
- **All containers including secondary containers must have labels**
- **Fire extinguisher and first aid kit must be maintained in all work areas**
- **Caution the point of operation for all machined & equipment**
- **No damaged tools or equipment**
- **No frayed or unsafe electrical chords**
- **Identify all fire exits and evacuation areas**
- **All contractors must comply with the 29 CFR 1910.1200 Hazard Communication Standard**
- **Follow all Canam Steel Corp. OSHA VPP STAR SITE safety rules**

Penalties for Canam Steel Corporation, Safety Violations

For each safety violation observed at Canam Steel Corporation, the sub-contractor will be issued a fine. Safety violations include, but are not limited to the following:

- Not wearing Personal Protective Equipment in work area (Hardhats, Hearing Protection, Safety Glasses, Steel Toe Boots, Fall Protection Equipment, etc.)
- Not complying with applicable OSHA safety standards (Lockout-Tagout, Fall Protection, Emergency Action Plan, Recordkeeping- OSHA 200 log, Hot Work Permits, Material Safety Data Sheets, Hazardous Communication, etc.)
- Not providing applicable Safety Training.
- Smoking in areas where flammable or combustible materials (Paint, Thinners, Welding Gases, etc.) are stored or used.

The safety violation fines issued will be as follows:

First Safety Violation- Warning and immediate correction of the violation.

Second Safety Violation- Contractor will be asked to leave premises until able to comply with guidelines.

Third Safety Violation- Contractor service agreement will be terminated for continued non-compliance.

Sub-contractors will receive their issued fines at the end of the workday from Pam Quarrels.

Contractor Company:_____

Contractor Name:_____Date:_____

Enforcement of Safety Policies & Procedures
The contractor must immediately correct all hazards and/or violations. If Canam Steel determines that the corrective actions are not adequate, the contractor must resolve the situation to Canam Steel's satisfaction.

Contractors Requirements
- The contractor will meet or exceed Federal or State OSHA's safety regulations and Canam Steel Corporation safety policies
- The contractor is responsible for their housekeeping on a daily basis.
- Any Federal or State OSHA citations given to Canam Steel relating to the contractor's actions or inaction will be back charged to the Contractor.
- Contractors cannot start work until a pre-construction safety meeting takes place and the required documentation is submitted. (See letter to contractor)
- Contractors will submit all requested safety documents & information to the Plant Safety Coordinator
- Contractors must agree that the Canam Steel Corporation General Manager, Operations Manager and /or Safety Coordinator have the right to stop work on the site and/or exclude any individuals from the worksite due to any actions or non-actions that put the safety and health of any on-site employee in danger.

Project Safety Committee (for projects exceeding 1 month)
- A representative from each contractor will serve on the project safety committee
- The project safety committee conducts a walk-through of the construction site every month
- A meeting will be held every month to discuss the site inspections, disciplines, accidents, etc. The meeting must be documented.
- Each Superintendent/Project Manager will receive a copy of the meeting to discuss with their employees.
- The Canam Steel Corp Safety Coordinator will facilitate the project safety committee meetings and monthly site inspections.

Contractor Safety Orientation

I, _____, have received and
[Print Your Name]

Understand the training information provided to me during my Contractor Safety Orientation for CANAM STEEL CORPORATION- Jacksonville Division.

_____
Contractor Name

_____ _____
Trainee Signature [Date]

_____ _____
Trainer [Date]

_____ _____
Safety & Environmental Coordinator [Date]

Letter to Contractor:

The purpose of this letter is to inform you of the information you will need during your meeting with the Plant Safety Coordinator. All requested items must be brought to the meeting. If you have any questions, please feel free to contact the Safety Coordinator at the following number or e-mail address. We appreciate your time and commitment to safety.

Donna Maxwell
Human Resources Manager

Phone (904) 781-0898 Fax: (904)781-7477

Before the Project Starts (Before Pre-Construction Safety Meeting), the following information is required:

1. Site Specific Safety Plan include the following information
   - What work will be conducted by your company at the Canam Site (Scope of work)
   - What hazards are anticipated with the scope of work (Fall Hazards, Possible hazards associated with equipment used, etc)
   - How the hazards will be addressed to be in compliance with the Federal or State OSHA's regulations.
2. Copies of all applicable Safety Programs and training documentation.
3. Emergency Action Plan and copies of First Aid/CPR certificates of certified people onsite (if any)
4. Forward MSDS Sheets of all chemicals being used (site specific only) and provide new MSDS as changes occur
5. Documentation of operator safety training and experience for mechanical equipment (Manlifts, Forklifts, Cranes, etc)
6. Proof of Industrial Insurance(If not already provided to Canam Steel)
7. Signed Contract

During the Project the following information is required:

1. Notification of an onsite injury (requiring medical attention) within 8 hours
2. Forward a copy of an Accident Investigation Report for an on the job injury (requiring medical attention) within 24 hours.
3. Forward copies of Accident/Incident Investigation (i.e. property damage, major Near Misses, and injuries or illnesses requiring medical treatment) to the Safety Coordinator within 24 hours of the occurrence (i.e. trench cave in with no injuries, employee receiving stitches, etc.)

During the Project the following information is required: (continued):

4. Forward a copy of the weekly safety meetings minutes to the Safety Coordinator no later than the following week. **Note:** A safety meeting will occur at the beginning of each project and weekly thereafter. The safety meeting must be given by the Superintendent or Property Manager

5. Forward copies of Safety documentation (i.e. hazard corrections, inspection documentation, etc.) no later than the following week. A site inspection must occur at the beginning of the project and weekly thereafter. A supervisor and an employee will conduct the inspection.

Note: Canam Steel Personnel will have access to your safety meeting and/or call a safety meeting when necessary.

After Project Completion

1. Site Specific OSHA 300 Log of all recordable injuries at the Canam Site only. (Please forward a copy of the Canam site specific OSHA 300 Log to the Safety Coordinator at the end of the year or Canam project completion, which ever comes first)

2. Total Worker hours worked on the Canam Steel Site for the year. (Please provide a total of workers hours to the Safety Coordinator at the end of the year or Canam project completion, which ever comes first**)**

Purpose: The Fall Prevention Plan has been established to prevent falls while working at heights that exceed six feet or more.

Fall Prevention Plan: The plan is designed to enable Canam Steel employees and contractors to recognize fall hazards and to established procedures that are to be followed in order to prevent falls from elevation six feet or more. Canam Steel employees will comply with the plan unless exposed to a greater hazard. Contractors will comply with the plan unless their plan is equivalent to or more stringent then Canam's plan and/or unless it would expose the contractor to a greater hazard.

The plant Safety Coordinator and Operations Manager are responsible for ensuring the plan is implemented and all employees and contractors comply with the procedure. Each employee or

contractor is responsible for reporting unsafe conditions to the Project Supervisor or the Plant Safety Coordinator. The Plant Safety Coordinator must approve the type of fall prevention systems selected for each project and any changes to this Fall Protection Plan.

Fall Protection Systems:
Powered Lifts (i.e. man lifts, boom lifts, and vehicle-mounted platforms)- means powered Equipment used for building maintenance and renovation. Powered lifts will be used in accordance to 29 CFR 1910.66(f)

Scaffolding- Canam employees or contractors engaged in work that cannot be done safely from the ground or from solid construction (with the exception of ladders) may use scaffolding. Scaffolds will be furnished and erected in accordance with 29 CFR 1910.25 and 26.

Barriers- Consist of a perimeter guarding or covering a hole or floor opening. All opening greater than 12 in. x 12 in. will have perimeter guarding or covering. Prior to cutting holes on the job, proper protection for the hole must be provided to protect the workers. Perimeter guarding or covers will not be removed without the approval of the Project Supervisor and/or the Plant Safety Coordinator.

Personal Fall Arrest System- means a system used to arrest an employee in a fall from a working level. It consists of an anchorage; connectors, a body belt or body harness and may include a lanyard, deceleration device, lifeline, or suitable combinations of these. Personal Fall Arrest Systems and the components must be in accordance with 29 CFR 1910.66 Appendix C.

Safe Monitoring System- means a fall protection system in which a competent person is responsible for recognizing and warning employees of fall hazards. The duties of the safety monitor include:
1. Warn by voice when approaching the open edge.
2. Warn by voice if there is a dangerous situation developing which cannot be seen by another person involved with product placement.
3. Make the designated erectors aware they are in a dangerous area.
4. Be competent in recognizing fall hazards.
5. Warn employees when they appear to be unaware of a fall hazard or are acting in an unsafe manner
6. Be on the same walking/working surface as the monitored employees and within visual sighting distance of the monitored employees.
7. Be close enough to communicate orally with the employees.

8. Not allow other responsibilities to interfere with monitoring. If the safety monitor other responsibilities, the monitor will (1) stop the erection process; and (2) turn over other responsibilities that interfere with monitoring to another competent person; or (3) turn over the safety monitoring function to another designated, competent person. The safety monitoring system will not be used when the wind is strong enough to cause loads with large surface areas to swing out of radius, or result in loss of control of the load, or when weather conditions cause the walking-working surfaces to become slippery.

Control Zone System- means an area designed and clearly marked in which leading edge work may take place without the use of guardrail, safety net or personal fall arrest systems to protect the employees in the area. Control zone systems will comply with the following provisions:

1. When used to control access to areas where leading edge and other operations are taking place the controlled access zone will be defined by a control line or by any other means that restricts access. When control lines are used, they will be erected not less than 6 feet (1.8 m) no more than 60 feet (18 m) or half the length of the member being erected, whichever is less, from the leading edge.
2. The control line will extend along the entire length of the unprotected or leading edge and will be approximately parallel to the unprotected or leading edge.
3. The control line will be connected on each side to a guardrail system or wall.
4. Control lines will consist of ropes, wires, tapes, or equivalent materials, and supporting stanchions as follows:
5. Each line will be flagged or otherwise clearly marked at not more than 6-foot (1.8 m) intervals with high-visibility material
6. Each line will be rigged and supported in such a way that its lowest point (including sag) is not less than 39 inches (1 m) from the walking/working surface and its highest point is not more than 45 inches (1.3 m) from the walking/working surface.
7. Each line will have a minimum breaking strength of 200 pounds (.88 Kn).

Guard Railing & Swinging Gates- Consist of a top rail, mid rail, bottom rail, and toe board that can withstand the force of 200 pounds in any direction. Guard railing is to be used for the catwalks and wall opening above six feet

Ladders (fixed or portable)- Fixed ladders at or above 24 foot in height must be equipped with a safety cage. The safety cage must begin no less than 6 foot above the ground and run the length of the ladder.

Portable Ladders- Employees or contractors working above 6 feet from the ground or above the level will be required to use a Personal Fall Arrest System (if an anchoring point is available). The ladder must extend at least 36 inches above the leading edge and must be secured or fastened by tie off.

Accident/Incident Investigation: All accidents/incidents will be investigated to determine the root cause(s). The information gathered during the investigation will be used to remove performance

barriers and training material to aid in the prevention of future accidents/incidents. If it is determined this plan is not effective, the procedures and practices will be revised immediately.

Changes to the Plan: The Plant Safety Coordinator and a component person must approve any changes to this plan. A Certified Safety Professional will review the plan at least annually or whenever changes are deemed necessary. The plan must also be reviewed as the specific job progresses to determine if additional procedures, practices, or training needs to be implemented by the Project Supervisor and/or the Plant Safety Coordinator.

