U.S. Food and Drug Administration

Inspections, Compliance, Enforcement, and Criminal Investigations

Perma Pure LLC 9/21/10

Department of Health and Human Services

Public Health Service
Food and Drug Administration
Waterview Corporate Center
10 Waterview Blvd., 3rd Floor
Parsippany, NJ 07054
Telephone (973) 331-4900

September 21, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

WARNING LETTER

Richard A. Curran
President
Perma Pure LLC
8 Executive Drive
Toms River, NJ 08755

10-NWJ-16

Dear Mr. Curran:

During an inspection of your firm located at 8 Executive Drive, Toms River, NJ, conducted between August 11-23, 2010, an investigator from the United States Food and Drug Administration (FDA) determined that your firm manufactures moisture exchange gas dryers. These products are medical devices according to section 201(h) of the Federal Food, Dru and Cosmetic Act (the Act) because they are intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease, or are intended to affect the structure or function of the body.

The inspection revealed that your devices are adulterated within the meaning of section 501(h) of the Act (21 U.S.C. 351(h)) in that the methods used in, or the facilities or controls used for their manufacture, packing, storage, or installation are not in conformity with the Current Good Manufacturing Practice (CGMP) requirements of the Quality System (QS) regulation, Title 21 Code of Federal Regulations, Part 820 (21 CFR 820). We received a response from Mr. Robert Rozek, Quality System Leader, dated September 3, 2010, concerning our investigator's observations listed on th FDA-483, List of Inspectional Observations, which was issued to Mr. Richard A. Curran, President. We address this response below in relation to each of the noted violations; however, overall we do not consider the response to be adequate. These violations include, but are not limited to the following:

1. Management with executive responsibility has not reviewed the suitability and effectiveness of the quality system at defined intervals to ensure that the quality system satisfies the requirements of 21 CFR, Part 820 and your firm's established quality policy and objectives as delineated in 21 CFR 820.20(c). For example, although management reviews were conducted, they failed to detect that seven of eight quality system deficiencies cited during the previous inspection in July 2006 had not been corrected even though a written commitment for corrective actions, dated August 31, 2006, was submitted.

   Your September 3, 2010 response is not considered to be adequate. No revised procedure was provided. Corrective actions for subsequent observations list the increased number of management review meetings and agenda items as a means of preventing "recurrence of incomplete follow-through of non-conforming conditions." There is no assurance that the proposed actions for management reviews will result in a satisfactory review of the quality system regarding overall compliance with the Quality System regulations and your internal quality policy and objectives.

2. A validated process was not revalidated when changes or process deviations occurred, as required by 21 CFR 820.75(c). Specifically, your firm changed the size of tanks and method of tubing placement used in the conversion process for creating the Nafion tubing used for the ME dryers. Although you notified your customers of this process change in April 2006, a validation study including an approved protocol, acceptance criteria, final

report, etc., was not conducted. Furthermore, this same observation was made during the previous inspection of July 2006.

Your response indicates that you intend to implement a pending process and equipment validation protocol as a "Systems Level" procedure. We cannot determine the adequacy of this response as no document was submitted. Also, as stated above, we do not consider your response regarding management reviews to be adequate. We also note that the retrospective validation review conducted during the recent inspection, does not appear to have been conducted per an approved protocol or documented predetermined acceptance criteria.

3. The **(b)(4)** Calibration Management software has not been validated as required by 21 CFR 820.70(i). This software is used to maintain equipment calibration records and calibration procedures. This same observation was made during the previous inspection of July 2006.

Your response to this observation was not substantively different than your response to observation #2 above regarding process validation. We continue to find your response to be insufficient. Specifically, we cannot determine the adequacy of this response as no document was submitted; we do not consider your response regarding management reviews to be adequate; and the software validation conducted during the recent inspection does not appear to have been conducted per an approved protocol or documented predetermined acceptance criteria.

