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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

REGIONAL HEARING OFFICE

**75 Hawthorne Street
San Francisco, CA 94105**

IN THE MATTER OF:)	
)	
Sterigenics International, Inc.)	Docket No. CAA-9-2010- 0008
)	
)	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 9 (“EPA”) and Sterigenics International, Inc. (“Sterigenics” or “Respondent”) enter into this Consent Agreement to settle all matters pertaining to this case, as described below.

2. In letters dated April 9 and 22, 2008, Respondent disclosed to EPA potential violations of the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (“CAA”) at the Respondent’s facilities located at 4900 Gifford Avenue and 4801 E. 50th Street in Los Angeles, California 90058. In a letter dated September 4, 2009, Respondent provided additional information as requested by EPA.

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 (64 Fed. Reg. 40138, July 23, 1999)(“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. 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, for the purpose of this Consent Decree only. 40 C.F.R. § 22.18(b).

III. PARTIES BOUND

7. This Consent Agreement and the attached Final Order apply to and are 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 corporation incorporated under the laws of the state of Delaware and is authorized to conduct business in California.

9. Respondent provided the results of an internal investigation to EPA where an employee made a report of violations of air emission requirements to outside counsel. The results of the internal investigation provided to EPA by Respondent identified instances of failure to comply with CAA at Respondent's facility.

10. Respondent disclosed that it operated ethylene oxide ("EO") sterilization chambers when its DeOxx emissions control systems ("control systems") were not functioning, by bypassing control system safeguards that would have prevented this occurrence.

11. Respondent disclosed that the bypass of the control system safeguards caused uncontrolled venting on three separate occasions that exceeded the requirements of the Ethylene Oxide Emissions Standards for Sterilization Facilities, 40 C.F.R. Part 63, Subpart O, at 40 C.F.R. § 63.362(c), which specifies that "[e]ach owner or operator of a sterilization source using one ton shall reduce ethylene oxide emissions to the atmosphere by at least 99 percent from each sterilization chamber vent."

12. On May 13, 2006, the control system (scrubber) shut down due to a sump pump float that stuck in the high level. Six percent (15 of 257 pounds) of EO used in sterilization batches operating at that time was emitted to the atmosphere.

13. On May 26, 2007, the control system shut down when the main circuit breaker was tripped, shorting an output on a relay card. Twenty-six percent (31 of 119 pounds) of EO used in sterilization batches operating at that time was emitted to the atmosphere.

14. On August 21, 2007, the control system pump motor failed. Five percent (2.8 of 57 pounds) of EO used in sterilization batches operating at that time was emitted to the atmosphere.

15. Based on the information provided by Respondent, EPA has determined that for the

violations set forth in Paragraphs 12 through 14 and 19 herein, Respondent has met all but one 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”). Condition (a) was not met.

a. The violations disclosed by Respondent were discovered through an employee’s complaint to outside counsel, which does not constitute systematic discovery through an environmental audit or compliance management system, and therefore, does not meet the requirements of the Audit Policy specified in Part II, Section D(1).

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 disclosed within the twenty-one day time period from the date they were discovered.

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. These steps included instituting a system for anonymous employee reporting of environmental and other issues, completing environmental compliance training with all Sterigenics’ Los Angeles employees, removing keys from a manual / automatic switch that allowed control system safeguards to be bypassed, making

modifications to control system wiring and/or programming, and instituting procedures to ensure internal review of emissions control system breakdown reports.

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 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 the violations it disclosed was approximately \$2,085.

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 April 9 and 22, 2008, and September 4, 2009, and information developed by EPA, EPA makes the following determination concerning the potential violation identified to EPA by Respondent.

19. Based on the facts in Paragraphs 12 through 14 above, Respondent violated 40 C.F.R. § 63.362(c) by failing to reduce ethylene oxide emissions to the atmosphere by at least 99 percent from each sterilization chamber vent.

VI. CIVIL ADMINISTRATIVE PENALTY

20. Based on the information provided by Respondent in its letters dated April 9 and 22, 2008, and September 4, 2009, EPA has determined that Respondent has met all of the conditions of the Audit Policy except condition (a), and qualifies for a 75 percent reduction in the gravity-based component of the civil penalty for the self disclosures identified in Paragraphs 12 through 14, above. Therefore, under Part I section C(2) of the Audit Policy, EPA will provide 75 percent mitigation of the gravity-based civil penalty against Respondent concerning these violations.

21. EPA has determined that the gravity-based penalty calculated in accordance with the Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991, reduced by 75% in accordance with the Audit Policy, is \$83,818. The economic benefit of non compliance accrued to Respondent is approximately \$2,085.