Training: Employees will be trained on this plan and in accordance with the applicable standard(s) for the Fall Prevention Systems being used for the project. This Training will take place prior to beginning the project, if an accident/incident investigation reveals retraining is necessary, and if the project or plan changes.

Contractors must provide the Plant Safety Coordinator with written training documentation that verifies contracted employees have received training in accordance with the applicable standards in this plan. If the contractor cannot provide the documentation, Canam Steel may provide the training prior to beginning the project.

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The certificate or training, wallet card, and "Forklift Safety" video used in this program were provided by the JJ Keller Operator Training Program for Forklift Safety. This training program is located in the Safety Coordinator's office. All employees must be properly trained **BEFORE** they operate a forklift. All records will be kept on file and this training must be conducted.

Training program outline:

I. Show video- "Forklift Safety"
II. Review with the class the Powered Industrial Truck Driver Training Handouts(pages 2-3)
- Benefits of training
- Operator responsibilities
- Operating rules
- Steering and maneuvering
- Refueling, oil and battery changing
- Unattended trucks
- Loads
- Refresher training

III. Review the correct use of the sample Forklift Inspection loft.
IV. Administer the written exam and review answers as a group and address any questions.

V. Conduct practical driving exam in the yard. Drivers should use their assigned or usual forklift.
VI. If an employee passes all exams, complete Certificate of Training and wallet card.

Powered Industrial Truck Driver Training

Scope-This program establishes a qualification, operation and authorization process for the safe use and operation of industrial powered lift trucks by Canam employees. This program implements requirements found in the Code of Feral Regulations (CFR 1910.178).

Purpose- This procedure will be used to qualify and train industrial lift operators through class room instruction, a written exam, hands on training, and a practical driving exam. All industrial lift rules, policies, and procedures and any accidents that have occurred will be reviewed at least annually as refresher training.

Driving an industrial powered forklift requires more skill and knowledge than driving a passenger car. Only trained and certified operators may use them. To be certified, you must have a positive attitude towards safety, show knowledge of the safe operating rules and exhibit forklift truck operating skills.

Benefits of Training:
An estimated 101 fatalities and 94,570 injuries are caused annually by industrial truck-related accidents.

Types of Trucks on Site:
- **Class III** Electric motor/ rider trucks (pallet lift)

- **Class IV** Internal combustion engine trucks (regular forklift)
- **Class VII** Rough terrain forklift truck (Hysters in yard)

Operator Responsibilities Before and During Use:
- Only trained and certified operators shall be permitted to operate industrial powered lift trucks on company premises.
- The lift truck shall be examined at the beginning of **each** shift and the checklist must be signed and dated.
- If an unsafe condition is found, the operator must immediately report this to his supervisor. Unsafe vehicles must be immediately removed from service.
- No passengers are permitted on any powered lift truck for any reason.
- Don not let anyone pass or stand under elevated forks at any time (loaded or unloaded).
- Trucks shall be kept clean and free of excess oil and grease. Only non-combustible agents are to be used for cleaning lifts.

Operating Rules;
- The proper way to mount or dismount a forklift is to face the unit and use three points of contact. This mean that two hands and one foot should be in contact with the unit at all times.
- Trucks are to be operated at a speed that will permit safe stopping and shall sound the horn when nearing a cross aisle, doorways and other locations where vision is obstructed.
- Do not attempt to move loads that exceed the lift trucks rated capacity.
- Do not enter or unload a truck or trailer unless the brakes are set and the wheels are choked/blocked to prevent truck/trailer movement.
- If a load cannot be balanced and must be moved, the operator will move the lift truck slowly and with caution.

Steering and Maneuvering:
- Always favor the side of the turn. When making a left turn, move to the left side of the aisle before turning, this will give the rear end room to swing without hitting objects. Remember the rear end swings in the direction opposite to the direction of the turn.

Refueling, Oil and Battery Changing:
- Do not attempt to change your own battery. Maintenance will change all drained batteries.
- If the truck is in need of oil change, inform maintenance and this will be handled on site.
- When you are refueling with diesel turn the power off. Do not refuel any open flames. Refuel in designated areas only.

Unattended Trucks:
- An industrial truck is considered unattended if the operator is more than 25 feet away from the truck or out of the line of sight of the lift.
- When the truck is left unattended the forks shall be fully lowered, power turned off, emergency breaks set and controls in neutral.

Loads:
- If a load cannot be balanced and must be moved, the operator will move the lift truck slowly and with caution.
- The operator shall look in the direction of travel and maintain a clear view at all times. If a carried load obstructs forward vision, carry the load trailing.
- Position the load on the forks as close to the truck backrest as possible. Never raise or lower a load while in-route.

Causes for Refresher Training:
- Operator receives an evaluation that notes unsafe acts
- Employee is observed to operate in an unsafe manner
- An accident or 'near-miss accident'
- Employee is assigned to drive a different type of truck

Forklift Inspection Log:
- Yard employees must check the condition of their assignment forklift **BEFORE** the start of each shift.
- Each yard employee must sign off on the forklift inspection log.
- If any of the items on the inspection log are not in satisfactory condition report the problems to your supervisor. At that time your supervisor will decide if it is unsafe to operate this piece of machinery.

Practical Fork Lift Driving Test

1.	Employee showed knowledge of forklift controls	Pass	Fail
2.	Employee had control of the forklift at all times	Pass	Fail
3.	Employee had control of the load at all times	Pass	Fail
4.	Employee was able to handle the different driving Terrain	Pass	Fail
5.	Employees mounted and dismounted the forklift properly	Pass	Fail
6.	Over all performances of the employee's driving	Pass	Fail

Employee's Name:_____

Date:_____

Fork Lift Inspection Log

Please circle the appropriate answer after inspecting the forklift:

Are the following parts in good condition?

Tires	Yes	No
Brakes	Yes	No
Lift forks	Yes	No
Overall body appearance	Yes	No
Overhead guard	Yes	No

Are the following in working condition?

Horn and back up alarm	Yes	No
Headlights and backup light	Yes	No
Fluids levels	Yes	No

If any of the questions were answered no please notify your supervisor immediately.

_____
Signature Date

Fork Lift Inspection Log

Please circle the appropriate answer after inspecting the fork lift:

Are the following parts in good condition?

Tires	Yes	No
Brakes	Yes	No
Lift forks	Yes	No
Overall body appearance	Yes	No
Overhead guard	Yes	No

Are the following in working condition?

Horn and back up alarm	Yes	No
Headlights and backup light	Yes	No
Fluids levels	Yes	No

If any of the questions were answered no please notify your supervisor immediately.

_____
Signature Date

Hazard Communication

PURPOSE

The purpose of this program is to comply with Title 29 CFR 1910.1200 and to ensure employees are provided with a safe and healthful environment.

This program identifies all substances which are harmful or potentially harmful to employee's health of our employees, serves as education and training tool, serves as an information and data bank, and serves as a emergency planning tool.

This program explains procedures for the identifying, storing, handling, and disposal of hazardous wastes and minimizes risk to employees and the environment.

INVENTORY LIST

Adhesives
Alkyd Resin
Aridall
Carboi Zinc 11 Base
Azeron (Series FD88 Fast)
Exosen Couplant
Film Free Glass Cleaner
Inert Resin I
Fragrance Paks
Gap Filling Adhesive
High Acid Bowl Cleaner
Hi Solids
Dipropylene Glycol
Mounted Stone White
Resin Bounded Abrasive
Swoop
Steel Wool
Super Power Punch
Time Mist Wick
Coastal Unlike
Unipro Power Cleaner
All-star Hospital disinfectant
Spot-check

Grease
AP Grease
Super Hydraulic Oil
Lithium Complex Grease

Raw Materials
Ash
Steel
Carbon Steel
Metalplate Galvanizing
Hot Dipped Tin-Coated Sheet
Hot or Cold Rolled Carbon Steel Sheet
High Strength Low Alloy
Long Spans, Girders, Crimp, open Joist
Rotoblast Steel Shot/Rotoblast Steel Grit
Spent Hydrochloric Acid
Steelmaking Slag
Hardhat Stripping Paints

INVENTORY LIST

Paints
Alkaline Mixture
Tnemec Primer (Series 010)
Industrial Hi Sol (Oxide Primer Red)
Antispatter (Aerosol)
Anti-terra
Bix Spray-on-Stripper
Thinner (Series 041 No. 4)
Tneme-Fascure (series161)
Fast Dry Shopcoat Primer Red
Gray Chromate Primer
Gray Shop Coat Primer
Gloss Gray Armorchem
Gray Shopcoat Primer L/CF
Hydro-Tech Water Reducible Primer
Japan Drier (JD-23)
Bb-1 Paintstick
1-70 Lacquer Thinner
Lead Free Orange H/S Primer Enamel
Lumber Crayon
Converter (f65/66/160/161)
130 Optima Super Acrylic Satin
Permagum Cords & Slugs
Protective Maintenance Coatings
Armorchem Drip Panwash
Thinner (Series 041 No. 1)
Hardhat Stripping Paint
Silicone Sealant
Enviro-Guard (VOC Dipping Primer)
Enviro-Guard (VOC Comp. Primer Gray)
Exp. VOC Comp Dip Primer Gray
T-Loc Red
Valve Action Paint Marker
Enviro-Guard Duty Primer Red
Gray Primer
Water Reducible Dip Primer Red
Gray Primer
Water Reducible Dip Primer Red
Pretreated Primer Base Component
Texsolve S/LO Mineral Spirit
Red Oxide Primer L/CF
Red Oxide W/R Primer
Red Metal Primer

INVENTORY LIST

Oils
Kendall SR-12X
Industrial Oils
LPS 1 Greaseless Lubricants
Mobilmet S 122
Molly Lube
2x725-c Penetrating Oil
Penetrating Oil Aerosol
Rigid Nuclear Thread Cutting Oil
00786 Soluble Oil D
State Dura Flex Lubricant
Turbine Oils
Coastal Unilube
Unipro Bolt Buster Penetrating Oil
Unipro Power Steering Fluid

Gases
Ethyl Acetate
Blueline Industrial Solvent
ND-150
Ammonia, anhydrous
Argon
Carbon Dioxide
Chem-Guard Aerosol
Swish Aerosol
Pyro Chem Regular-Stearared (BC)
Fire Extinguisher Power
Oxygen
Cease
High Core
Stargon
Trump Plus Aerosol
Wavicide

Electrodes
Arcair
Covered Electrodes
Carbon and Low Alloy Bare Welding Wire
Copper Based Welding and Brazing Alloys
Flux Cored Are Welding
Flux Cored Electrodes
Kobelco Electrodes
Gas Tungsten
Carbon Tungsten
NI-Rod
Nickel and High Nickel Coated Electrodes
Outershiel 71M and 71M-H
Nozzle Gel
Suoerchrome, Coated Tube Stoodite
Thermomelt Stick and Pellet 150
Stick and Pellet

IDENTIFICATION AND LABELLING

Material Safety Data Sheet (MSDS) will be provided by customers at the time a new product is delivered. The new MSDS will be placed in a master file is maintained in the Safety Coordinator's Office. Other copies of MSDS will be kept in the Tool room (in a yellow binder). Employees in the plant will have immediate access to the MSDS in the event of a emergency.

