ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re eMagin Corporation	)	Docket No. TSCA-HQ-2026-5001

FINAL ORDER

Decided June 1, 2026

Before Environmental Appeals Judges Aaron P. Avila and Ammie Roseman-Orr.

Order of the Board by Judge Roseman-Orr:

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In the Matter of:	)	
	)	
eMagin Corporation	)	**Docket No. TSCA-HQ-2026-5001**
Hopewell Junction, NY	)	
	)	
Respondent	)	

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency ("EPA" or "the Agency"), and Respondent, eMagin Corporation (eMagin) (collectively, "the Parties"), having consented to the entry of this Consent Agreement and proposed Final Order ("CAFO") before the taking of any testimony and without adjudication of any issues of law or fact, consent to the terms of this Consent Agreement and attached Final Order.

I. PRELIMINARY STATEMENT

1. This civil administrative proceeding for the assessment of penalties pursuant to section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Pub. L. No. 114-182, June 22, 2016, 130 Stat. 448, is being simultaneously commenced and concluded pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 C.F.R. Part 22.

2. On or about September 24, 2025, with an additional disclosure submitted on October 27, 2025, Respondent voluntarily disclosed to the EPA potential noncompliance with TSCA requirements for ten (10) manufactured (imported) and processed chemical substances subject to TSCA sections 5 and 13. Table 1 below provides corresponding trade names, or alternatively, generic chemical names are provided for chemicals with identity claimed as CBI. These chemical substances are herein referred to as Chemicals A, B, C, D, E, F, G, H, I and J.

Table 1. List of Disclosed Chemicals with Associated Trade Names, Chemical Names, or Generic Chemical Names

	Trade Name/Chemical Name/Generic Chemical Name
Chemical A	BD-102
Chemical B	(carbopolycyclic)-[(carbopolycyclic)phenyl]-anthracene

Chemical C	Bis(carbomonocyclic-phenyl)-bis(dimenthylalkyl)-bis(methylalkyl)phenyl-diamino-carbopolycycle
Chemical D	LG-201
Chemical E	LGET376
Chemical F	LT-E301
Chemical G	NS 60
Chemical H	RD-001
Chemical I	BH-140
Chemical J	Tris(8-hydroxyquinolinate)aluminum

3. While the disclosures associated with Counts I, II and III did not meet all of the conditions set forth in EPA's policy entitled *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (Audit Policy), 65 Fed. Reg. 19,618 (Apr. 11, 2000), the Agency has determined that the allegations described in Counts I, II, and III qualify for reductions applicable under the *TSCA Section 5 Enforcement Response Policy,* issued August 5, 1988, as amended June 8, 1989, and July 1, 1993 (TSCA ERP).

4. To avoid the disruption of orderly business activities and the expense of protracted and costly litigation, Respondent for purposes of this proceeding only and as required by 40 C.F.R. § 22.18(b)(2):

   a. admits the following jurisdictional allegations and waives any defenses to jurisdiction:

      i. Respondent is a corporation located at 755 East Drive, Hopewell Junction, NY 12533 and is a "person" as defined in 40 C.F.R. § 720.3(x) and, as such, is subject to TSCA and its regulations; and

      ii. Respondent manufactures (imports), processes, uses, and distributes in commerce, Chemicals A, B, C, D, E, F, G, H, I and J, or mixtures containing these chemicals, or in the past Respondent has manufactured (imported), processed, used, and distributed in commerce Chemicals A, B, C, D, E, F, G, H, I and J, or mixtures containing these chemicals as those terms are defined in sections 3(2), (5), (9), (10), and (13) of TSCA, 15 U.S.C. § 2602(2), (5), (9), (10), and (13) respectively, and 40 C.F.R. § 720.3(e), (i), (q), (u), and (aa). Respondent is subject to TSCA, and the regulations promulgated thereunder.

   b. neither admits nor denies the specific factual allegations contained herein;

   c. consents to the assessment of a civil penalty on the terms discussed below;

   d. consents to any conditions specified in this Consent Agreement;

   e. waives any right to contest the alleged violations of law set forth herein; and

f. waives the rights to appeal the proposed Final Order accompanying this Consent Agreement.

