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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION IX
REGIONAL HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

IN THE MATTER OF:)
)
GE Osmonics, Inc.) Docket No. CAA-9-2011- 0505
)
) **CONSENT AGREEMENT AND FINAL ORDER**
Respondent.) **PURSUANT TO 40 C.F.R. § 22.13(b)**

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. Complainant, the U.S. Environmental Protection Agency, Region IX ("EPA") and GE Osmonics, Inc. ("GEO" or "Respondent") enter into this Consent Agreement to settle all matters pertaining to this case, as described below.

2. In a letter dated August 1, 2003, Respondent disclosed to EPA potential violations of the Clean Air Act, 42 U.S.C. § 7401 *et seq.* ("CAA") at the Respondent's facility (the "Facility") located at 760 Shadowridge Drive, Vista, CA 92083, as well as GEO facilities in Minnetonka, MN and Westborough, MA. Specifically, GEO disclosed that it violated provisions of the Standards of Performance for New Stationary Sources for Performance for Polymeric Coating of Supporting Substrates Facilities identified at 40 C.F.R. Part 60 Subpart VVV ("the Polymeric Coating NSPS"). In letters dated October 2, 2003, November 19, 2003, December 1, 2003 and January 13, 2004, and in several conference calls and emails, Respondent provided additional information as requested by EPA. The violations at the Minnetonka and Westborough facilities were resolved in an EPA Notice of Determination dated November 23, 2004.

II. JURISDICTION/WAIVER OF RIGHT TO HEARING

3. This Consent Agreement is entered into pursuant to Section 113(d)(1) of CAA and 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,” 40 C.F.R. Part 22 (“the Consolidated Rules”).

4. Section 22.13(b) of the Consolidated Rules provides that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (“CAFO”).

Respondent stipulates that EPA has jurisdiction over this matter. Respondent agrees not to contest EPA’s jurisdiction with respect to execution of this Consent Agreement, issuance of the attached Final Order, or the enforcement thereof. 40 C.F.R. § 22.18.

5. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in this Consent Agreement and its right to appeal the proposed Final Order accompanying this Consent Agreement.

6. Respondent admits the facts stipulated to in this Consent Agreement. 40 C.F.R. § 22.18(b).

III. PARTIES BOUND

7. This CAFO applies to and is binding upon the parties hereto, their officers, agents, successors, and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent’s responsibilities under this Consent Agreement.

IV. STIPULATED FACTS

8. Respondent is a subsidiary of the General Electric Company, a corporation incorporated under the laws of the state of New York and authorized to conduct business in California.

9. Respondent provided the results of a voluntary environmental audit to EPA. The results of the audit provided to EPA by Respondent identified instances of failure to comply with the CAA at the CM-40, DIFA, IFA, and Deposition Coater process lines at Respondent's facility:

10. Respondent failed to provide the notifications, as required by 40 C.F.R. § 60.7, associated with polymeric coating operations at the Facility.

11. Respondent failed to undertake timely performance tests, as required by 40 C.F.R. § 60.8, in connection with polymeric coating operations at the CM-40 line at the Facility.

12. Respondent failed to demonstrate compliance with the emission reduction standard for polymeric coating operations at the CM-40 line at the Facility and did not obtain timely approval from EPA for an alternative control device, as required by 40 C.F.R. § 60.743.

13. Respondent failed to comply with the monitoring requirements of 40 C.F.R. § 60.744.

14. Respondent failed to submit the proper notifications in connection with polymeric coating operations at the Facility, as required by 40 C.F.R. § 60.747.

15. Based on the information provided by Respondent, EPA has determined that for the violations set forth in Paragraphs 10 thru 14 above, Respondent has met each of the following conditions set forth in the "Final Policy Statement on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations," 65 Fed. Reg. 19618, April 11, 2000 ("Audit Policy").

a. The violations disclosed by Respondent were discovered during a regulatory review that was part of its corporate-wide compliance management system.

b. The violations disclosed by Respondent were identified voluntarily, not through a monitoring, sampling or auditing procedure required by statute, regulation, permit, or judicial or administrative order or consent agreement.

c. The violations were promptly disclosed within the twenty-one day time period from the date

of discovery. The Facility was formerly part of Osmonics, Inc., which was acquired by General Electric on February 28, 2003. A subsequent regulatory review conducted by GEO determined on July 11, 2003 that the Facility was likely subject to the Polymeric Coating NSPS. Based on this finding, disclosure of the violations of the Polymeric Coating NSPS was made in a letter dated August 1, 2003, twenty-one days later.