All chemical containers (such as paint toats, bottles, drums, etc.) will be labeled. Hazardous waste containers will have the words "Waste Paint" and "Waste Thinner" hand written on the container.

DISPOSAL

1. Hazardous waste will be placed in a 55-gallon container that is labeled "Hazardous Waste". The date at which accumulation has begun will be written on the container, and the container will be disposed of no later than 180 days from the accumulation date. Laidlaw Environment Services will dispose of all hazardous waste.

2. Non-hazardous waste (such as paint chip) will be dumped in a 55-gallon drum and/or a roll-off dumpster and disposed of by BFI.

3. Rags used to clean p hazardous waste, oil, paint, etc. will be used in a metal container and disposed of every Wednesday by Cintas, Inc.

STORAGE AND HANDLING:

1. Hazardous materials and/or chemicals saved for reuse will be stored in the appropriately labeled drums or containers.

2. Weekly inspections will be made of the storage site to insure there are no leaking or spilled containers. See Hazard Material Spill Response on page

3. Flammable and combustible chemicals and materials will be stored in a cool, dry, well ventilated storage space, away from open flames and spark producing work (Hot Work)

4. Highly flammable material will be kept in an area separate from oxidizing agents (e.g. acetylene and oxygen with not be stored together).

5. The storage area for flammables and combustibles will be supplied with fire-fighting equipment. There will be "No Smoking" signs posted around the area.

6. Materials which are toxic or that can decompose into toxic components from contact with heat, moisture, acids, or acids fumes will be stored in an cool, well ventilated place out of the direct rays of the sun. Incompatible toxic materials will be isolated from each other

7. Corrosive (such as forklift or truck batteries) will be stored in a cool, well ventilated area, (above their freeze point). They will be inspected at regular intervals to insure they are labeled and kept closed.

8. Corrosives will be isolated from other material

9. Protective clothing and equipment will meet or exceed the American National Standard Institute (ANSI) or the National Institute of Occupational Safety and Health (NIOSH) requirements.

TRAINING:

All employees will receive training on Hazard Communication (as required by Title 29 CFR 1910.1200) during New Employee Orientation and annually thereafter.

Hazard Communication training records will be kept by the Safety Coordinator and the Human Resources Department for Thirty (30) years.

Compliance Checklist:

- Have you designated a Hazard Communication Coordinator?
- Have you made a list of Hazardous Chemicals that employees in your workplace may be exposed to?
- Is there clear communication between the purchasing and receiving departments and the Hazard Communication Coordinator?
- Are all containers of hazardous substances labeled properly?
- Do you have up-to-date Material Safety Data Sheets for every hazardous chemical in your workplace?
- Have you contracted the appropriate supplier form missing or incomplete Material Safety Data Sheets?
- Have you established a comprehensive training program?
- Have you identified and trained all employees who need training?
- Have you established a procedure to keep track of who has received training?
- Are your MSDS accessible to all employees on all shifts?
- Have you assembled a Written Hazard Communication Plan containing all the elements listed in the booklet?

EMPLOYEE TRAINING CHECKLIST:

- Do all employees know about the existence and requirements of the Hazard Communication Standard?
- Do all employees know who the Hazard Communication Coordinator is?
- Do all employees know where the Written Communication Plan is located?
- Do all employees know where the list of Hazardous Chemicals is located?
- Do all employees know about the hazards associated with the chemicals they are exposed to?
- Do all employees know how to read and understand relevant warning label information?
- Do all employees know the location of the MSDS forms?
- Do all employees know how to read and understand relevant information on MDSD forms?
- Do all employees know the safety precautions for handling chemicals they work with?
- Do all employees know how to detect the presence or release of hazardous chemicals?
- Do all employees know signs of over-exposure?
- Do all employees know emergency and first aid procedures?
- Do all employees know their responsibilities and involvement with compliance efforts?

Hazardous Materials Spill Response:

Small spills

- Use spill containment kits to control the spill (located in the tool room)
- Report the spill to your supervisor and the Safety Coordinator
- Make sure the area is ventilated
- Read the Material Safety Data Sheet (MSDS) for information on a spill clean up and personal protective equipment (PPE)
- Begin the clean up and disposal (if the situation is safe)
- Perform an accident/incident report

Hazardous Materials Spill Response

- Try to contain the spill (DO NOT attempt to contain compressed gases)

- Call 9-1-1 Jacksonville Fire and Rescue Large spills & releases
- Contact the FL Department of Environmental Protection (Emergency Response Bureau), Chemtrec, etc. (if necessary)
- Contact the Safety Coordinator and/or Operations Manager
- Activate the emergency response team (Safety Committee Members)
- Ventilate the area with not sparkling (non-ferrous) fans
- Read the MSDS for clean p information and special warnings
- Clean up and disposal of waste
- Perform an accident/incident investigation

Hazardous Materials Spill Response:

In case of fire, take the following steps:

Call 9-1-1 Jacksonville Fire and Rescue

Call for the Emergency Response Team (Safety Committee)

Try to extinguish small fires (only)

If the fire becomes uncontrollable or too large, evacuate the area

Report the fire over the radio, so emergency evacuation can begin (see the Emergency Action/Contingency plan for further information).

I. POLICY STATEMENT

Canam Steel Corporation-Jacksonville Division is to provide all employees with a safe and healthy workplace. The company will protect each employee's hearing by effectively managing and/or eliminating hazardous noise exposures and ensure compliance with Title 29CFR 1910.95 Occupational Noise Exposure Standard. Based upon noise monitoring results, a Hearing Conservation Program (HPC) has been established to meet this objectives.

II. RESPONSIBILITIES

The Safety & Environmental Coordinator has been designated responsibility for the Hearing Conservation Program (HPC).

Responsibilities include:

- Coordination and supervision of noise exposure monitoring
- Identification of employees to be included in the HCP
- Coordination and supervision of the audiometric program
- Supervision of hearing protection selection
- Development of policies relating to the use of hearing protection
- Supervision of employee training programs
- Coordination and supervision of recordkeeping
- Evaluation of the Hearing Conservation Program

III. RESPONSIBILITIES

The following job positions are assigned program responsibilities:

Program Implementation: Safety & Environmental Coordinator

Noise Monitoring: Liberty Mutual Group and/or other Industrial Hygienist

Engineering Controls: Canam Steel Corporation Management

Hearing Protection Enforcement: All Production Managers, Supervisors, & Leadmen

Audiometric Testing (including daily calibration): Baptist Occupational Health and Jacksonville Speech & Hearing Center, Inc.

Audiometer and Booth Calibration: Baptist Occupational and Jacksonville Speech & Hearing Center, Inc.

Periodic Program Effectiveness Review: Safety & Environmental Coordinator

Training: Safety & Environmental Coordinator, Managers, & Supervisors

Recordkeeping: Safety & Environmental Coordinator & Human Resource Department

II. RESPONSIBILITIES

All employees working in the plant are exposed to noise levels equal to or greater than 83 Dba over a ten- (10) hour workday. Therefore, all employees must be included in the Hearing Conservation Program.

- All such employees are required to participate in the program as a condition of employment.
- Employees must wear the provided hearing protection when working inside the plant.

All employees affected by the Hearing Conservation Program:

- Will be given a baseline audiogram prior to the assignment and an annual audiogram thereafter. The test is at no cost to the employee.

- Will be provided with a choice of suitable hearing protection, fitted and encouraged to use them. Wearing of hearing protection is mandatory for all employees working in the plant.
- Will be notified of any abnormal audigram indicating a standard threshold shift.
- Will be provided annual information and training.

III. PROGRAM REQUIREMENTS

Noise Monitoring

- Noise Monitoring will be performed by an Industrial Hygienist from Liberty Mutual Insurance or the State of Florida, Division of Safety. This Monitoring will be performed at least annually.
- Additional noise monitoring will be conducted whenever employees' exposures are expected to change (equipment changes, plant modifications, engineering control installations, etc.).
- When monitoring is performed, employee representatives will be notified of planned monitoring by the Safety & Environmental Coordinator and permitted to observe. Employee observation of monitoring will not disrupt normal work activities.

- Annual noise monitoring records will be kept in the Safety & Environmental Coordinator's Office or Human Resource Department.

III PROGRAM REQUIREMENTS

Audiometric Testing

- Baseline and annual audiometric testing will be performed by Baptist Occupational Health and Speech & Hearing Center, Inc. The audiometric testing will be performed according to Title 29 CFR 1910.95 (g), (h) and Appendices C-F.
- Copies of the standard will be provided to the testing centers.
- The testing centers will provide or make available records regarding the background sound pressure levels in their audiometric testing rooms.
- New employees will be provided with an audiometric baseline examination prior to employment. Exposure to workplace noise is not allowed for 14 hours prior to baseline examinations (hearing protection may be used in lieu of 14 hours noise-free).

- Audiometric testing results provided by the testing center will be reviewed by the Human Resource Department. Human Resources will ensure the appropriate follow-up actions are taken.
- If a standard threshold shift (an average shift in either ear of 10 Dba or more at 2,000, 3,000, or 4,000 Hz) is identified:
- The employee will be notified of the threshold shift within 21 days of this determination.
- The employee will be informed of the need for further evaluation or re-testing if a medical problem is suspected.
- The use of hearing protection will continue to be enforced.
- The employee will be refitted or retrained in the use of hearing protection.

IV PROGRAM REQUIREMENTS

Hearing Protection

Hearing Protection is required to be worn by all employees working in or traveling throughout the plant.

Employee Training

Participation is an annual training program is required for employees exposed to noise at or above 83 dBA over a (10) hour workday. The training will include information on:

- The effects of noise on hearing
- The purpose and the use of hearing protection, the advantages and disadvantages of the various types.
- Instructions in the selection, fitting, use, and care of hearing protectors.
- The purpose of audiometric testing and an explanation of test procedures.

- The contents of Title 29 CFR 1910.20 Access to Medical and Exposure Records (excluding the recordkeeping requirements outlined in section (d) Preservation of Records.

- Training will be performed during New Employee Orientation and annually thereafter. Training will consist of classroom instruction and video.

III PROGRAM REQUIREMENTS

Recordkeeping

Records will be kept according to Title 29CFR 1910.95(m). Audiometric programs will be maintained by the Safety & Environmental Coordinator and the Human Resource Department. The following retention schedules are applicable or employee monitoring the exposure records created under the hearing Conservation Program.

- Employee audiometric test records-baseline and annual audiogram, re-tests, test room background levels, and audiometer calibration records (maintained for the duration of effected employees' employment).

- Noise exposure measurement records (2 years)

Employees can receive exposure and medical records by providing a written request to the Human Resource Department. Canam Steel Corporation-Jacksonville Division will provide information to employees within 15 working days.

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I. Purpose:

Canam Steel has hot work occurring as part of its daily production requirements. There are two times when a Hot Work Permit must be issued. These times are when welding and hot work, such as brazing or grinding present a significant opportunity for fire or injury and when temporary maintenance or renovation operations occur. All precautions of this program must be applied prior to commencing any welding or hot work by Canam employees or outside contractors. Reference: OSHA 29 CFR 1910.252.

II. Definitions:

Welding/Hot Work Procedures: Any activity which results in sparks, fire, molten slag, or hot material which has the potential to cause fires or explosions.

Examples of Hot Works: Cutting, brazing, soldering, thawing pipes, torch applied roofing, grinding and welding.