II. EPA'S FINDINGS OF FACT AND LAW

COUNT I – TSCA § 5(a)(1) VIOLATIONS

5. Paragraphs 2 through 4 are incorporated and realleged herein.

6. Any chemical substance that is not included in the chemical substance list compiled and published under section 8(b) of TSCA, 15 U.S.C. § 2607(b) (TSCA Inventory) is a "new chemical substance" as defined under section 3(11) of TSCA, 15 U.S.C. § 2602(11) and 40 C.F.R. § 720.3(v).

7. Section 5(a)(l) of TSCA, 15 U.S.C. § 2604(a)(1), and 40 C.F.R. §§ 720.22(a)(1) and 720.40(b), provide that no person may manufacture (import) a new chemical substance unless such person submits a Premanufacture Notice (PMN) to the EPA at least ninety (90) calendar days before manufacturing that substance.

8. Section 5(h)(4) of TSCA, 15 U.S.C. § 2604(h)(4), provides that the EPA may exempt the manufacture of certain new chemicals from all or part of the full PMN requirements.

9. 40 C.F.R. Part 723, Premanufacture Notification Exemptions, was promulgated under the authority of section 5 of TSCA, 15 U.S.C. § 2604 (Manufacturing and processing notices) and sets forth EPA's regulations regarding section 5(h)(4) of TSCA, 15 U.S.C. § 2604(h)(4). 40 C.F.R. § 723.50 addresses chemical substances manufactured in quantities of 10,000 kilograms or less per year, and chemical substances with low environmental release and human exposure.

10. 40 C.F.R. § 723.50(e)(1) provides that a Low Volume Exemption (LVE) applicant must submit to EPA an exemption application on the standard PMN form at least thirty days before the manufacture of the new chemical substance begins.

11. On September 24, 2025, October 27, 2025, and December 4, 2025, Respondent informed the EPA that Respondent had manufactured (imported) Chemicals A, B, C, D, E, F, G, H, I and J between calendar years 2020 and 2025, prior to submitting a PMN or LVE application for these Chemicals.

12. Chemicals A, B, C, D, E, F, G, H, I and J were not included on the TSCA Inventory at the time of import. Therefore, they are "new chemical substances" as defined under section 3(11) of TSCA, 15 U.S.C. § 2602(11), and 40 C.F.R. § 720.3(v).

13. Respondent's failure to submit a PMN at least ninety (90) calendar days before manufacturing (importing) Chemicals A, B, C, D, E, F, G, H, I and J constitutes a failure to comply with section 5 of TSCA, 15 U.S.C. § 2604, which is a prohibited act under section 15(1) of TSCA, 15 U.S.C.

§ 2614(1), and may subject an entity to civil penalties pursuant to section 16(a) of TSCA, 15 U.S.C. § 2615(a).

COUNT II – TSCA § 13(a)(1)(B) VIOLATIONS

14. Paragraphs 2 through 13 are incorporated and realleged herein.

15. Section 13(a)(1)(B) of TSCA, 15 U.S.C. § 2612(a)(1)(B), provides that the Treasury shall refuse entry of "any chemical substance or mixture offered for such entry if" it is offered for entry in violation of a rule or order under section 5, 15 U.S.C. § 2604. Pursuant to 40 C.F.R. § 707.20(b)(2)(i), importers must sign the following statement for each import of a chemical substance subject to TSCA: "I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order under TSCA."

16. On September 24, 2025, October 27, 2025, and December 4, 2025, Respondent informed the EPA that it had imported Chemicals A, B, C, D, E, F, G, H, I and J between calendar years 2020 and 2025, prior to submitting a PMN or LVE application for these Chemicals.

