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HEARINGS CLERK
EPA -- REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-10-2016-0005
)	
SeaCast, Inc.)	CONSENT AGREEMENT
)	
Marysville, Washington)	
)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045.

1.2. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and SeaCast, Inc. ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of EPCRA together with the specific provisions of EPCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Under Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.22 and 372.30, the owner or operator of a facility covered by Section 313 must submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (“Form R”) for each toxic chemical referenced in Section 313(c) of EPCRA and listed in 40 C.F.R. § 372.65 that was manufactured, imported, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical threshold specified in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, and 372.28.

3.2. Under 40 C.F.R. § 372.22, a facility that meets each of the following criteria in a calendar year is a covered facility for that calendar year and must report under 40 C.F.R.

§ 372.30 by July 1 of the following year:

3.2.1. The facility has 10 or more full-time employees;

3.2.2. The facility is in a Standard Industrial Classification (“SIC”) major group or industry code or North American Industrial Classification System (“NAICS”) code listed in 40 C.F.R. §§ 372.22(b) and 372.23; and

3.2.3. The facility manufactured, imported, processed, or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical set forth in 40 C.F.R. §§ 372.25, 372.27, or 372.28.

3.3. The toxic chemicals which are subject to the reporting requirement of 40 C.F.R. § 372.30 are listed in 40 C.F.R. § 372.65.

3.4. 4,4’-Isopropylidenediphenol is a chemical listed in 40 C.F.R. § 372.65. The threshold quantity for 4,4’-Isopropylidenediphenol reporting is 10,000 pounds manufactured, processed, or otherwise used for each year, as set forth in 40 C.F.R. § 372.25.

3.5. Respondent is the owner and operator of a facility located at 6130 31st Ave NE, Marysville, Washington.

3.6. During calendar years 2010 and 2011, the facility had 10 or more full-time employees.

3.7. The facility is included in NAICS code 331512, which is included in the list of covered industry codes in 40 C.F.R. § 372.23.

3.8. Respondent manufactured/processed/otherwise used 4,4'-Isopropylidenediphenol in excess of the threshold quantity during the calendar years 2010 and 2011.

3.9. Respondent violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 by failing to submit a Toxic Chemical Release Inventory Reporting Form EPA Form 9350-1 ("Form R") for 4,4'-Isopropylidenediphenol for the calendar years 2010 and 2011.

3.10. Under Section 325 of EPCRA, 42 U.S.C. § 11045, and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per day of violation.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$8,400 (the "Assessed Penalty").

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Luna.Teresa@epa.gov

Renee Dagseth
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Dagseth.Renee@epa.gov

4.7. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4.8. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.8.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no

interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.8.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

4.8.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. Respondent agrees to implement a Supplemental Environmental Project (“SEP”) consisting of the reduction or replacement of the currently used injection wax containing 4,4’-Isopropylidenediphenol (BPA) with a wax that does not contain BPA or another toxic chemical listed in 40 C.F.R. § 372.65. Respondent agrees to complete and implement the SEP within 13 months of the effective date of the Final Order, in accordance with all provisions described in this Consent Agreement and Attachment A.

4.10. Respondent’s deadline to perform the SEP shall be excused or extended if such performance is prevented or delayed solely by events which constitute a *Force Majeure* event. A *Force Majeure* event is defined as any event arising from causes beyond the reasonable control of Respondent, including its employees, agents, consultants, and contractors, which could not be overcome by due diligence and which delays or prevents performance of a SEP within the specified time period. A *Force Majeure* does not include, *inter alia*, increased cost of performance, changed economic circumstances, changed labor relations, normal precipitation or

climate events, changed circumstances arising out of the sale, lease, or other transfer or conveyance of title or ownership or possession of a site, or failure to obtain federal, state, or local permits.

4.11. Respondent certifies to the truth, accuracy, and completeness of all cost information provided to EPA in connection with EPA's approval of the SEP, and that Respondent in good faith estimates that the cost to implement the SEP is \$96,740

4.12. Respondent also certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation, nor is Respondent required to perform or develop the SEP by another agreement, under a grant, or as injunctive relief in any other case. Respondent further certifies, that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP, that the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement; and that Respondent will not receive any reimbursement for any portion of the SEP from any other person or entity. For federal income tax purposes, Respondent agrees that it will neither capitalize in inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

4.13. Respondent hereby certifies that (1) it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 4.9.

4.14. Respondent shall submit a SEP Completion Report to EPA within 13 months after the effective date of this Consent Agreement. The SEP Completion Report shall contain the following information:

- (1) A description of the SEP as implemented;
- (2) Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and documentation providing evidence of the project's completion (including but not limited to photos, vendor invoices or receipts, correspondence) and documentation of all SEP expenditures;
- (3) A description of any problems encountered and the solutions thereto; and
- (4) A description of the environmental and public health benefits resulting from implementation of the SEP.