Special Hazard Occupancies: any area containing flammable liquids, dust accumulation, gases, plastics, rubber and paper products.

Fire Watcher: Is a designated employee trained in fire extinguisher use, who must observe a hot work site. The firewatcher is to prevent and extinguish a fire at the hot work site.

Designated welding areas: Locations in the facility where daily hot work is required for production. A Hot Work Permit is not necessary for these areas.

III.Responsibilities:

Each employee must follow the provisions if this procedure when working with welding, brazing and cutting equipment outside of the designated areas.

The Plant Safety Coordinator will maintain this procedure and provide direction for issues involving hot work permits.

The Supervisor must recognize hazardous situations in all work areas that have not been addressed and established with the Plant Safety Coordinator. Proper corrective action must be taken as soon as possible.

Each supervisor is responsibility for the inspection of all work areas to determine if a Hot Work Permit is required.

IV. Policy:

Hot work that occurs outside of the designated weld areas can only be performed with the issuance of Hot Work Permit.
Some of these areas include:

- Office areas or restrooms
- Building structures
- Production lines
- Paint Tanks
- Container Storage
- Tool Room

A Hot Work Permit is also required when welding is occurring within 35 feet of:

- Flammable or combustibles
- Wall or floor openings
- Excessive dust or dirt on the floor

IV. Obtaining a Hot Work Permit:

When the Supervisor determines that a Hot Work Permit is needed the Safety Coordinator of Maintenance Supervisor must be notified. After the Supervisor inspects the hot work area and completes the hot work survey, the Hot Work Permit will be signed and issued to the employee or contractor performing the hot work.
Hot Work Permit Rules:

- The permit must be posted at the site of the hot work
- shift a new A Hot Work Permit is only good for one shift. If the hot work continues into the next shift a new permit must be issued.

- There must be at least one 10-lb. Dry chemical fire extinguisher within 35 feet of the work area.
- There must be a designated firewatcher at all times for the work site.
- The firewatcher must stay at the site for a half-hour after completion of the hot work.
- The area must be free of flammables and combustibles within 35 feet, if this is not feasible those flammable or combustibles, Must be protected from accidental ignition.

After the job is finished the Hot Work Permit MUST be returned to the Plant Safety Coordinator to indicate the job is complete.

V. Specific Hot Work Areas & Procedures for Joist Line 2:

Occasionally welding, cutting, or grinding may occur within 35 feet of the paint tank due to the size of the steel joist. It is the responsibility of the Joist Line 2 Supervisor and Plant Safety Coordinator to ensure Hot Work Permit procedures are followed.

Hot Work areas for Joist Line 2: Q.C., slice line, rigging table, and welding pit

Ensure the following Hot Work Permit procedures are followed for the safety of all workers on-site:

1. Identify Hot Work Location
2. Post Hot Work Permit at Hot Work location
3. Follow all Hot Work Permit instructions
4. Close paint tank covers at Hot Work locations
5. Cover closed paint tank covers with fire blankets
6. Place welding screens around the welding and/or cutting areas
7. Ensure paint tank fire suppression system is fully charged & armed
8. Ensure Type A&B 33 gallon two wheel fire extinguishers are staged at the north and south ends of the paint tank
9. Ensure Hot Work area is clean, free of dust, flammables, & combustibles
10. Maintain a fire watcher with portable 10 lb. carbon dioxide fire extinguisher at Hot Work locations

VI. Specific Hot Work Areas & Procedures for Maintenance Department:

Occasionally welding, cutting, or grinding may occur within 35 feet of flammables or combustible due to Maintenance operations. It is the responsibility of the Maintenance Supervisor and Plant Safety Coordinator to ensure Hot Work Permit procedures are followed.

Hot Work areas for Maintenance Department: Within 35 feet of all flammables & combustibles, floor & wall openings, excessive dirt & dust locations

Ensure the following Hot Work Permit procedures are followed for the safety of all workers on-site:

1. Identify Hot Work Location
2. Post Hot Work Permit at Hot Work Location
3. Follow all Hot Work Permit Instructions
4. Use fire blankets when working around any special hazard occupancy
5. If feasible, place welding screens around the welding and/or cutting areas
6. Clean-up any excessive dirt and dust before starting Hot Work
7. Maintain a fire watcher with portable 10 lb. carbon dioxide extinguisher at Hot Work Location

VII. Annual Training

All production managers, supervisors, and employees will receive Hot Work Permit training.

Hot work training session will include:

- Purpose of the Hot Work Program
- Definitions
- When a Hot Work Permit is required
- How to obtain a Hot Work Permit
- Rules for use of a Hot Work Permit
- Explanation of a sample Hot Work Permit
- Proper fire extinguisher use

Hot Work Survey Form

Before approving any cutting and welding permit, the Supervisor or Plant Safety Coordinator shall inspect the work area and confirm that precautions have been taken to prevent fire.

Precautions

Cutting and welding equipment in good condition
Ample fire extinguisher available

Within 35 feet of Work

Floors swept clean of combustibles
Combustible floors wet down, covered with damp sand, metal or other shields.
No combustible material or flammable liquids
Combustible and flammable liquids protected with covers.
All wall and floor openings covered

Work on Walls or Ceilings

Combustibles moved away from the opposite side of the wall
Is the construction noncombustible?

Fire Watcher

To be provided during and 30 minutes after operation
Supplied with extinguisher (at least 10lb ABC)
Trained in the use of equipment and in sounding fire alarm.

Final Checkup

To be made 30 minutes after the completion of any hot work operation.

Table of Contents

I. Purpose- This program is to cover the servicing and maintenance of machines and equipment in which the unexpected energizing, start up, or release of stored energy could cause injury or death to employees.

II. Scope- The program establishes requirements for hazardous energy control. It is to be used to ensure that machines and equipment are isolated from all potentially hazardous energy sources whenever servicing or maintenance activities are in progress.

III. Responsibilities:

1. The Maintenance Supervisor (Roy Waters) is designated as the Lockout/Tagout Program Coordinator for Canam Steel Corporation-Jacksonville facility. Specific responsibilities include:

- Maintain a current listing of personnel who have been issued lockout devices (Attachment 1)
- Maintain a current listing of all equipment and machines that are covered by the Lockout/Tagout program (Attachment 2). The listing should be updated each time a change occurs.
- Implementation and enforcement of this program.
- Maintain protective materials and hardware (e.g., locks, chains, wedges, key blocks, adapter pins, self-locking fasteners, or other hardware).
- Conduct the annual inspection & review as required by section VII of this program.

2. Each maintenance person is responsible for the effective use of this program and procedures during his/her shift.

3. Each person is responsible for learning and following the procedures developed under this program.

4. The Safety Coordinator (Brian Dowell) responsibilities include:

- Review the annual LO/TO program audit
- Perform the LO/TO training
- Provide LO/TO training to outside contractors and their employees when necessary
- Provide outside contractors with a copy of Canam's LO/TO program

5. The Production Supervisor authorized by the Safety Coordinator will perform the annual LO/TO Audit for all departments. In addition, a Canam employee trained in Lockout/Tagout will be authorized by the Safety Coordinator to audit the Production Supervisor's LO/TO procedures.

IV. Lockout/Tagout

All equipment and machines (that require lockout/tagout) must be locked out and tagged out to protect against accidental or inadvertent operation, when operation could cause injury to personnel. Locks and tags are to be applied and removed only by the authorized employee who is performing the servicing or maintenance.

No one should attempt to operate locked out equipment.

Disciplinary action will be applied if any employee violates these procedures, regardless of whether or not a person is physically harmed or equipment is damaged. Employees will be immediately terminated for removing a lock without authorization.

Lockout devices (padlocks) with an appropriate DANGER warning tag shall be used only for energy control. Prior to the servicing or maintenance of equipment a padlock and DANGER warning tag will be obtained from the Program Coordinator. Each padlock will be keyed differently with no master key or duplicate keys available.

V. Training

Each authorized employee will receive training in the recognition of applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control.

Each affected employee shall be instructed in the purpose and use of energy control procedure.

Lockout/Tagout will be given to all new employees as a part of New Employee Orientation. Retraining will be conducted whenever there is a change in job assignment (e.g. the employee becomes a maintenance technician).

Employees authorized to perform Lockout/Tagout are listed on Attachment 1.

VI. Lockout/Tagout Procedures

A. SEQUENCE OF LOCKOUT:

The following are specific procedures to be followed for lockout/tagout:

1. Notify the maintenance supervisor before beginning lockout/tagout.

Notify all affected employees that lockout/tagout is going to be utilized, and the reason why.

If the machine/equipment is in operation, shut it down by the normal shutdown procedure.

Operate the appropriate switch, valve, etc., so that the machine/equipment is isolated from all energy sources.

Lock the energy isolated devices, using assigned locks and danger tags.

Release, restrain, or dissipate any stored energy.

Verify that energy isolation us complete, by attempting to start the affected machinery or equipment in the normal manner.

After testing, return all operation controls to the "neutral" or "off" positions.

VII. Lockout/Tagout Procedures

B. RESTORATION TO NORTMAL:

After service or maintenance is completed, check the area to ensure that no employees are exposed.

Remove all tools and repair equipment.

Ensure that all guards have been replaced and all safety interlocks reactivated (If so equipped).

Verify that the operating controls are in the "OFF" or NEUTRAL" position.

Remove all lockout and tag devices and activate the energy isolation devices to restore energy.

VII. Program Audit and Review

At least annually, a Production Supervisor will verify the effectiveness of the energy control procedures.

The auditor must audit the Hazardous Energy Control Procedures with all authorized employees, and actually observe the use of the Hazardous Energy Control Procedure. This audit must be certified and documented by the auditor using a Hazardous Energy Control Lockout Program Inspection form. (Attachment 3).

These audits are to ensure that the energy control procedures are being used correctly and to provide a check on the continued adherence to the procedures. Management must certify that the prescribed audits have been performed. Any deficiencies must be corrected immediately, either by modification of the procedure, retraining of employees, or a combination of the two.

VIII. Outside Contractors

Outside personnel or contractors involved in lockout of equipment or machinery that affects all employees on the construction site must submit their energy control procedures, in writing, to the Safety Coordinator. All affected employees must be trained in a familiarized with the contractor's submitted procedure.

In order to protect all employees, the contractor's work will be isolated, and access by non-contractor employees will be restricted. The Safety Coordinator must assure that all employees comply with our work procedures and energy isolation procedures.

Contractors failing to adhere to the provision of the OSHA Hazardous Energy Control standard will be asked to terminate their work until their program is brought into compliance.

Attachment 1

HAZARDOUS ENERGY CONTROL
PROGRAM TRAINING RECORD

The following employees have received Hazardous Energy Control (Lockout/Tagout) training. These employees know, understand and demonstrate how to perform Lockout/Tagout according to the Canam Steel Corporation- Jacksonville Facility procedures:

Training is conducted by the Maintenance Supervisor or the Safety Coordinator and includes a LO/TO video and a classroom section that covers LO/TO procedures and proper shutdown/start-up of a machine and a review of important definitions. The training instructor will also witness employees doing a hand-on-machine LO/TO.