17. Respondent's failure to submit proper certifications under section 13 of TSCA prior to importing Chemicals A, B, C, D, E, F, G, H, I and J constitutes a failure to comply with section 13 of TSCA, which is a prohibited act under section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B), and may subject an entity to civil penalties pursuant to section 16(a) of TSCA, 15 U.S.C. § 2615(a).

COUNT III – TSCA § 15(2) VIOLATIONS

18. Paragraphs 2 through 17 are incorporated and realleged herein.

19. TSCA section 15(2) states: "[i]t shall be unlawful for any person to— (2) use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 2604."

20. On or about September 24, 2025, Respondent voluntarily provided information, indicating to the EPA that Respondent used existing stocks of the product containing Chemicals A, B, C, E, F, G, and H between December 2020 and September 2025. On or about October 27, 2025, Respondent voluntarily provided information indicating to the EPA that Respondent used existing stocks of the product containing Chemical J between December 2020 and October 2025.

21. On or about December 4, 2025, Respondent informed the EPA that they continued to use Chemicals A, B, C, E, F, G, and H after the date of discovery on September 5, 2025, and continued to use Chemical J after the date of discovery on October 27, 2025.

22. Respondent's continued use of Chemicals A, B, C, E, F, G, H, and J after the dates of discovery referenced in paragraph 20 constitutes violations of TSCA section 15(2), 15 U.S.C. § 2614(2),

which may subject an entity to civil penalties pursuant to section 16(a) of TSCA, 15 U.S.C. § 2615(a).

III. CIVIL PENALTY

23. Pursuant to Section 16 of TSCA, 15 U.S.C § 2615, and taking into account the relevant statutory penalty criteria, the applicable penalty policies, and other relevant factors, Respondent agrees to pay a civil penalty in the amount of **FOUR HUNDRED AND TWENTY-THREE THOUSAND FOUR HUNDRED AND FORTY-EIGHT DOLLARS** ($423,448) (the "Assessed Penalty"). The Assessed Penalty is consistent with the TSCA Section 5 Enforcement Response Policy (TSCA Section 5 ERP) (amended July 1, 1993) and the Revised Enforcement Response Policy for TSCA §§ 8,12 & 13 (TSCA Sections 8, 12, and 13 ERP (March 1999). The TSCA ERP was developed in accordance with the Guidelines for Assessment of Civil Penalties Under Section 16 of the Toxic Substances Control Act; PCB Penalty Policy, which sets forth a general penalty assessment policy for TSCA violations. 45 Fed. Reg. 59,770 (Sept. 10, 1980) (Penalty Policy). The TSCA ERP establishes a framework for applying the statutory factors to be considered in assessing a civil penalty, i.e.: "the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require." 15 U.S.C. § 2615(a)(2)(B).

    The Assessed Penalty in this case reflects: (1) a determination of the gravity-based penalty (GBP) and (2) adjustments to the GBP, taking into account the statutory factors.

24. Respondent agrees to pay the Assessed Penalty for the alleged violations identified herein within thirty (30) days after the date the Final Order ratifying this Consent Agreement is filed with the Regional Hearing Clerk ("Filing Date").

25. Respondent shall pay the Assessed Penalty using any method or combination of the methods provided on the EAP website: https://www.epa.gov/financial/makepayment. For additional instructions see: https://www.epa.gov/financial/additional-instructions-making-payments-epa.

26. When making a payment, Respondent shall**:**
    a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, TSCA-HQ-2026-5001,

    b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

        Gloria Odusote, Case Development Officer
        Waste and Chemical Enforcement Division
        Office of Civil Enforcement
        U.S. Environmental Protection Agency
        odusote.gloria@epa.gov

EAB Hearing Clerk (1900L)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

"Proof of payment" means, as applicable, a confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

c. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

(i) Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS "standard" underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

(ii) Handling Charges. Respondent will be assessed monthly a charge to cover the EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed each subsequent thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

(iii) Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

27. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§

13.13 and 13.14.

b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.

d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

28. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

29. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

30. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

c. Respondent shall email its completed Form W-9 to Milton Wise at EPA's Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the

effective date of this CAFO, and EPA recommends encrypting IRS Form W-9 email correspondence; and

d. In the event that that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
   (i) Notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date; and
   (ii) Provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

IV. TERMS OF SETTLEMENT

31. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this Consent Agreement.