Unless otherwise instructed in writing by EPA, Respondent shall submit all notices and reports related to the SEP as required by the Consent Agreement by first class mail, overnight mail, or had delivery to:

Compliance Officer
U.S. Environmental Protection Agency
Region 10 Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

4.15. Respondent agrees that EPA may inspect Respondent's records related to the SEP at any reasonable time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

4.16. Respondent shall maintain legible copies of documentation of the underlying data for documents or reports submitted to EPA pursuant to this Consent Agreement until the SEP Completion Report is accepted pursuant to Paragraph 4.17, and Respondent shall provide the documentation of any such underlying data to EPA within 15 days of a written request for such information. In all documents or reports including, without limitation, the SEP Completion Report submitted to EPA pursuant to this Consent Agreement, Respondent shall, by a corporate

officer, sign and certify under penalty of law that the information contained in such a document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.”

4.17. Following receipt of the SEP Completion Report described in Paragraph 4.14, EPA will do one of the following: (i) accept the Report; (ii) reject the Report, notify Respondent, in writing, of deficiencies in the Report, and provide Respondent an additional 30 days in which to correct any deficiencies; or (iii) reject the Report and seek stipulated penalties in accordance with Paragraph 4.19.

4.18. If Respondent fails to satisfactorily complete the SEP as contemplated by this Consent Agreement and this failure was not caused solely by events which constitute a *Force Majeure* as defined by Paragraph 4.10, then stipulated penalties shall be due and payable by Respondent to EPA upon demand in accordance with Paragraph 4.19. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement. The determination of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP is reserved to the sole discretion of EPA.

4.19. If Respondent fails to satisfactorily complete the SEP required by this Consent Agreement, Respondent shall pay stipulated penalties, upon written demand from EPA, in the following amount for each day that (the SEP or each SEP milestone) identified in Paragraph 4.9 remains incomplete:

Period of Noncompliance	Penalty Per Violation Per Day
1 st through 7 th day	\$100
8 th through 21 st	\$250
22 nd through 30 th day	\$500
Greater than 30 days	\$1,000

Respondent shall pay stipulated penalties within 15 days of receipt of a written demand by EPA for such penalties. Payment shall be in accordance with the provisions of Paragraphs 4.5. and 4.6. Interest and late charges shall be paid as stated in Paragraph 4.8.

4.20. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP from the date of the execution of this consent Agreement shall include the following language:

“This project was undertaken in connection with the settlement of an administrative enforcement action taken by the U.S. Environmental Protection Agency under EPCRA.”

4.21. This Consent Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of the equipment or technology installed by Respondent in connection with the SEP undertaken pursuant to this Consent Agreement.

4.22. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraphs 4.8 or 4.19, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.23. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.24. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III, and is currently in compliance with all applicable EPCRA requirements at each of the facilities under its control.

4.25. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.26. Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.27. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.28. Respondent consents to the issuance of any specified compliance or corrective action order, and to any stated permit action.

4.29. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

7-20-16

FOR RESPONDENT:



SIGNATORY NAME, Signatory's Position
SEACAST, INC.

DATED:

7/27/2016

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-10-2016-0005
)	
SeaCast, Inc.,)	FINAL ORDER
)	
)	
Marysville, Washington,)	
)	
Respondent.)	

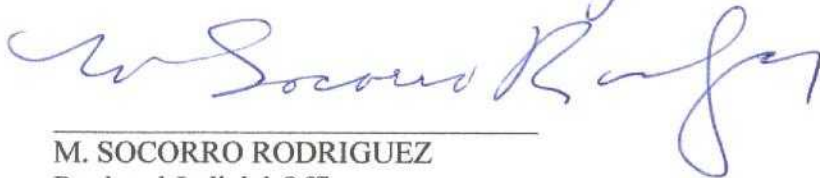
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has re delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of EPCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 3rd day of August, 2016.



M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

ATTACHMENT A

IN THE MATTER OF: SeaCast Inc.
EPA DOCKET NO. EPCRA-10-2016-0005
SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

Respondent's SEP will consist of the reduction or replacement of the currently used injection wax containing 4,4'-Isopropylidenediphenol (BPA) with a wax that does not contain BPA or other toxic chemicals listed in 40 C.F.R. § 372.65. Respondent will Test and Validate Alternative Waxes to Reduce and Replace BPA Containing Waxes to below a reportable level. The reduction and replacement of BPA containing wax will have significant environmental benefits by using a wax that does not contain BPA or other toxic chemicals listed in 40 C.F.R. § 372.65.