1. Mike Mills
2. David Runge
3. Mark Hodom
4. Gene Thomsen
5. Josh Lee
6. Lee Stone
7. Maurice Adams
8. Sokhorn Son
9. Melvin Taylor
10. Charles Branch
11. Yeartie Munford
12. Dan Lundy
13. Francisco Cortez
14. Lash Parker
15. Bich Le
16. Dennis Larry
17. Hoan Dinh Le
18. John Jones
19. Mike Pigeon
20. William Goode
21. Mark Dancy
22. Pat Hostetler
23. Mark Stewart
24. Ed Mellor
25. Corey Rose
26. Sean Metzig
27. Smokey Choquette
28. Phorn Yuom
29. Charles Evans
30. Seam Touch
31. Jimmy Moore
32. Bopha Phyleuy
33. Jack Cramer
34. Reginald Jenkins
35. Bob Coker
36. Terrence Curry
37. Albert Benjamine
38. Archie Powell
39. Na Ly
40. Gordon Register
41. Shawn Brantley
42. Rollins Burks
43. Tony Crichton
44. Wesley Ellison
45. Mason West
46. Nathan Byerly
47. Chris Johnson

Attachment 2

The following machines and equipment are covered under 29 CFR 1910.147, the Control of Hazardous Energy (Lockout/Tagout). Therefore appropriate lockout/tagout procedures must be performed each time servicing or maintenance is performed on the following:

EQUIPMENT/MACHINE IDENTIFICATION	LOCATION	BUILDING	DATE
Deck Machine	Decking	#3	10/18/02
Peddimax 881	Structural	#3	10/18/02
Controlled Automation 2AT-175 Plate Bunch	Structural	#3	10/18/02
Marvel Saw	Structural	#3	10/18/02
Angle Cutter	Structural	#3	10/18/02
Cold Saw	Structural	#3	10/18/02
Controlled Automation Drill Line	Structural	#3	10/18/02
MD 2000 Top Cord Slice Table	Structural	#3	10/18/02
Joist Long Span Conveyor & Flipper	Long Span	#2	10/18/02
Joist Short Span Conveyor	Short Span	#2	10/18/02
Joist Mid Span Conveyor & Flipper	Mid Span	#2	10/18/02
Joist Hambro Conveyor	Hambro	#2	10/18/02
Rod Cutter	Short Span	#2	10/18/02
Rod Bender	Short Span	#2	10/18/02
Peddinghaus Punch	Joist Prep	#2	10/18/02
Bridging Machine	Bridging	#2	10/18/02
Roll Forming Machine	Roll Forming	#2	10/18/02
Roll Forming/Bridging Vacuum Painter	Roll Forming	#2	10/18/02
Rod Cutter	Mid Span	#2	10/18/02
Chop Saw	Joist Prep	#2	10/18/02
CNC Bender	Joist Prep	#2	10/18/02
Conventional Bender	Joist Prep	#2	10/18/02
Piranha Iron Worker	Joist Prep	#2	10/18/02
Rod Cutter	Hambro	#2	10/18/02
Flash Welder	Hambro	#2	10/18/02
Flash Welder	Joist Prep	#2	10/18/02
Band Saw	Joist Prep	#2	10/18/02
Channel Cutter	Short Span	#2	10/18/02
Four Angle Shear	Short Span	#2	10/18/02
Single Angle Shear	Joist Prep	#2	10/18/02
Three Angle Shear	Mid Span	#2	10/18/02
Angle Master	Joist Prep	#2	10/18/02
Peddinghaus 210 Super 20	Joist Prep	#2	10/18/02
Double Angle Shear	Joist Prep	#2	10/18/02
Channel Chrimper	Joist Prep	#2	10/18/02
Hydraulic Crimper	Joist Prep	#2	10/18/02
Channel Cutter	Joist Prep	#2	10/18/02
Bridge Cranes(20, 5, & 3 ton)	Joist Prep	#3	10/18/02
Bridge and Jib Cranes (10, 5, 2.5, 2, &1 Ton)	Joist Prep	#2	10/18/02
Gantry Crane (20 ton)	Structural Yard		10/18/02
Bridge Cranes (20 & 10 Ton)	Finished Goods Yard		10/18/02

HAZARDOUS ENERGY CONTROL
LOCKOUT PROGRAM AUDIT

Date:
Equipment identification and location:
Inspector:

Authorized Employees

1._____ 8._____

2._____ 9. _____

3._____ 10._____

4._____ 11._____

5._____ 12._____

6._____ 13._____

7._____ 14._____

Procedures being followed: Yes or No

COMMENTS/DEFFICIENCIES

_____
_____
_____

DEFIENCY FOLLOW-UP: COMPLETED_____ N/A
DATE

HAZARDOUS ENERGY CONTROL
LOCKOUT PROGRAM AUDIT

Comments:

_____
_____
_____

Reviewed By:_____ Date:

Reviewed By:_____ Date:

True/False Questions:

____1. Lockout is the prevention of unexpected start-up machinery and equipment, or the unintentional release of stored energy that can cause injury or death to an employee.

____2. Tagout has greater protection than lockout.

____3. Tagout provides a physical restraint that does not allow another employee to remove the Tag from a piece of equipment that is tagout

____4. Affected employees can lockout/tagout machinery.

____5. Authorized and affected employees are not required to communicate during lockout procedures

____6. Stored Energy is eliminated once the electrical disconnect is lockout.

____7. Contractors are an exception to the rule when it comes to lockout/tagout.

____8. All stored energy must be released before an employee can begin repairs on a machine.

____9. If a machine operator makes a line call for maintenance to repair their machine, the operator is not required to perform a group lockout with the maintenance employee

____10.Lockout only applies to authorized employees that want to participate. If he/she feels that it is not important, lockout doesn't have to be performed.

____11.Employees will not be used to avoid injury from stored energy.

____12.Blocks need to be used to avoid injury from stored energy.

____13.Turning off a machine is substitution for lockout.

____14.Hands-on-training is required by Canam Steel for all maintenance and machine operators before they are allowed to lockout a piece of equipment.

____15.It is important for an unauthorized employee to ask the Safety Coordinator or the Maintenance Supervisor if they are unsure about the energy source(s) on their machine.

Fill-in-the blank:

16. Name three types of hazardous energy?
    1)_____
    2)_____
    3)_____

17. Name two different occupations for each of the following employees characterized as employees involved in a lockout program:
    Authorized:_____
    Affected:_____
    Other:_____

18. In each of the steps listed below, explains how you would lockout a machine if you needed a repair done on that machine. Go through each step and explain how you would handle the situation.
    1. Think and plan-_____
    2. Communicate- _____
    3. Locate all power sources-_____
    4. Neutralize all power sources- _____
    5. Lockout all power sources- _____
    6. Test operating controls- _____
    7. Turn controls back to off- _____
    8. Perform service or maintenance- _____

19. In each of the steps listed below, explain how you would release a machine from lockout?
    1. Remove all items from the area- _____
    2. Notify all authorized and affected employees-_____
    3. Remove all authorized and affected employees- _____
    4. Energize the machine or equipment- _____

20. Who do you think would win in an arm wrestling match, Rollins or Jack? _____

_____ _____
Name **Date**

Pass/Fail?

Purpose: The procedures of this Respiratory Protection Program have been implemented to protect employees from potential health hazards (such as fumes, vapors, dust, mist, and other respirable particles). The program procedures cover volunteer protection under 29 CFR 1910.134

Selection of Respirators: Respirators covered by this program were selected based on the potential health hazard and the type of protection needed. To determine what respirators to use for a specific job, David Barrett, MS, CSP (Corporate Safety Manager), Brian Dowel (Safety Coordinator), and Mark Fields, CIH, CSP (Industrial Hygienist) reviewed the Material Safety Data Sheets, the job process, and performed industrial hygiene monitoring.

Furthermore, the manufacturers' or renters' instructions were used to determine what respirators would provide the best protection for the employees.

Note: All respirators have been chosen in accordance with 1910.134(d).

Types of Respirators selected and the use:

- Moldex 2400 N95 Half-face-Mask- will be used for voluntary protection from welding fumes, dust, non-hazardous vapors, etc.
- Nuisance Dust Mask (one strap) will be used for non-hazardous dust.
- 3M 53P71 Organic Vapor Dual Cartridge Respirators will be used for paint spray operations
- 3M Air Supplied Welding Shield.

Medical Evaluation: Each employee will have to complete a Medical Evaluation Form prior to having a Pulmonary Functions Exam and have a Pulmonary Functions Examination prior to using respirator.

Jacksonville Occupational Health & Wellness or Baptist Occupational Health will perform the Pulmonary Test (PFT) for Canam Steel Employees as required by the standard.

Note: Use the 6 page from labeled OSHA Respirator Medical Evaluation Questionnaire (Mandatory)- 1910.134 App C for medical evaluations

Follow up Medical Evaluation: Canam Steel will ensure that a follow-up medical evaluation is provided to an employee that gives a positive response to any of the questions 1 through 8 in section 2 Part A of Appendix C or whose initial medical examination demonstrates the need for a follow-up medical examination.

The follow-up medical examination will include any medical test, consultation, or any diagnostic procedures the physician's evaluation deemed necessary to make a final determination.

Fit Testing Procedures Prior to using a respirator, each employee will be given a quantitative and /or qualitative Fit Test according to 1910.134 Appendix A (See the following 18 pages labeled Fit Testing Procedures)

Donna Maxwell (Safety Coordinator) will coordinate Fit Testing on/off site for Canam Steel. Contractors will have to perform their own Fit-Test.

Canam Steel will ensure that the persons administrating Quantitative Fit Test (QNFT) are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and ensure that test equipment is in goo working order.

Canam Steel will ensure that QNFT equipment is kept clean, and is maintained and calibrated according to the manufacturer's instructions so as to operate at the parameters for which is was designed.

Moldex 2400 N95- Use for welding fumes and particulate aerosols free of oil.

Use Limitations:

1. Concentrations of contaminants which are unknown, or are immediately dangerous to life or health.
2. Concentrations of particulate that exceed maximum use concentration or 10 times the OSHA permissible exposure limit, whichever is lower.
3. Gases vapors, asbestos, paint, spray, sandblasting, or particulate materials that generate harmful vapors.

4. Oil-based mists

5. This respirator does not supply oxygen and must not be used in area where the oxygen is less than 19.5%

6. Do not remain in contaminated area if any physical distress occurs (such as breathing difficulty, dizziness, or nausea).

7. Leave contaminated area and replace respirator if it damages, distorted, a proper fit cannot be obtained, your tastes, smell, or become irritated by contaminants, or breathing becomes difficult.

8. Do not alter modify or abuse the respirator.

Fitting Instructions:

1. Users must cleanly shaven. Any facial hair such as a beard or long sideburns, may prevent the respirator from fitting properly

2. Hold the respirator in your hand with the molded nose contour (narrow end) at fingertips, allowing to fall below your hand

3. Place respirator under your chin with molded nose contour (narrow end) up

4. Raise the top strap the back of your head. Pull the bottom strap over your head, below your ears to your neck.

5. Each time you enter work areas the seal must be checked. Cover the front of the respirator by cupping both hands. Inhale sharply. A negative pressure should be felt inside the respirator. If any air leakage is detected at the respirator edges, adjust straps by pulling back along the sides and/or reposition the respirator. Repeat until sealed properly, otherwise see Brian Dowell. Entry into a contaminated area with an improper fit may result in sickness or death.