32. This settlement is conditioned upon the thoroughness and accuracy of Respondent's submissions to the EPA in this matter.

33. As a condition of this Consent Agreement, Respondent may import, process, use, and distribute Chemicals A, B, C, D, E, F, G, H and J while EPA reviews the LVE applications of Chemicals A, B, C, D, E, F, G, H and J, under the following conditions collectively under this Paragraph 33 referred to as "the Compliance Plan." The Compliance Plan shall remain in place following the effective date of the CAFO until the LVE applications for Chemicals A, B, C, D, E, F, G, H and J are approved, unless terminated earlier pursuant to either of the following conditions: (1) the EPA notifies Respondent of the Agency's determination that Respondent must cease importing, processing, distributing in commerce, or use, at any time during the LVE review period based on EPA's finding that it may be necessary to prevent a potential unreasonable risk of injury to human health or the environment, or (2) Respondent withdraws its LVE applications. Each LVE application is submitted, reviewed, and evaluated separately and the terms of the Compliance Plan are applied to each chemical and LVE application separately, EPA actions are applied to each chemical and LVE application separately. The import, processing, use and distribution must be in accordance with the following:

   a. Terms of Manufacturing (Importing)/Processing/Use of Chemicals A, B, C, D, E, F, G, H and J
      i. Respondent may manufacture (import) Chemicals A, B, C, D, E, F, G, H and J below the 12-month production volume from the date of entry of this CAFO as indicated in each LVE application.
      ii. Respondent may manufacture Chemicals A, B, C, D, E, F, G, H and J only by import into the United States (i.e., no domestic manufacture).
      iii. Respondent may use Chemicals A, B, C, D, E, F, G, H and J at its facility located at 700 South Drive, Hopewell Junction, NY 12533, only.

iv. Respondent may use Chemicals A, B, C, D, E, F, G, H and J only for the specific use(s) described in each LVE application.

b. No Release to Water. Respondent is prohibited from any release of Chemicals A, B, C, D, E, F, G, H and J or any waste stream containing Chemicals A, B, C, D, E, F, G, H and J into water.

i. If for any reason Respondent fails to comply with the release limitations applicable to Chemicals A, B, C, D, E, F, G, H and/or J, Respondent shall notify EPA, electronically according to procedures set forth in 40 C.F.R. § 703.5(f), within 5 days of the release.
ii. The notification must include the location of the release, an explanation and description of the reasons for the release, the amount of the release or deviation, all actions taken or to be taken to prevent or minimize the release and future release, and a schedule for implementation of any measures to be taken to prevent or mitigate effects of the release and any future releases.
iii. Maintain records documenting establishment and implementation of procedures designed to ensure compliance with any applicable water discharge limit, discharge monitoring requirement, or other requirement related to the release to water of Chemicals A, B, C, D, E, F, G, H and J. Records may include sampling and laboratory analyses of the discharge, and records related to discharges under the Federal Water Pollution Control Act (commonly known as the Clean Water Act (CWA)) or analogous State law, including location of treatment facility, permit numbers issued under all federal environmental statutes, method of treatment, monitoring and release records (including Discharge Monitoring Reports) pursuant to the CWA, and /or additional information in support to demonstrate compliance. If Respondent uses a third party for disposal, Respondent must maintain records demonstrating the third party does not release to water.