d. The violations at Respondent's facility were identified and disclosed prior to the commencement of a federal, state, or local agency inspection, investigation, or information request, notice of a citizen suit, legal complaint by a third party, or imminent discovery by a regulatory agency.

e. Respondent has identified the steps the facility has taken to promptly correct the violations and to prevent a recurrence of the violations. Specifically, Respondent has requested and received approval from EPA to have the water baths of its CM-40 polymeric coating line be considered a control device, subject to specified operating parameters, in accordance with 40 C.F.R. § 60.743(e).

f. The violations disclosed by Respondent or closely related violations have not occurred previously within the past three years at the same facility and are not part of a pattern of violations on the part of Respondent over the past five years.

g. The violations disclosed by Respondent have not resulted in serious actual harm to human health or the environment, nor have the violations presented an imminent and substantial endangerment to public health or the environment. The violations did not result in any excess emissions beyond what is permitted by federal regulation. The violations at issue do not violate the specific terms of any judicial or administrative order or consent agreement.

h. Respondent has cooperated with EPA and provided the information necessary for the Agency to determine the applicability of the Audit Policy to its disclosure.

16. The economic benefit of non-compliance received by Respondent for violations it disclosed

was insignificant.

V. CONCLUSIONS OF LAW

17. Respondent is a "person" subject to the requirements of Section 113(d)(1) of CAA.

18. Based on the information provided by Respondent in its letters dated August 1, 2003, October 2, 2003, November 19, 2003, December 1, 2003 and January 13, 2004, and in other information developed by EPA, EPA makes the following determination concerning the potential violations disclosed to EPA by Respondent.

19. Respondent violated the notification requirements of 40 C.F.R. § 60.7 associated with polymeric coating operations at the Facility.

20. Respondent violated 40 C.F.R. § 60.8 by failing to undertake timely performance tests in connection with polymeric coating operations at the CM-40 line at the Facility.

21. Respondent violated 40 C.F.R. § 60.743 by failing to demonstrate compliance with the emission reduction standard for polymeric coating operations at the CM-40 line at the Facility and not obtaining timely approval from EPA for an alternative control device.

22. Respondent violated the monitoring requirements of 40 C.F.R. § 60.744.

23. Respondent violated 40 C.F.R. § 60.747 by failing to submit the proper notifications in connection with polymeric coating operations at the Facility.

VI. PENALTIES

24. Based on the information provided by Respondent in letters dated August 1, 2003, October 2, 2003, November 19, 2003, December 1, 2003 and January 13, 2004, and in other information developed by EPA, EPA has determined that Respondent has met all of the conditions of the Audit Policy and qualifies for a 100 percent reduction in the gravity-based component of the civil penalty of \$319,000 for the self disclosures identified in Paragraphs 10 thru 14 above. Therefore, EPA will not

assess a gravity-based civil penalty against Respondent concerning these violations.

25. EPA has determined that insignificant economic benefit of noncompliance has accrued to Respondent as a result of the violations identified in Paragraphs 10 thru 14 above. Therefore, EPA will assess no penalty for the economic benefit of noncompliance with CAA.

VII. CERTIFICATION

26. By signing this Consent Agreement, Respondent certifies that it is currently in compliance with CAA regulations at 40 C.F.R. Part 60, Subpart VVV. Respondent agrees to undertake all necessary actions to continue the internal procedures to prevent recurrences of violations of such environmental requirements.

27. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondent realizes that there are significant penalties for submitting false or misleading information, including criminal penalties for knowing submission of such information, 18 U.S.C. § 1001.

28. EPA reserves the right to revoke this Consent Agreement and accompanying settlement penalty if and to the extent that any information or certification provided by Respondent, upon which any civil penalty mitigation granted herein for such violations was based, was materially false or inaccurate at the time such information or certification was provided to EPA, and EPA reserves the right to assess and collect any and all civil penalties for any violations described herein. Such revocation shall be in writing and shall become effective upon receipt by Respondent.

29. This CAFO resolves only those civil claims specified in Paragraphs 10 thru 14 above. Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including the Respondent, in response to any condition which EPA or the

United States determines may present an imminent and substantial endangerment to the public health, welfare or the environment, enforcement actions for CAA violations not addressed by this CAFO, nor shall anything in this Consent Agreement or the accompanying Final Order be construed to resolve, and the United States reserves its authority to pursue, criminal sanctions against Respondent. Further, this CAFO does not limit enforcement actions under laws administered by state or local authorities.