Maintenance and Repair:

Do not repair the respirator. Dispose of the respirator if it is defective, distorted, damaged, or contaminated with dusts, debris, mists, etc.

Cleaning and disinfecting

If the respirator becomes contaminated with dusts, dirt, mists, or other contaminants, dispose of the respirator immediately. Do not reuse the respirator.

Storage:

New respirators will be stored in clean, dry, cool area from chemical, heat. Sunlight, and excessive moisture. The respirators will be stored in the plastic and box supplied by the manufacturer until distributed.

The Moldex 240 N95 are disposable respirators and are not to be reused after a full 8-hour workday.

Inspection of the respirator:

Visually inspect the respirator before each using.

1. Make sure the respirator is not torn, ripped, contaminated, distorted, deteriorating, or damaged in any way.

2. Check the head straps. Make sure the straps are not torn, distorted, deteriorated, damage, and are elastic (will not break when pulled).

3. Make sure exhalation valve is not distorted, damaged, deteriorating, etc.

If any of the mentioned conditions are found, dispose of the respirator immediately and do not use.

Training Information: The employee(s) wearing the Moldex 2400 N95 Respirator will receive training by the Safety Coordinator and/or the supervisor. The training will require the employee to know, understand, and demonstrate the following:

- Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator
- What the limitations and capabilities of the respirator are
- How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions
- How to inspect, put on and remove, use, check the respirator seal
- What the procedures are for maintenance and storage of the respirator
- How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators
- The general requirements of the respirator standard

Training will be performed before the employee(s) use the respirator, annually thereafter, when there are changes in the type of respirator or the process, when the employee demonstrates a need for retraining.

Nuisance Dust Mask- Use for comfort only- not for lung protection.

Use of Mask:

This mask provides relief against the irritating effects of such nuisance dusts as pollens, common house dust, salt, and cut grass.

Limitation of the mask:

This mask is not a respirator, it is not NIOSH approved, and does not provide lung protection. If there are any questions about this mask uses, please consult the Safety Coordinator (Brian Dowell).

Fitting instructions:

1. Cup the mask under the chin with the metal nosepiece up.

2. Pull the headband around the back of the head and position for best fit.

3. Press the metal nosepiece to fit snug around your nose.

Maintenance and Repair:

Do not repair the mask. Dispose of the mask if it is defective, distorted, damaged, or contaminated with dusts, debris, mist, etc.

Cleaning and Disinfecting:

If the mask becomes contaminated with dust, dirt, mists, or other contaminants, dispose of the respirator immediately. Do not reuse the mask.

Storage:

New mask will be stored in a clean, dry, cool area free from chemicals, heat, sunlight, and excessive moisture. The mask will be stored in the plastic and box supplied by the manufacturer until distributed.

The Nuisance Dust masks are disposable and are not to be reused after a full workday

Inspection of mask:

Visually inspect the mask before each use

1. Make sure the mask is not torn, ripped, contaminated, distorted, deteriorating, or damaged in any way.

2. Check the head straps. Make sure the straps are not torn, distorted, deteriorated, damage, and are elastic (will not break when pulled).

3. Make sure exhalation valve is not distorted, damaged, deteriorating, etc.

If any of the mentioned conditions are found, dispose of the respirator immediately and do not use.

Training Information: The employee(s) wearing the Moldex 2400 N95 Respirator will receive training by the Safety Coordinator and/or the supervisor. The training will require the employee to know, understand, and demonstrate the following:

- How improper fit and usage can compromise the protective effect of the mask
- What the limitations and capabilities of the mask are
- How to use the mask.
- How to inspect, put on and remove, use, check the respirator seal
- What the procedures are for maintenance and storage of the respirator
- How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators
- The general requirements of the respirator standard

Training will be performed before the employee(s) use the respirator, annually thereafter, when there are changes in the type of respirator or the process, when the employee demonstrates a need for retraining.

3M 53P71 Dual Cartridge Respirator

Use of Respirator

Respiratory protection against airborne contaminants according to NOISH approvals up to 10 times PEL or according to specific OSHA limitations or applicable government regulations, whichever is lower.

Limitations:

This respiratory is not used for contaminant concentrations, which are unknown or immediately dangerous to life or health; contaminant concentrations that exceed applicable local standards or OSHA maximum use limitations. Do not use in atmospheres that contain less than 19.5% oxygen. Don not use respirator assembles with beards or other facial hair or other conditions that prevent direct contact between face and respirator face seal.

Time Use Limitation:

1. If respirator becomes damages, soiled, or breathing becomes difficult, leave the contaminated area and dispose of the respirator.

2. If filters become damages, soiled, or breathing becomes difficult, leave the contaminated are and dispose of the filters.
3. If used in environment containing only oil aerosols, dispose of filters after 40 hours of use or 30 days, whichever is first.
4. Replace the respirator in accordance with an established change schedule or earlier if smell, taste, or irritation from contaminants is detected.

Fitting Instruction (must be followed each time respirator is worn):

1. Place the respirator over the mouth and nose, and then pull the head harness over the crown of the head.
2. Take the bottom straps both hands, place them in the back of the neck, and hook them together.
3. Position the facepiece low on the bridge of the nose for optimal visibility and the best possible.
4. Adjust top straps first, then the lower neck straps by pulling on the ends. Do not pull too tight. The strap tension ma be decreased by pushing out on backside of buckles.

Positive Pressure User Check:

1. Place the palm of your hand over the exhalation valve and exhale gently. If the facepiece bulges slightly and no air leaks are detected between your face and the faceseal, a proper fit has been obtained.
2. If the faceseal air leakage is detected, reposition the respirator on your face and/or readjust the tension on the elastic straps to eliminate the leakage. Repeat the above steps until a tight faceseal is obtained.
3. If you cannot achieve a proper fit, Do Not Enter the contaminated area. See the Safety Coordinator.

Cartridge Assembly Instructions:

1. Place the 3M 5P &! Filter into the 3M 501 filter retainers so the printed side of the filter faces the cartridge.
2. Press the 501-filter retainer onto the cartridge. It should lock securely to the cartridge. The 5P71 filter must completely cover the face of the cartridge.
3. To place the 5P71 filter, remove the 501 filter retainer by lifting on the tab.

Cleaning Instructions

1. Clean facepiece after each use (excluding filters and cartridges), with 3M 504 Respirator Wipes (or equivalent).

2. Air dry in a non-contaminated atmosphere.

Storage Instructions

1. Respirator components should be inspected prior to each use. A respirator with any damage or deteriorated components should be discarded
2. The cleaned respirator should be stored in the bag, away from contaminated areas when not in use.

Training Information: The employee(s) wearing the Moldex 2400 N95 Respirator will receive training by the Safety Coordinator and/or the supervisor. The training will require the employee to know, understand, and demonstrate the following:

- Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator
- What the limitations and capabilities of the respirator are
- How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions
- How to inspect, put on and remove, use, check the respirator seal
- What the procedures are for maintenance and storage of the respirator
- How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators
- The general requirements of the respirator standard

Training will be performed before the employee(s) use the respirator, annually thereafter, when there are changes in the type of respirator or the process, when the employee demonstrates a need for retraining.

APPENDIX A- Medical Evaluation

APPENDIX B-Fit Testing Instructions

APPENDIX A-Medical Evaluation

Purpose:

Canam Steel Corporation is committed to providing their employees with a safe workplace. Providing a safe workplace include protecting employees from violence, harassment, disruptive behavior, and other acts. These Workplace Violence Prevention procedures have been developed to assist Canam Steel Corporation with elimination and minimization of violence. Even though these procedures to apply in every situation.

The most important element of the Workplace Violence Program is prevention. There are several ways to prevent incidents; these are: Establish a policy statement, know and understand the basic concept of the Workplace Violence Procedures, know and understand the warning signs of violence, employee training, pre-employment screening, plant security, and using alternative dispute resolution.

Workplace Violence

It is Canam Steel Corporation's policy to promote a safe workplace for all of its employees. Canam Steel Corporation us committed to working with its employees to maintain a work environment free form violence, harassment, and other disruptive behavior.

Violence threats, harassment, other disruptive behavior, and having weapons on company property will no be tolerated; that is, all reports of incidents will be taken seriously and will be dealt with appropriately. Such acts or behavior include oral or written assignments, gestures, or expressions that communicate direct or indirect threats of physical harm. Individuals who commit such acts or behavior may be removed from the premises and will be subject to disciplinary action including termination, criminal penalties, or both.

We need your cooperation to implement this policy effectively and maintain a safe workplace. If you observe or experience violent, harassing, or other disruptive behavior, take the incident seriously and report it to a manager or supervisor. Managers and supervisors who receive such reports should seek advice from the Human Resource Department. The Human Resources Department will immediately investigate the claims. **Threats or assaults that require immediate attention by police must be reported to 9-1-1 operator.**

Even though violent, threatening, harassing, and other disruptive behavior is not common place at Canam Steel Corporation, our workplace is not immune to workplace violence. We will support all managers, supervisors, and law enforcement agency efforts in dealing with violent, threatening, harassing, and other disruptive behavior in our workplace.

Sincerely,

Vice President of Human Resources
Canam Steel Corporation

Incident Response Team & IRT Responsibilities

Incident Response Team (IRT): An Incident Response Team will be established to prevent and respond to workplace violence. Listed below are the members of the IRT and their responsibilities

The IRT will consist of the following personnel:
- Vice President & General Manager (Operation Manager/Plant Manager)
- Human Resource Managers
- Safety & Environmental Coordinators

Resources:
- Corporate Safety Manager
- Employee Assistant Program Representative
- Law Enforcement
- Occupational Health Provider

IRT duties and responsibilities:
- Analyze the current ability to handle potentially violent situations
- Develop procedures for employees to report incidents
- Develop a response plan
- Post company policy statement
- Provide training to all company personnel
- Have an annual review and simulation
- Review incident reports periodically
- Provide professional services for critical incident stress management (EAP)
- Assist in getting employees back to work after an incident occurs

Security Procedures

Security must be reviewed periodically in order to eliminate Canam Steel Corporation's vulnerability to workplace violence and other crimes. Step to be followed include:
- Perform a workplace violence survey (See Appendix A)
- Perform a security survey at various time internals. The survey should include:

1) Ensuring lighting inside and outside the plant and office is adequate
2) Ensuring escorts are available to walk personnel to and from the parking areas (if necessary)

3) Ensuring receptionist areas are closed and locked when the receptionist is not on duty.
4) If possible ensure more than one person (i.e. security guards, employees, etc.) is on the premises.
5) Lock front office entrance doors at 5:00 p.m.

Security Procedures
- Use, maintain, and audit/inspect security personnel, equipment, or devices
- Limited terminated and off duty employees access to the workplace
- Implement the following procedures for plant visitors:

1) Visitors report to the receptionist and sign-in if sign in book is available
2) The visitor will remain in the receptionist area until the Canam Steel employee comes to the receptionist area
3) The visitor must be accompanied by a Canam Steel employee while in the plant or office
4) The Canam employee will escort the visitor to an exit

Internal and External Communication

Canam Steel employees should have several means to alert other employees and/or agencies in the event a situation occurs.

Internal/External:
- Establish an emergency notification alarm to alert managers of a situation
- Ensure managers and supervisors have ways to communicate (i.e. radios, telephones, etc.) in an emergency situation.
- Post emergency and contact personnel numbers (i.e. 911, plant contact person, etc.)
- Post the evacuation routes in accessible areas
- Only the Vice President of Legal Services or Vice President of Human Resources will communicate with the press.