Respondent will complete and implement this Project within 13 months of the entry of the Consent Agreement and Final Order. Respondent will spend at least \$42,600 on this SEP. The project consists of the following

I. SEP IMPLEMENTATION

Plan to Test and Validate Alternative Waxes to Reduce & Replace BPA Containing Waxes.

Phase I – Research and development of Alternative Waxes – Environmental Compliance and Cost Analysis

- Develop a table of physical and chemical characteristics to compare our current BPA-containing wax to non-BPA wax;
- Study the SDS and Tech Sheets for the alternative waxes to see what potential chemicals might be of environmental concern and what those concerns are;
- Determine the potential environmental fate of those chemicals of concern and whether there are either human or aquatic issues that would need to be addressed;
- Have the engineering group evaluate the documented physical characteristics that will impact factors like shrinkage and shell cracking, fluidity when injecting into patterns and releasability from the patterns after cooling.

Estimated time to complete: 8 weeks

Phase II – Pilot Study Testing of the Waxes with Sample Castings

- Install a dedicated wax melter and wax press to inject and form parts with the new pattern waxes (cost of installation and additional melter if required);
- Process wax parts from the new waxes alongside existing wax parts to determine real part dimensional analysis, shrinkage and stability while attaching to trees;
- Determine the effects of the new wax of ceramic green strength;
- Process these scale test first on small parts, then on medium size parts and finally on large parts to see if the wax is stable at all sizes of injected wax parts;

- Process these scale tests on parts that have both thick and thin walled systems to determine fill and if air bubbles get trapped in the wax;
- Determine if the wax is easily melted out of the shells with the steam autoclave without expansion or shell cracking;
- Validate that the final shell interior is not compromised with residual impurities from the process;
- Write up conclusions of the scale testing for review of engineering group and the wax and shell room supervisors.

Estimated time to complete: 16 weeks

Phase III – Validation of Pilot Testing with Different Parts and Different Waxes

- Do engineering testing for shrinkage cracking, surface finishes, final chemical properties and durability
- Have the engineering group to quantitative testing of the finished parts to determine if they meet customer specifications;
- Present program and parts to customers for sign off of process changes with the new wax (where required in customer specification);
- Implement the program and notify the regulatory authorities of this change being implemented as required.

Estimated time to complete: approximately 24 weeks

Phase IV – Final Cost Analysis and Implementation of the New Processes Into Production

- Determine initial scale of BPA wax reduction and over what period of time;
- Determine the cost increase in raw product over that same period of time;
- Update the required regulatory authorities on the progress and results of the SEP over the next year.
- Begin production with new non-BPA containing wax

Estimated time to complete: approximately 4 weeks

II. Notification.

Upon the completion of each Phase of the SEP, SeaCast shall within 10 days provide notification to EPA.

Notification reports shall be submitted via electronic mail to Renee Dagseth at Dagseth.Renee@epa.gov.

III. Cost Estimate for the Execution of the SEP

Department Cost Center	Labor (Estimated Cost)	Materials (Estimated Cost)	Reason for Cost
Maintenance	\$4,000	\$1,000	Assembly of melter and wax press, installation of unit, preventative and scheduled maintenance during Phases II, III & IV
Production	\$14,400	\$6,800	Injecting parts with the alternative waxes, comparison to existing wax and cast parts and increased cost for the wax itself
Inspection	\$5,760		Labor for dimensional inspection to determine differences in shrinkage between various waxes
Shell Engineering	\$3,600		Engineering required to determine effect of wax type on green ceramic shell strength
Purchasing	\$1,700		Coordinate purchase and receiving of required materials
Engineering	\$12,000		Construct framework of entire evaluation, develop shop routers to move parts throughout our shop, evaluate results, make recommendations to management
Program Management	\$2,880		Overall labor time to manage, track and report the progress of the SEP project at benchmarks
EH&S Oversight	\$2,000		Environmental Compliance issues and oversight to keep the project on track without further environmental issues
Subtotals	\$46,340	\$7,800	
Pilot Program	\$42,600		<i>Different size trees, parts, 2 different alloys and a total of approximately 54 trees tested</i>

Total Estimated SEP Cost

\$96,740

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: SeaCast, Inc., Docket No.: EPCRA-10-2016-0005**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Robert Hartman, Esquire
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mr. Bert Robins
Vice President
SeaCast, Inc.
6130 31st Ave. NE
Marysville, Washington 98271

DATED this 4 day of August, 2016.



Teresa Luna
Regional Hearing Clerk
EPA Region 10