4. Procedures to ensure that equipment is routinely calibrated have not been established as required by 21 CFR 820.72(a). Specifically, out of sixteen calibration records reviewed by our investigator, seven calibrations were completed past the due date. For example, leak/flow test V2 was calibrated on 3/28/10, four months past the due date of 11/5/09. Five of the seven late calibrations failed to include any documentation to confirm that the equipment had been removed from use until calibrated.

Your response indicates that procedure SLP-12, Control of Inspection, Measuring, and Test Equipment, will be revised. The response cannot be considered as adequate as no revised procedure was provided.

5. Schedules for the adjustment, cleaning, and other maintenance of equipment were not adequately established, per 21 CFR 820.70(g)(1). For example, your Preventative Maintenance Program procedure, PMP-WI001, requires maintenance records to be maintained for five years; however, your firm was only able to produce records for two years, and those records were incomplete. Furthermore, maintenance activities were not performed in accordance with your Preventative Maintenance Control Plan, PMP-CP-001.

Your response indicates that the preventative maintenance program procedure and preventative maintenance control plan, along with corresponding forms, will be reviewed and revised as necessary. This response cannot be considered as adequate as no revised procedures were provided. Furthermore, your response refers to the corrective actions specified for the management review of the quality system. As stated above, we do not consider that response to be satisfactory.

6. Your firm failed to adequately document acceptance activities for finished devices as required by 21 CFR 820.80(e). For example, the device history records for lots 704, 840, and 977 list a single date on the Quality Assurance Inspection Form; however, according to your personnel, device lots are tested in batches over several days.

We do not consider your response to be adequate as the revised Quality Assurance Inspection form was not provided.

7. The device history record does not demonstrate that the device was manufactured in accordance with 21 CFR 820. Specifically, your device history records for the ME dryers do not include records of the packaging or labeling of the devices as required by 21 CFR 820.184. Packaging and labeling are part of the manufacturing process and all dates of these activities need to be recorded. Furthermore, a copy of the device label, including lot number, must be kept in the device history record.

Your response states that the "ME Packaging Overview" document will be revised. We cannot make any assessment regarding the corrective actions because no revised document was submitted.

8. Procedures for corrective and preventive actions have not been adequately established per 21 CFR 820.100(a). Specifically, your Corrective and Preventive Action procedure, SLP-15, Revision 2, fails to include several of the provisions listed in 21 CFR 820.100(a) such as:

> i. Analyzing quality data sources and employing appropriate statistical methodology where necessary to detect recurring quality problems;
> ii. Verifying or validating the corrective action to ensure the corrective action does not adversely affect the finished device;
> iii. Submitting relevant information on identified quality problems as well as corrective and preventive actions for management review.

A similar observation was made during the previous inspection of July 2006.

Your response included a revised CAPA procedure, prepared during the inspection. Although the procedure appears to include most of the
provisions of 21 CFR 820.100(a), it still does not include all the provisions and we cannot deem it satisfactory. Furthermore, your response also cites the corrective actions regarding management reviews as a corrective and preventive measure for this observation; however, as stated above, we do not consider your response to be

satisfactory regarding that observation.

9. Procedures for receiving, reviewing, and evaluating complaints by a formally designated unit have not been adequately established as required by 21 CPR 820.198(a). The Customer Complaint and Return Authorization Instructions, RA-WI-001 Revision 00, was insufficient. For example:

i. The procedure did not ensure that complaints were evaluated to determine whether the complaint constituted an event required to be reported under 21 CFR 803, Medical Device Reporting;
ii. The procedure did not require that all complaints were evaluated to determine if an investigation was necessary;
iii. The procedure did not require that when no investigation was conducted, the reason and name of individual responsible for the decision not to investigate was recorded;
iv. The procedure did not require that when a complaint represented an MDR reportable event, that the complaint was promptly reviewed and evaluated by a designated individual and that the subsequent investigation include a determination of whether the device failed to meet specifications, was being used fo treatment or diagnosis, and the relationship of the device to the reported event.

The same observation was made during the previous inspection of July 2006.