Prevention of Workplace Violence

Basic Concepts:

These Workplace Violence Procedures will not fit every situation; therefore, use the following basic concepts to prevent or handle an incident:

- Respond promptly
- Investigate threats and other reported incidents
- Take threat and threatening behavior seriously; employees may not come forward with their concerns if they think management will dismiss their worries
- Deal with the issue of what may appear to be frivolous allegations (concerns based on misunderstanding) by responding to each report seriously and objectively
- Take disciplinary actions when warranted
- Support victims and another affected workers after an incident

- Attempt to bring the work environment back to normal after an incident

Prevention of Workplace Violence

Risk Factors:

Risk factors for employment-related workplace violence include inequitable or incentive acts perpetrated upon employees. Examples are:

- Discrimination generated by or allowed by the employer (i.e. racial, gender, etc.)
- Sexual harassment
- Wrongful termination
- Defamation of character
- Intentional or unintentional infliction of emotional distress
- Drugs and/or alcohol
- Gang activity
- Horseplay
- Other (i.e. mental, etc.)

Early Warning Signs:

It is difficult to predict human behavior and identify people that have the potential to be dangerous. However, there are several indictors that a person is a risk to carry out violence. There are some of the indicators:

- Direct or indirect verbal threats
- Carry weapons
- Paranoid behavior
- Moral righteousness- the organization is at fault for his/her problems
- Unable to take criticism of job performance
- Expression of extreme desperation over recent family, financial, or personnel problems
- History of violent behavior
- Fascination with incidents of workplace violence and approval of the violence use under the circumstances
- Disregard for the safety of co-workers
- Obsessive involvement with his/her job
- Has a romantic obsession with a co-worker who does not share the same interest
- Exceedingly disorganized, forgetful, angry
- Seeks unwelcome contact with others
- Changes in work performance, tardiness ad absenteeism increase, and becoming isolated from others
- Physical posturing, aggressiveness, stalking
- Sense of identity usually is bound up in his/her job

Early Warning Signs (continued):

- Usually a loner
- Disgruntled- blames others for his problem
- Threatens or intimidates people
- May have a history of substance abuse

Incident Reporting Procedures

Employees:

- Immediately report all incidents of violence, threats, harassment, and other disruptive behavior, or a person carrying a weapon on company property to management.

- If a member of management is the person being violent, making threats, displaying harassing behavior, or is carrying a weapon, immediately report the incident to another manager or person of authority (within Canam) you are comfortable with.

- **If the threat or assault requires immediate attention by the police, medics, or the Fire Department, call 911 then report the incident to management**

Managers/Supervisors/Superintendents:

- Immediately report violence, threats, harassment, other disruptive behavior, or a person carrying a weapon on company property to your Manager or Human Resource Manager.

- Ensure company policy is carried out

- If a member of management becomes violent, makes threats, displaying harassing behavior, or is carrying a weapon, immediately report the incident to the Vice President & General Manager, Operations Manager and/or the Human Resources Manager.

- **If the threat or assault requires immediate attention by the Police or Fire Department, call 911.** Then, report the incident to the Vice President & General Manager, Operations Manager, and/or Human Resource Manager.

Members of the Incident Response Team:

- Report all incidents to the appropriate specialist for assistance (i.e. Employee Assistant Program, counselors, police, etc.)

- Example1- an employee is threatening to commit suicide. Report the incident to the Human Resource Manager and/or the Vice President & General Manager. They will then contact the police.

Note: Managers/Supervisors/Superintendents will encourage employees to report incidents and create an environment that shows management will always respond to reports of incidents.

Incident Reporting (Fact Finding Investigation)

1. When an employee reports an incident or an incident occurs, complete a report of the incident. The report must be detailed and specific and cover the following:

- Name of the instigator and his/her position
- Name(s) of the victims of potential victims
- What occurred prior to the incident
- When and where the incident occurred
- What did the instigator say or do to the victim or potential victim (be specific)
- How did the victim appear (emotionally or physically)
- How did the instigator appear (emotionally or physically)
- What are the names of others directly involved and any action they took
- How did the incident end
- What are the names of the witnesses
- What happened to the employees directly involved in the incident
- What events may have triggered the incident
- What corrective actions may have been taken to prevent the incident from occurring

See Appendix B for Incident report form

2. If there is imminent danger (i.e. a person threatening to use a weapon) call 911 immediately. If there is no threat, a manager/supervisor/superintendent will complete the report and decide what actions must be taken. The report is to be given to the Human Resource Manager before the end of the shift. If the Human Resources Manager is not available, the report must be given to a member of the Incident Response Team (IRT).
3. The Human Resource Manager or IRT member will determine what corrective action must be taken and ensure the action is taken.

Coping with Threats and Violence

For an angry or hostile person:

- Stay calm. Listen attentively
- Maintain eye contact
- Be courteous. Be patient.
- Keep the situation in your control

For a person shouting, swearing, and threatening:

- Signal a coworker that you need help
- Have someone call the Human Resource Manager, police, etc.

Coping with Threats and Violence

If the person has a weapon:

- Stay calm (if possible signal for help)
- Call 911 or push the panic button
- Maintain eye contact
- Stall for time
- Keep talking- but follow instructions from the person with the weapon
- Avoid risking harm or injury to yourself or others
- Avoid trying to grab the weapon
- Watch for safe chance to escape to a safe area

Telephone Threats: (i.e. Bomb Threats)

- Keep calm
- Talk to the caller
- Signal a coworker to help call 911
- Ask the caller to repeat the message as you write it down
- Repeat questions (if necessary)
- For bomb threats, ask where the bomb is and when it is set to go off
- Listen for background noises (write down the description)
- Write down the sex of the caller, accent, pitch, etc.
- Try to get the person's name
- Notify the Incident Response Team

See Appendix C for a bomb threat report form

Organizational Recovery (After an incident)

Below are the steps management should take after an incident has occurred in the workplace:

- Ensure a employee Assistance Program in place to assist employees
- Ensure employees receive debriefing within 24 to 72 hours of the incident
- Ensure Management's presence in the workplace (senior management should ensure that supervisors/superintendents are supported in their roles, relieved of unnecessary duties, and stay with their employees, etc.)
- Share information with employees
- Include union leadership in the recovery process
- Support informal debriefing sessions
- Support care giving within the work groups
- Ensure timely dissemination of information
- Handle critical sites with care
- Evaluate security

The IRT should evaluate the risks and determine what corrective action needs to be taken.

- If warranted, increase workplace protection (i.e. hiring a security guard, alert employees that might be affected)
- If warranted, provide increased security for threatening employees (i.e. escorts to and from their vehicle)
- Seek guidance and training on how to screen mail and packages (after an incident or large scale layoff)
- Seek guidance and training on how to screen mail and packages (after an incident or large scale layoff)
- After an incident the potential for another incident to occur
- Inform victims or potential victims of legal options

Training

Managers, supervisor, superintendents and other staff that may be called upon to respond to an incident must receive training on the following (as it applies to their responsibilities):

- Incident Response Team
- Security Procedures
- Internal and External Communication

- Basic Concepts
- Risk Factors
- Early Warning Signs
- Incident Reporting Procedures
- Incident Reporting
- Coping with Threats and Violence
- Bomb Threats
- Organizational Recovery
- Evaluating Security After an Incident
- Workplace Violence Survey
- Incident Report Form
- Bomb Threat Checklist

Employee training will include

- Explanation of Canam Steel Corporation's Workplace Violence Policy
- Encouragement to report incidents
- Ways to prevent or disuse violent situations or aggressive behavior
- How to deal with hostile people

Purpose: To anticipate hazards before they exist in the workplace, and to incorporate control measures prior to changing or using the following:

- New machines
- New equipment
- Process
- Chemicals
- Facilities

This process should be conducted with the participation of Top Management, Maintenance Supervisor, and Project Manager, Safety Personnel, Engineers, Machine Operators, Manufacturers, Vendors, etc.

Methods: Canam Steel Corporation prefers to use the following to identify potential hazards and controls:

- What If Analysis
- Process Checklist

What If Analysis- This method asks hypothetical questions about potential problems in the process, analyze consequences, and propose solutions.

An example would be the hydraulic flippers: (**Potential problem)** What if the hydraulic pressure is lost in the cylinders? (**Consequence**) The flippers will drop the joist back on the table possibly hitting an employee. (**Solution**) Install a device that would prevent the flippers from falling back to the table if there is a loss of hydraulic pressure.

Process Checklist- Used mostly for preliminary hazard identification and should be followed up with a more complete hazard identification method.

When developing a Process Checklist it must be based on the current conditions and actual loss history, applicable regulations (i.e. ANSI, OSHA, NFPA, NEC, ASME, AISC, NSC, etc.), and publications from Safety groups (i.e. Liberty Mutual, Factory Mutual, the National Safety Council, American Society of Safety Engineers, etc.). See Appendix A for an example of a Process Checklist.

When conducting a Pre-Use Analysis:
- Gather information about the project
- Identify the anticipated hazards and controls
- Develop an action plan to put controls into effect
- Follow through to determine effectiveness of the analysis
- Use the hazard reporting system to document and track correction

Other details and specification to review when conducting an analysis are as follows:
- Layout and material flow
- Ergonomic workplace design
- Manual material handling
- Storage & warehousing
- Shipping and Receive
- In-plant vehicle traffic
- Falls/elevated surfaces
- Housekeeping
- Environmental Factors
- Fire prevention
- Life Safety
- Electrical safety
- Machine guarding

- Administrative controls

Heat Stress

The following conditions are a result of Heat Stress: Heat Stroke and Heat Exhaustion.

How the body handles heats:
1) Sweat or perspiration
2) Blood Flow

The human body, being warm blooded, maintains a fairly constant internal temperature, even though it is being exposed to varying environmental temperatures. To keep internal body temperatures within safe limits, the body must get rid of its excess heat, primarily through varying the rate and amount of blood circulation through the skin and the release of fluid onto the skin by the sweat glands. These automatic responses usually occur when the temperature of the blood exceeds 98.6 degrees F and are kept in balance and controlled by the brain. In this process of lowering internal body temperature, the heart begins to pump more blood, blood vessels expand to accommodate the increased flow, and the microscopic blood vessels which thread through the upper layers of the skin, and the excess heat is loss to the cooler environment.

If heat loss from increased blood circulation through the skin is not adequate, the brain continues to sense overheating and signals the sweat glands in the skin to shed large quantities of sweat onto the skin surface. Evaporation of sweat cools the skin, eliminating large quantities of heat from the body.

Sweating does not cool the body unless the moisture evaporates. In conditions where there is high humidity, evaporation of sweat from the skin is decreased, and the body's effort to maintain an acceptable temperature is significantly impaired.

Signs and Symptoms of Heat Exhaustion:

- Cool, clammy, pain, skin
- Sweating
- Dry Mouth
- Fatigue, weakness
- Dizziness
- Headache, Vomiting
- Muscle Cramps
- Weak and rapid pulse

Signs and Symptoms of Heat Strokes

- Very high body temperatures (104 degrees F or higher)
- Hot, dry, red skin
- No sweating
- Deep breathing and fast pulse
- Dilated pupils
- Confusion, hallucinations
- Convulsions

What does the heat index mean?

