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SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

v.

STERIGENICS US, LLC
[Facility ID Nos. 126197 and 126191]

Respondent.

CASE NO. 6225-1

**AMENDED PETITION FOR ORDER
FOR ABATEMENT (STIPULATED)**

Health & Safety Code § 41700,
District Rule 402

Date: August 9, 2022
Time: 9:00 a.m.
Place: 21865 Copley Drive
Diamond Bar, CA 91765

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, (hereinafter referred to as
“District,” “South Coast AQMD,” or “Petitioner”) petitions the District Hearing Board for an Order
for Abatement directed to Respondent STERIGENICS US, LLC (“Sterigenics” or “Respondent”)
with regard to its medical sterilization operations in Vernon, CA that use ethylene oxide. The
District alleges as follows:

1. Petitioner is a body corporate and politic established and existing pursuant to Health
& Safety Code §§ 40000, *et seq.* and §§ 40400, *et seq.*, and is the sole and exclusive local agency
with the responsibility for comprehensive air pollution control in the South Coast Air Basin.

2. Respondent, STERIGENICS US, LLC, operates a medical sterilization business, including two operationally connected buildings in the city of Vernon that are located within South Coast AQMD's jurisdiction and subject to South Coast AQMD's rules and regulations. These operations are the subject of this Petition and have the following addresses and facility ID designations: 4900 South Gifford Avenue, Los Angeles, CA 90058, with Facility ID No. 126197 (49th Street facility), and 4801-63 East 50th Street, Los Angeles, CA 90058, with Facility ID No. 126191 (50th Street facility) [collectively the "Vernon Facilities"]. Respondent's corporate headquarters are located in Oak Brook, Illinois.

3. Respondent's sterilization operations at the Vernon Facilities involve the use of Ethylene Oxide ("EtO"), which has been identified by the Office of Environmental Health Hazard Assessment (OEHHA) as a known human carcinogen by inhalation. <https://oehha.ca.gov/chemicals/ethylene-oxide>. Respondent's operations at the Vernon Facilities are also subject to District Rule 1405, "Control of Ethylene Oxide and Chloroflourocarbon Emissions from Sterilization or Fumigation Processes."

4. Respondent's sterilization operations at the Vernon Facilities result in the release of fugitive EtO emissions.

Violations of Health & Safety Code § 41700 and South Coast AQMD Rule 402

5. Beginning in or around April 2022, the District began ambient air monitoring for EtO by collecting 24-hours samples in and around the Vernon Facilities, specifically at a site located downwind of the Vernon Facilities on 49th Street ("49th St. site"). Two more monitors were set up in May 2022, one on Gifford Avenue ("Gifford site") and one in the nearest residential community on Fruitland Avenue ("Fruitland site"). Presently, the District has set up two air monitoring sites around the Vernon Facilities and one community air monitoring location at the Fruitland site to measure ambient EtO levels.

6. Measurements from the District's monitors may vary according to a facility's operations and extant environmental conditions, such as prevailing wind direction or rain on the day the measurement is taken. Based upon knowledge and observations of the Vernon Facilities' operations, monitored levels of EtO, prevailing wind directions, and other environmental

1 conditions, District staff believes that the elevated levels of ambient EtO concentrations at or
2 around the Vernon Facilities are due in part to fugitive emissions from Respondent's operations.

3 7. District Rule 402 adopts the same language as Health & Safety Code § 41700,
4 which in pertinent part prohibits any person from emitting from any source whatsoever such
5 quantities of air contaminants as will "endanger the health or safety" of "any considerable number
6 or persons or the public."

7 8. According to U.S. EPA's landmark decision regulating lead in gasoline, the term
8 "will endanger" that was used in the statute authorizing U.S. EPA to regulate gasoline additives if
9 their emission products "will endanger the public health or welfare" (former CAA § 211(c)(1)(A))
10 includes emissions which "represent a significant risk of harm to the health of" urban populations.
11 The courts have upheld this interpretation. *Ethyl Corp. v. EPA*, 541 F.2d 1 (D.C. Cir. 1976).
12 Therefore, the term "endanger" as used in Health & Safety Code § 41700 and District Rule 402
13 includes a significant risk of harm.

14 9. According to District Rule 1402(c)(19), a "significant" risk level is defined as a
15 cancer risk of 100 in a million. Under Rule 1402, a facility may not obtain any extension of time to
16 reduce its risk below this significance level. District Rule 1402(l). The Governing Board was
17 required by state law, the Air Toxics "Hot Spots" Information and Assessment Act, to establish a
18 "significant risk" level, which no facility may exceed beyond the time specified in District Rules.
19 Health & Safety Code §§ 44391, 44391(b).