Your response included a revised Customer Complaint and Return Authorization Instructions procedure, RA-WI-001, Rev. 01, dated 8/15/10. We cannot determine whether or not the revised procedure and customer complaint form will be satisfactory under actual conditions of use, nor have you provided any evidence that appropriate training has been conducted for all groups listed (quality, sales, customer service, and management) on the revised procedure, and associated requirements and procedures, such as MDR reporting. Furthermore, the response again cites the promised corrective actions regarding management reviews, and as stated previously, we do not consider that response to be sufficient.

10. Document control procedures have not been adequately established in accordance with the requirements of 2 CFR 820.40. Specifically, the Control of Documents procedure, SLP-06 Revision 04, does not include a requirement that forms used to document quality system related activities be reviewed and approved prior to issuance and/or change. During the inspection, our investigator observed two different CAPA forms, Q-F-011, with the same issue date.

We do not consider your response to be adequate. A revised procedure was not provided, nor did you provide any assurance that all existing forms related to quality system activities will be reviewed and approved, and that obsolete forms will be removed from use.

Our inspection also revealed that the device is misbranded within the meaning of section 502(t)(2) of the Act [21 U.S.C. § 352(t)(2)] in that your firm failed or refused to furnish material or information respecting the device that is required by or under section 519 of the Act [21 U.S.C. § 360i] and 21 CFR § 803 - Medical Device Reporting (MDR) regulation. These violations include, but are not limited to, the following:

1. Failure to develop, maintain, and implement written MDR procedures for internal systems and the documentation and recording of required information, as required by 21 CFR § 803.17. Specifically, your firm has not developed, maintained, and implemented written MDR procedures for internal systems that provide for timely and effective identification, communication, and evaluation of events that may be subject to MDR requirements.

The revised procedure included with your response does not clearly identify a person or group responsible for identification and evaluation of events that may be subject to MDR requirements. Neither the revised customer complaint procedure, RA-WI-001, nor the MDR procedure, MDR-WI-001, completely explain how an event is evaluated to determine if it is MDR reportable. Additionally, the number of groups listed as able to record complaints, including the MDR determination, includes quality, sales, customer service and management. You have not provided any evidence that all personnel who may record a complaint have been properly trained to evaluate events for MDR filing.

You should take prompt action to correct the violations addressed in this letter. Failure to promptly correct these violations may result in regulatory action being initiated by FDA without further notice. These actions include, but are no limited to, seizure, injunction, and/or civil money penalties. Also, federal agencies are advised of the issuance of all warning letters about devices so that they may take this information into account when considering the award of contracts. Additionally, premarket approval applications for Class III devices, to which the Quality System regulation deviations are reasonably related, will not be approved until the violations have been corrected. Requests for Certificate to Foreign Governments will not be granted until the violations related to the subject devices have been corrected.

Please notify this office in writing within fifteen (15) working days from the date you receive this letter of the specific steps you have taken to correct the noted violations, including an explanation of how you plan to prevent these violations, or similar violations, from occurring again. Include documentation of the corrective actions you have taken. I your planned corrections will occur over time, please include a timetable for implementation of those corrections. If corrective action cannot be completed within 15 working days, state the reason for the delay and the time within which the corrections will be completed.

Your response should be sent to the following address: U.S. Food and Drug Administration, 10 Waterview Boulevard, 3rd Floor, Parsippany, New Jersey 07054, Attn: Sarah A. Della Fave, Compliance Officer. If you have any questions about the content of this letter, you may contact Ms. Della Fave at 973-331-4910.

Finally, you should know that this letter is not intended to be an all-inclusive list of the violations at your facility. It is

your responsibility to ensure compliance with applicable laws and regulations administered by FDA. The specific violations noted in this letter and on the FDA-483 issued at the close of the inspection may be symptomatic of serious problems in your firm's manufacturing and quality assurance systems. You should investigate and determine the causes of the violations and take prompt actions to correct the violations and to bring your products into compliance.

Sincerely,

/s/

Diana Amador-Toro
District Director
New Jersey District

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