c. Respiratory Protection

i. Respondent must ensure that each person reasonably likely to be exposed to Chemicals A, B, C, D, E, F, G, H, and/or J via inhalation is provided with, and is required to wear, a National Institute for Occupational Safety and Health (NIOSH)-certified respirator with an Assigned Protection Factor (APF) of at least 10.
ii. All respirators must be issued, used and maintained according to an appropriate respiratory protection program in accordance with OSHA and NIOSH respiratory protection requirements in 29 C.F.R. § 1910.134 and 42 C.F.R. part 84.
iii. Respondent must maintain records documenting establishment and implementation of respiratory protection. Records used to demonstrate compliance under 29 C.F.R. § 1910.1200(e) may be used to satisfy this record keeping obligation if such records fulfill the requirements of respiratory protection.

d. Dermal Personal Protective Equipment

i. Respondent must ensure that each person reasonably likely to be dermally exposed through direct handling or contact with equipment or surfaces containing or contaminated with Chemicals A, B, C, D, E, F, G, H, and/or J is provided with, and is required to wear, personal protective equipment ("PPE") (i.e., gloves and body suits) that provides a barrier to prevent dermal exposure.
ii. PPE must be selected and used in accordance with the Occupational Safety and Health Administration (OSHA)'s requirements at 29 C.F.R. §§ 1910.132, 1910.133, and 1910.138.
iii. Gloves must be replaced at the end of each work shift during which they are exposed to Chemicals A, B, C, D, E, F, G, H, and/or J. If permeation testing was used to establish impermeability, gloves may not be used for longer than for which they were tested.
iv. Demonstration of Imperviousness. Respondent must demonstrate that the PPE selected provides an impervious barrier to prevent dermal exposure during expected duration and conditions of exposure. Respondent may make this demonstration by any one or a combination of the following:

1. Permeation Testing. PPE must be tested alone and in combination with other chemical substances in the work area under the expected conditions of exposure. Permeation testing should be conducted according to the American Society for Testing and Materials (ASTM) F739 "Standard Test Method for Permeation of Liquids and Gases through Protective Clothing Materials under Conditions of Continuous Contact." Results must be reported as the cumulative permeation rate as a function of time and documented in accordance with ASTM F739 using the format specified in ASTM F1194-99 (2010) "Standard Guide for Documenting the Results of Chemical Permeation Testing of Materials Used in Protective Clothing Materials."
2. Manufacturer Specifications. Manufacturer specifications may be used to establish that the PPE is impervious to Chemicals A, B, C, D, E, F, G, H and J alone and in combination with other chemical substances in the work area under the expected conditions of exposure.

v. Records documenting the determinations that chemical protective clothing is impervious to Chemicals A, B, C, D, E, F, G, H and J.

e. Hazard Communication

i. Respondent must establish and implement a hazard communication program consistent with the requirements in 29 C.F.R § 1910.1200 prior to manufacturing, processing, using and/or distributing Chemicals A, B, C, D, E, F, G, H and J.

ii. Respondent must maintain records documenting the establishment and implementation of a hazard communication program, including copies of labels and safety data sheets.

f. Distribution: Respondent is prohibited from distribution of Chemicals A, B, C, D, E, F, G, H and J unless incorporated as part of an "article" as defined at 40 C.F.R. § 720.3(c).

34. Respondent shall maintain records documenting its compliance with its duties under Paragraph 33 for five (5) years after the date they are created and must produce them for inspection, copying or as otherwise required under Section 11 of TSCA, 15 U.S.C. § 2610.

35. Respondent shall submit a monthly status report on the dates and quantities of importation that occurred after December 4, 2025 for Chemicals A, B, C, D, E, F, G, H and J for each month, a certification statement that the conditions described in paragraph 33 are being met, and any corrective measures that are determined to be taken via EPA's Central Data Exchange on the fifth business day of each month until EPA approves the LVE applications for Chemicals A, B, C, D, E, F, G, H and J.