The heat index tells you how it feels outside in the shade. It is not the same as the outside temperature. The heat index is a measurement of how it feels when relative humidity is combined with the effects of the air temperature.

The following people have an increased risk of heat stress symptoms:

1) People not used to hot environments (It takes about 5-7 days to get use to the heat)
2) Overweight individuals

3) People who consume alcohol and caffeine (daily basis or before the shift)
4) People that are on medication
5) Individuals over 40 years of age

Prevention:

-Drink 5 to 7 ounces of water every 15 minutes (even if you're not thirsty)
-Fans
-Shaded are(s) on Breaks

First Aid:

Notify a Supervisor or Manager if you have any signs or symptoms listed above.

Notify a Supervisor or Manager if a co-worker has informed you that they are having signs and symptoms that are listed above.

Outside of work, consult a physician!

Working in Cold Environments

Working in cold environments can be dangerous. More than 700 people die of hypothermia each year in the United States. To help protect workers in cold environments, employers and workers should take simple precautions, such as those listed on OSHA's Cold Stress Card.

Prolonged exposure to freezing or cold temperatures can result in health problems such as trench foot, frostbit, and hypothermia. When the body is unable to warm itself, serious cold-related illnesses and injuries may occur, and permanent tissue damage and death may result.

Hypothermia

Effects of the body:

Hypothermia can occur when temperatures are at or below 98.6 degrees Fahrenheit or 37 degrees Celsius. Cold related illnesses can slowly overcome a person who has been chilled by low temperatures, brisk winds, or wet clothing.

Danger signs of a cold related illness:

1. Uncontrolled Shivering
2. Slurred Speech

3. Clumsy Movements
4. Fatigue
5. Confused Behavior

What to do if a worker has hypothermia (Land temperature):

1. Call for emergency help. Call 911. (Call Safety Coordinator/Supervisor if unsure).
2. Move the person to dry, warm area. Don't leave alone.
3. Remove wet clothing and replace with warm, dry clothing or wrap the person in blankets.
4. Give the person a warm drink (sugar water or sports-type drinks.) Avoid drinks with caffeine
5. Have them move their arms and legs to create muscle heat. If they are unable to do this, place warm packs in the armpits, groin, neck and head areas. Do not rub the person's body or place them in warm water. This may stop their heart. (Contact Supervisor/Safety Coordinator if you are in this situation)

Frostbite

Effects to the body

a.) Freezing in deep layers of skin and tissue; **b**.) pale, waxy-white skin color; **c.)** skin becomes hard and numb; **d.)** usually affects the fingers, hands, toes, feet, ears, and nose.

What to do if a worker has frostbite:

1. Move the person to a warm dry area. Don't leave the person alone.
2. Remove any wet or tight clothing that may cut off blood flow to the affected area.
3. Do not rub the affected area. Rubbing causes damage to the skin and tissue
4. Place the affected area in warm water. Don't pour warm water directly on the affected area because it will warm the tissue too fast causing tissue damage. Do this for 25-40 minutes.
5. After they get feeling back, gently dry the area and wrap it to keep it warm.
6. Seek medical attention as soon as possible.

How to Protect Workers:

1. Recognize the environmental and workplace conditions that lead to potential cold-induced illnesses and injuries.
2. Learn the signs and symptoms of cold-induced illnesses/injuries and what to do to help workers.
3. Train workers about cold-induced illnesses and injuries

4. Encourage workers to wear proper clothing for cold, wet, and windy conditions. Layer clothing to adjust to changing environmental temperatures. Wear a hat and gloves, in addition to long underwear that will keep water away from the skin.
5. Be sure the workers take frequent short breaks in warm dry shelters to allow the body to warm-up.
6. Avoid exhaustion or fatigue because energy is needed to keep muscles warm.
7. Drink warm, sweet beverages (Sports type drinks) and avoid drinks with caffeine (coffee, tea, sodas, or hot chocolate) or alcohol.
8. Eat warm, high calorie foods such as hot pasta dishes.

Workers have an increased risk when…

1. They have predisposing health conditions such as cardiovascular disease, diabetes, and hypertension.
2. They take certain medications (check with your doctor, nurse, or pharmacy and ask if any medicines you are taking will affect you while working in cold environments)
3. They are in poor physical condition, have a poor diet, or are older.

Table of Contents

Purpose: This program and procedure have been developed to aid in the elimination of office injuries and illnesses. Managers and office staff must use this program and procedure as a guideline to achieve safe and healthful work environment.

Management Responsibilities:

- Lead by example
- Provide a safe and healthful work environment
- Comply with federal and state regulatory requirements
- Provide support to the Safety Coordinator and other personnel assisting with safety
- Become actively involved in the safety and health management system
- Know and understand Canam Steel Corporation's safety and Health Management System
- Attend safety-training sessions and use the knowledge to provide a safe and healthful work environment
- Ensure employees know and understand the hazards and potential hazards of their work environment
- Provide formal and informal safety training
- Perform accident/incident investigations and determine how to prevent a reoccurrence of incidents
- Enforce the safety and environmental rules and regulations
- Require all vendors, customers, subcontractors, and visitors to comply with company safety procedures
- Maintain good housekeeping in your work area

Employee Responsibilities:

- Comply with federal, state, and Canam Steel's Safety guidelines, regulations, rules, policies & procedures, and standards, etc.
- Provide support to the Safety Coordinator and other personnel assisting with safety
- Set an example for other personnel to follow
- Know and understand the potential hazards of the job or task being performed
- Report all work-related injuries and illnesses to your manager immediately
- Attend safety-training sessions and use the knowledge to prevent exposure to hazards and potential hazards

- Actively participate in the safety function

Accident Reporting

Report all work-related injuries and illnesses to your supervisor immediately. If he/she is not available, report the injury/illness to the Safety Coordinator. If the Safety Coordinator is not available report the injury/illness to the Human Resources Manager.

INSERT-Plant specific:
- First aid procedures
- Where to seek treatment beyond first aid (i.e. Monday through Friday, after hours, over the weekend, etc.)
- Drug screening procedures and requirements
- Workers' compensation procedures and requirements (i.e. waiting periods, pay periods, the location of the PPO network list, Secondary Injury Fund, etc.)
- Overview of the Return-to-work program

Chemical Safety

The purpose of this section is to ensure that the hazards of all chemicals produced or imported are evaluated, and that information concerning hazards is transmitted to employers and employees. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning (see Canam Steel Corporation's Hazard Communication Program).

Electrical safety

Electric cords should be examined periodically for fraying and exposed wiring. Special attention should be paid to connections behind furniture (i.e. bookcases, filing cabinets, etc.) because they are usually pushed directly against the electrical cords and wall electrical outlets. Also electrical appliance must be designed and approved for their intended use (UL rating).

Causes of electrocution or electric shock:
- Using overloaded outlets
- Using poorly maintained or unsafe equipment
- Using defective, frayed, or improperly installed cords
- Placing cords behind cabinets, bookshelves, and other furniture
- Missing outlet wall cover plates
- Working on "Live equipment"
- Blocking electrical panels
- Using extension cords instead of permanent hard wiring
- Using electrical equipment that is not grounded

Emergency Action Plan

The Emergency Action Plan is designed to inform employees what to do in an emergency situation (i.e. fire, severe weather, etc.), how to prepare for an emergency, and to serve as a training tool. This plan was developed to protect the employees of Canam Steel Corporation and the surrounding community from potential hazards (see Canam Steel Corporation's Emergency Action Plan).

Ergonomics

The purpose of this section is to make employees aware of how to apply Ergonomics to their workstation. By doing so, the employee can make their workstation more comfortable and safer, as well as increasing their efficiency (see Office Ergonomics Training Manual provided by Advanced Ergonomics Inc. 1999)

Hazard Reporting

Is an unsafe practice or physical hazard is identified, the employee must fill out a Hazard and Action Report and submit it to their manager, supervisor, and/or the Safety Coordinator. The Hazard and Action Report can be obtained from the Safety Coordinator or designated locations in the plant.

Once the Hazard and Action Report is submitted, the person assigned to correct the unsafe practice or physical hazard will provide feedback on when and how the practice or hazard will be or how it was corrected.

Housekeeping

Good housekeeping us an essential part of accident/incident prevention. Poor housekeeping may lead to fires, injuries to personnel, or unhealthy working conditions. Incidents caused by dropping heavy cartons and other related office equipment and supplies could also be a source of serious injuries to personnel.

Passageways and aisle ways in the office must be kept free and clear of obstructions (i.e. extension cords, boxes, furniture, etc.). The layout, spacing, and arrangement of equipment, furniture, and machinery are essential to god housekeeping.

Furniture (i.e. chairs, desks, and end tables, etc.) must be replaced or repaired when damaged. Filing cabinet drawers should be kept closed when not in use. Heavy files should placed in the bottom drawers of filing cabinets to prevent them from tipping over.

Materials stored within supply rooms must be easy to reach and stacked neatly to prevent it from toppling over. Avoid stacking materials within 18 inches of the ceiling fire sprinkler heads or in front of fire suppression equipment (i.e. fire extinguishers, standpipes, hoses, etc.). Avoid blocking electrical panels and fire alarm pull stations. Also, avoid storing material in a manner that causes it to project into aisles and passageways.

Housekeeping (continues)

Good housekeeping will also prevent slips, trips, and falls, which are the most common causes of disabling office injuries. Slips, trips, and falls occur from a variety of reasons, which range from wet surfaces, loose carpeting, extension cords running across aisles or passageways, furniture drawers, etc. The following can be used to prevent slips, trips, and falls:

- Make sure walking surfaces are kept dry or have a slip resistant surface
- Keep office furniture drawers closed when not in use
- Make sure rugs, mats, and carpet lay fat on floors and steps
- Use a stepladder instead of a chair or stacked boxes when reaching for materials overhead
- Avoid carrying anything that obstructs your vision while walking
- Ensure there is adequate lighting in the office
- Avoid rocking backward and forward in chairs
- If there are hazards address them
- Do not read while walking in hallways

Plant and Jobsite Safety

Office personnel entering the plant or jobsite must comply with all applicable safety rules, regulations, and procedures (i.e. wearing PPE, adhere to warning signs, etc.). They must also take it upon themselves to lead by example for their peers and other personnel.

While in the plant or jobsite, office personnel must wear personal protective equipment (PPE) as required. Required PPR includes:

- Hard hats
- Safety glasses or prescription safety glasses with side shields meeting ANSI Z.87
- Hearing protection (i.e. ear plugs, ear muffs, etc.) when noise levels exceed 85 decibels
- Avoid wearing clothing that is highly combustible and flammable
- Steel-toed shoes or boots (when spending more than 50% of their time on the plant floor or jobsite)
- If steel-toed shoes are not required (as per the statement above), at minimum closed toe shoes must be worn while on the plant floor or on the jobsite.
- Other PPE may be required based on the Contractor's requirements, process, or exposure to potential hazards

Waste Disposal

Office employees should dispose of all hazardous materials (i.e. paint, batteries, light bulbs, bandages, etc.) according Federal, State, or local regulations. If you are not sure how these materials are to be disposed, ask the Safety Coordinator.

Other waste (i.e. garbage, glass, debris, etc.) should be placed in the trash unless the plant has a recycling program. If broken glass or other sharp objects are placed in the trash, notify the janitor.