22. In settlement of the violations specifically alleged in Paragraphs 12 through 14 and 19 of this CAFO, Respondent shall pay a civil administrative penalty of EIGHTY-FIVE THOUSAND, NINE HUNDRED AND THREE DOLLARS (\$85,903). Respondent shall pay this civil penalty within thirty (30) days of the effective date of this CAFO. The civil penalty shall be paid by remitting a certified or cashier's check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

Overnight Mail:

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

ATTN Box 979077

St. Louis, MO 63101

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving U.S. currency

PNC Bank

808 17th Street, NW

Washington, DC 20074

ABA = 051036706

Transaction Code 22 – checking

Environmental Protection Agency

Account 31006

CTX Format

On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov

Enter "sfo1.1" in the search field

Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

23. A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a

transmittal letter, indicating Respondent's name, the case title, and docket number, to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Joe Westersund
Air Division (AIR-5)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Daniel Reich
Office of Regional Counsel (ORC-2)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

24. Respondent shall not use payment of any penalty under this CAFO as a tax deduction from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to use such payment as a tax deduction.

25. If Respondent fails to pay the assessed civil administrative penalty of EIGHTY-FIVE THOUSAND, NINE HUNDRED AND THREE DOLLARS (\$85,903), as identified in Paragraph 22, by the deadline specified in that Paragraph, then Respondent shall also pay a stipulated penalty to EPA upon EPA's written request. The amount of the stipulated penalty will be TEN THOUSAND DOLLARS (\$10,000), and will be immediately due and payable upon EPA's written request on the day following the deadline specified in Paragraph 22, together with the initially assessed civil administrative penalty of EIGHTY-FIVE THOUSAND, NINE HUNDRED AND THREE DOLLARS (\$85,903), resulting in a total penalty due of NINETY-

FIVE THOUSAND, NINE HUNDRED AND THREE DOLLARS (\$95,903). Failure to pay the civil administrative penalty specified in Paragraph 22 by the deadline specified in that Paragraph may also lead to any or all of the following actions:

a. EPA may refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and appropriateness of the assessed penalty or of this CAFO is not subject to review in any such collection proceeding.

b. The U.S. Government may collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the U.S. Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. §§ 13(C) and 13(H).

c. Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds.

d. Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S. Government may assess interest, administrative handling charges, and nonpayment penalties against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty specified in Paragraph 15 by the deadline specified in that Paragraph.

e. Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however, that no interest shall be

payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of this CAFO.

f. Administrative Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge, based on either actual or average cost incurred (including both direct and indirect costs), for every month in which any portion of the assessed penalty is more than thirty (30) days past due.

g. Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2) and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually, may be assessed on all debts more than ninety (90) days delinquent.

VII. CERTIFICATION

26. By signing this Consent Agreement, Respondent certifies that it is currently in compliance with the Ethylene Oxide Emissions Standards for Sterilization Facilities, 40 C.F.R. Part 63, Subpart O. This certification is based on the most recent semi-annual monitoring reports required by 40 C.F.R. Part 63, Subpart O. Respondent agrees to undertake all necessary actions 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 violation 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 violation described herein. Such revocation shall be in writing and shall become effective upon receipt by Respondent.

29. This Consent Agreement and the accompanying Final Order resolve only those civil claims specified in Paragraphs 12 through 14 and 19, 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 violations of the CAA or other statutes 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 9 Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations set forth in Paragraphs 12 though 14 and 19, above.

31. The provisions of this Consent Agreement and Final Order 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 Consent Agreement and the attached Final Order shall become effective upon execution of the Final Order by the EPA Region 9 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:

KATHOFFMAN

Kathleen Hoffman
Vice President - RA/QA
Sterigenics International, Inc.

9/23/2010

Date

For Complainant:

[Signature]

Deborah Jordan
Director, Air Division
EPA Region 9

9/28/2010

Date

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

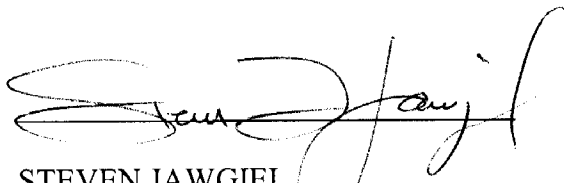
IN THE MATTER OF:)
)
Sterigenics International, Inc.) Docket No. CAA-9-2010- 0008
)
)
Respondent.)

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 Ethylene Oxide Emissions Standards for Sterilization Facilities, 40 C.F.R. Part 63, Subpart O and regulations thereunder.

So Ordered, this 29 day of September, 2010.



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

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:


Kathleen Hoffman
Vice President - RA/QA
Sterigenics International, Inc.
2015 Spring Road, Suite 650
Oakbrook, IL 60523

Certified Return Receipt No. 7003 3110 0006 2000 9165

Byron F. Taylor
Sidley Austin LLP
One South Dearborn
Chicago, IL 60603

Dated:

9/30/10

By: 

FCR:

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