36. As set forth in this paragraph and Paragraph 37 below, Respondent shall pay certain penalties negotiated and agreed to by EPA and Respondent for importations of Chemicals A, B, C, D, E, F, G, H and J that occur on or after December 4, 2025 and before EPA approves the LVE applications for A, B, C, D, E, F, G, H and J. Those importations, including those included in Respondent's monthly status reports to EPA, shall be assessed a $9,702 penalty as a one-day violation for each day of import that occurs containing Chemicals A, B, C, D, E, F, G, H and/or J.

37. Subsequent to the last monthly status report described in paragraph 35, EPA shall make a written demand for civil penalties for the importations. Respondent shall pay civil penalties as described in paragraph 36 above, owing to the United States, not more than thirty (30) calendar days after receipt of the written demand from EPA. Payment of the penalty amount shall be made in accordance with the directions described in paragraphs 26-28 above.

38. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying this Consent Agreement.

39. Compliance with this Consent Agreement and Final Order shall not be a defense to any subsequent action EPA may commence pursuant to federal law or regulation for violations, other than those addressed in paragraph 36 above, occurring after the date of this Consent Agreement, or any violations of TSCA not alleged in this Consent Agreement that may have occurred prior to the date that this Consent Agreement is fully executed by both Parties.

40. Nothing in this Consent Agreement or the Final Order is intended to, nor shall be construed to, operate in any way to resolve any criminal liability of Respondent.

V. OTHER MATTERS

41. Subject to the terms and conditions herein, this Consent Agreement shall be binding upon the Parties, and their respective officers, directors, employees, successors, and assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement.

42. The undersigned representatives of each Party certifies that he or she is duly authorized by his or her respective Party to enter into this binding Consent Agreement.

43. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by e-mail, at: amal.ghosh@samsung.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database.

44. This Consent Agreement shall not dispose of the proceeding without a final order from the EAB ratifying the terms of this Consent Agreement. This Consent Agreement shall be effective upon the filing of the Final Order by EPA's EAB. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

45. Respondent's obligations under this Consent Agreement shall end when it has paid in full the Assessed Penalty, paid any stipulated penalties, and completed and provided EPA with copies of all deliverables required to be submitted to EPA pursuant to this Consent Agreement and Final Order.

46. If Respondent disposes of Chemicals A, B, C, D, E, F, G, H, and/or J or any waste stream containing Chemicals A, B, C, D, E, F, G, H, and/or J, disposal shall be in accordance with applicable federal and state requirements. Respondent shall coordinate with the applicable state(s) where disposal may occur to determine if additional requirements or a preferred approach (e.g., incineration) should be considered before disposing of the applicable Chemicals.

47. Failure of Respondent to remit the civil penalties provided herein will result in this matter being forwarded to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgement rate provided in 28 U.S.C. § 1961.

48. Failure of Respondent to comply with the obligations of this Consent Agreement and Final Order is a violation of Section 15(1) of TSCA, 15 U.S. C. § 2614(1).

49. The Parties agree to bear their own costs and attorney's fees.

WE HEREBY AGREE TO THIS:

FOR RESPONDENT:

Amal Ghosh
President & Chief Executive Officer
eMagin Corporation
700 South Drive, Suite #201
Hopewell Junction, NY 12533

3/6/2026
Date

Gary S. Guzy
Covington & Burling LLP
Counsel to eMagin Corporation

3/6/2026
Date

FOR COMPLAINANT:

DIANA SAENZ
Digitally signed by DIANA SAENZ
Date: 2026.04.01 13:57:01 -04'00'

Diana Saenz
Acting Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency

YAN SUN
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Date: 2026.04.01 13:35:54 -04'00'

Yan Sun
Attorney Adviser
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency

CERTIFICATE OF SERVICE

I certify that copies of the foregoing "Consent Agreement" and "Final Order," in the matter of eMagin Corporation, Docket No. TSCA-HQ-2026-5001, were sent to the following persons on June 1, 2026, in the manner indicated:

By E-mail:

Yan Sun, Attorney
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Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
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Tommie Madison
Clerk of the Board