20 10. According to District Rule 1402(g)(2), within 90 days of the District's notification
21 that a facility has been designated a Potentially High Risk Level Facility, the facility must submit
22 an Early Action Reduction Plan that identifies measures that can be implemented immediately to
23 reduce the facility-wide health risk. As of June 7, 2022, South Coast AQMD designated the Vernon
24 Facilities as a Potentially High Risk Level Facility.

25 11. According to District Rule 1402(f)(3)(A)(iv), a facility that has been designated a
26 Potentially High Risk Level Facility must reduce the cancer risk impact of total facility emissions
27 to 25 in a million according to OEHHA health values and methodology as quickly as feasible, but
28 no later than two years from approval of the Risk Reduction Plan.

1 12. District staff is required to use health values and methodologies developed by
2 OEHHA when estimating health risks in its air toxics program. Using OEHHA health values and
3 methodology, District staff has determined that EtO concentrations at 3.18 ppb pose a significant
4 cancer risk of 100 in a million as applicable to off-site workers.

5 13. Based on the air monitoring data collected, District staff contends that the Vernon
6 Facilities pose a risk multiple times greater than the significant risk level to those exposed for many
7 years to the EtO concentrations measured recently outside of the Facilities.

8 14. Between April 22, 2022 and July 2, 2022, the average EtO concentration measured
9 from ambient air monitoring at the 49th St. Site was 21.5 ppb. Using OEHHA health values and
10 methodology, District staff estimates the off-site worker cancer risk from the Vernon Facilities to
11 be over 600 in a million, assuming these levels have persisted for a 25-year worker exposure.

12 15. Based on the foregoing, District staff contends that the EtO emissions from the
13 Vernon Facilities pose a significant risk of cancer to off-site workers.

14 16. Since the cancer risk posed by EtO emissions determined to be originating from the
15 Vernon Facilities is multiple times greater than the District's "significant risk" level, these
16 emissions have been determined to "endanger" public health.

17 17. Emissions believed to be originating from Respondent's Vernon Facilities expose at
18 least 5 off-site workers, and at most approximately 30-40 off-site workers, to levels of EtO which
19 endanger their health. Therefore, emissions believed to be originating from Respondent's Vernon
20 Facilities endanger the health of a considerable number of persons.

21 18. Continued operation of EtO sterilization at the Vernon Facilities is in violation of
22 District Rule 402 and Health & Safety Code § 41700.

23 19. Respondent does not admit that it is in violation of the District's Rules and does not
24 admit that the Vernon Facilities' operations using EtO pose a risk to anyone in the community.

25 20. To resolve the District's claims in this Petition, Respondent has agreed to achieve
26 compliance with the District's requirements as expeditiously as practicable.

1 21. By stipulating to an order for abatement, Respondent is relying on Health & Safety
2 Code § 42451(b) and does not admit to any violation or threat of violation or any District allegation
3 or determination asserted in this Petition.

4 22. The District, by this Amended Petition, seeks an Order for Abatement to require
5 Respondent to cease violation of District Rule 402 and Health & Safety Code § 41700 by either
6 ceasing its non-compliant operations or by taking risk reduction action approved by the District and
7 this Board.

8 23. The District, after consultation with Respondent, intends to submit a more detailed
9 proposed order including specific measures to reduce emissions to the greatest extent feasible and
10 reduce the risk to public health as quickly as feasible, while permanent measures to minimize
11 fugitive EtO emissions are implemented.

12 24. It is not unreasonable to require Respondent to comply with District rules and
13 State law.

14 25. The issuance of an Order for Abatement upon a fully noticed hearing would not
15 constitute a taking of property without due process of law.

16 26. This Order for Abatement is not intended to be nor does it act as a variance.

17 27. The issuance of the Order for Abatement is not expected to result in the closing or
18 elimination of an otherwise lawful business, but if it does result in such closure or elimination, it
19 would not be without a corresponding benefit in reducing air contaminants.

20 THEREFORE, the District requests an Order for Abatement as follows:

21 1. That this Hearing Board issue an Order for Abatement (Stipulated) consistent with
22 the proposed Stipulated Findings and Decision to be submitted by the Parties in advance of the
23 hearing, and order Respondent to perform all the conditions and increments of progress set forth
24 therein or cease its noncompliant operations.

25 3. For such other and further relief that this Board deems just and proper.

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DATED: July 26, 2022

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT

By: 
Josephine Lee
Attorney for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 26, 2022, I emailed the *Amended Petition for Order for*
3 *Abatement (Stipulated)* in Case No. 6225-1 to the Clerk of the South Coast AQMD Hearing Board
4 with accompanying emailed service on the counsel for Respondent, Ms. Maya Grasse, at
5 Maya.Grasse@alston.com. The Respondent in this case had agreed to accept emailed service of
the petition and documents filed to the docket, as acknowledged by email sent on July 15, 2022 to
the Clerk.

6 DATED: July 26, 2022

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT

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8
9 By: 
Josephine Lee
Attorney for Plaintiff