VIII. EFFECT OF SETTLEMENT

30. This Consent Agreement, upon incorporation into a Final Order by the EPA Region IX Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations set forth in Section V, above.

31. The provisions of this CAFO shall be binding upon Respondent, its agents, successors or assigns.

32. Respondent's obligations under this Consent Agreement shall end when Respondent has performed all of the terms of the Consent Agreement in accordance with the Final Order.

33. Each party to this Consent Agreement shall bear its own costs for this matter, including any costs and attorneys fees associated with any past, present, or future proceedings.

IX. EFFECTIVE DATE

34. Respondent and EPA agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed Consent Agreement to the Respondent. This CAFO shall become effective upon execution of the Final Order by the EPA Region IX Judicial Officer and filing with the Hearing Clerk.

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The foregoing Consent Agreement is Hereby Stipulated, Agreed, and Approved for Entry:

For Respondent:

Annette User

8/30/11

Annette User
Vice President, Environment, Health and Safety
GE Osmonics, Inc.

Date

For Complainant:

Deborah Jordan

9/27/11

Deborah Jordan
Director, Air Division
EPA Region IX

Date

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing Consent Agreement and Final Order was hand-delivered to:

The Regional Hearing Clerk
United States Environmental Protection Agency, Region IX
75 Hawthorne St
San Francisco, California 94105-3901

And that a true and correct copy of the Consent Agreement and Final Order was placed in the United States Mail, certified mail, return receipt requested, addressed to the following party:

Annette User
Vice President, Environment, Health and Safety
GE Osmonics, Inc.
5951 Clearwater Drive
Minnetonka, MN 55343

Certified Return Receipt No. 7010 3090 0001 24725193

Dated: _____

By: _____

Regional Hearing Clerk
Office of Regional Counsel
United States Environmental Protection Agency
Region IX
San Francisco, CA 94105

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

IN THE MATTER OF:

GE Osmonics, Inc.

Respondent.

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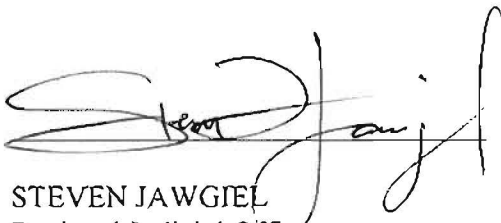
Docket No. CAA-9-2011-0005

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of EPA's Consolidated Rules of Practice, 64 Fed. Reg. 40138 (July 23, 1999), and Section 113(d)(1) of the Clean Air Act (CAA); the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. It is hereby ordered that:

Respondent shall comply with all of the terms of the Consent Agreement, incorporated herein by reference, and with the requirements set forth in the CAA and regulations thereunder;

So Ordered, this 28th day of September, 2011.



STEVEN JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order against **GE Osmonics, Inc. (Docket #: CAA-09-2011-0005)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

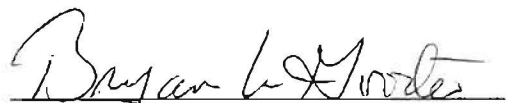
A copy was mailed via CERTIFIED MAIL to:

Annette User
Vice President, Environment, Health and Safety
GE Osmonics, Inc.
5951 Clearwater Drive
Minnetonka, MN 55343

CERTIFIED MAIL NUMBER: 7010-3090-0001-2472-5193

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Daniel Reich, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

Date

9/29/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
- REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 27 2011

CERTIFIED MAIL #7010 3090 0001 2472 5193
RETURN RECEIPT REQUESTED

Ms. Annette User
Vice President, Environment, Health and Safety
GE Osmonics, Inc.
5951 Clearwater Drive
Minnetonka, MN 55343

RE: GE Osmonics Vista, CA Facility Self-Disclosure

Dear Ms. User:

Enclosed is your copy of the Consent Agreement and Final Order ("CAFO") filed pursuant to section 113(d) of the Clean Air Act, 42 U.S.C. §§ 7401-7671q. If you have any questions concerning the CAFO, please contact Joe Westersund, Enforcement Office, at 415-972-3841. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Jordan".

Deborah Jordan
Director, Air Division

Enclosure

cc: Mr. Robert Kard (San Diego County APCD)