

US EPA ARCHIVE DOCUMENT



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

CERTIFIED MAIL NO. 7007 2560 0001 7660 5583
RETURN RECEIPT REQUESTED

Mr. Greg Myers
Vice-President and General Manager
Hermetic Seal Corporation
c/o Sealtron
9705 Reading Road
Cincinnati, OH 45215

Re: In the matter of Hermetic Seal Corporation
U.S. EPA Docket No. RCRA-09-2010- 0000

Dear Mr. Myers:

Enclosed is a copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with the United States Environmental Protection Agency (EPA).

When the EPA receives the final payment of the penalty identified in the Consent Agreement and Final Order this case will be closed. If you have any questions regarding the rules, regulations and statutes which govern the proceedings terminated by the enclosed Consent Agreement and Final Order, please contact Dorian Young at (415) 972-3515.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Scott".

Jeff Scott, Director
Waste Management Division

Enclosure

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

2010 MAR -4 PM 2: 29
U.S. EPA REGION IX
REGIONAL HEARING CLERK

In the matter of)
)
HERMETIC SEAL)
CORPORATION)
)
EPA ID No. CAD981452857)
)
)
Respondent.)
_____)

U.S. EPA Docket No.
RCRA-9-2010- 0006

CONSENT AGREEMENT AND
FINAL ORDER PURSUANT TO
40 C.F.R. SECTIONS 22.13 AND
22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), 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 Code of Federal Regulations ("C.F.R.") Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Hermetic Seal Corporation ("Hermetic," or "Respondent"), a corporation organized under the laws of the State of Delaware.
2. Respondent owns and operates a facility located at 4232 Temple City Boulevard, Rosemead, California 91770 (the "Facility"). Respondent designs and manufacturers highly engineered hermetically sealed connectors, hermetically sealed terminals, hermetically sealed headers, hermetically sealed packages, cable assemblies for harsh environments, and hull penetrators.
3. This Consent Agreement and Final Order ("CA/FO") pursuant to 40 C.F.R. §§22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent's violations are as follows: (1) failure to provide a list of hazardous waste handler(s) and technical personnel, in violation of 22 C.F.R. §§66262.34(a)(4) and 66265.16 [see also 40 C.F.R. §§262.34(a) and 265.16]; (2) failure to amend contingency

US EPA ARCHIVE DOCUMENT

plan 22 C.C.R. §§66262.34(a)(4) and 66265.54 [See also 40 C.F.R. §§262.34(a)(4) and 265.54]; (3) (A) failure to properly close containers, in violation of 22 C.C.R. §§66262.34(a)(1)(A) and 66265.173(a) [see also 40 C.F.R. §§262.34(a)(1)(i) and 265.173(a)] – (B) failure to comply with hazardous waste air emission requirements, in violation of 22 C.C.R. §§66265.1087(b)(1), 66265.1087(c), and 66265.1087(d) [see also 40 C.F.R. §§265.1087(b)(1), 265.1087(c), and 265.1087(d)]; (4) failure to perform required weekly inspections, in violation of 22 C.C.R. §§66262.34(a)(1)(A), and 66262.174 [see also 40 C.F.R. §§262.34(a)(1)(i), and 265.174]; and (5) storage of hazardous waste without a permit, in violation of the requirements of 22 C.C.R. §66262.34 and 22 C.C.R. §66270.1 [see also 40 C.F.R. §§262.34 and 270.1]. These are all in violation of Section 3001 et seq. of RCRA, 42 U.S.C. §6921 et seq., and state regulations adopted pursuant thereto.¹

B. JURISDICTION

4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to §3006 of RCRA, 42 U.S.C. §6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §66001 et seq. The State of California has been authorized for all the regulations referenced in this CA/FO.
5. Respondent is a “person,” as defined in 22 C.C.R. §66260.10 [see also 40 C.F.R. §260.10].
6. Respondent is the “operator” of a facility as defined in 22 C.C.R. §66260.10 [see also 40 C.F.R. §260.10].
7. Respondent’s hazardous waste manifests indicate it is a large quantity generator of hazardous waste as defined in 22 C.C.R. §66260.10 [see also 40 C.F.R. §260.10]. Wastes generated at Respondent’s Facility include, but are not limited to, the following: (1) filter cake (F006 sludge waste) from the treatment of spent plating solutions, and rinse waters; (2) spent acetone and methanol (D001, F003); (3) paint-related wastes (D007); (4) spent filters (D007); and (5) universal wastes (e.g., spent lamps). Gold wastes generated by the facility are reclaimed.

¹ All citations to the “C.C.R.” refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States on August 1, 1992 (see 57 FR 32726, July 23, 1992) and September 26, 2001 (66 FR 49118, (September 26, 2001)). Corresponding Federal citations are provided in brackets.

8. Respondent is or has been engaged in “storage” of hazardous waste as defined in 22 C.C.R. §66260.10 [*see also* 40 C.F.R. §260.10].
9. Respondent generates and accumulates, or has generated and accumulated, materials that are “wastes” as defined in 22 C.C.R. §§66260.10 and 66261.2 [*see also* 40 C.F.R. §§260.10 and 261.2].
10. At the Facility, Respondent generates and accumulates, or has generated and accumulated, “hazardous waste” as defined in California Health & Safety Code §25117, and 22 C.C.R. §§66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§260.10 and 261.3].
11. On April 27, 2009, EPA Inspectors (the “Inspectors”) conducted a RCRA Compliance Evaluation Inspection (“CEI”) at the Facility. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code §25100 et seq. and the regulations adopted pursuant thereto, as approved and authorized by the United States.
12. Section 3006 of RCRA, 42 U.S.C. §6926 provides, inter alia, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
13. A violation of California’s authorized hazardous waste program, found at H&SC §§25100 et seq., constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California’s authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. §6928.
14. Section 3008 of RCRA, 42 U.S.C. §6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA et seq., 42 U.S.C. §6921 et seq.
15. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region IX, who has re-delegated this authority to the Director of the Waste Management Division.

C. ALLEGED VIOLATIONS

COUNT I

[Failure to Provide List of Hazardous Waste Handler and Technical Personnel.]

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. 22 C.C.R. §§ 66262.34(a)(4) and 66265.16 require a hazardous waste large quantity generator to develop, and implement, a training program.
18. Pursuant to 22 C.C.R. §§ 66262.34(a)(4) and 66265.16(d)(1) [*see also* 40 C.F.R. §262.34(a)(4) and § 265.16], the above-referenced training program must include the job title, and name, of each person responsible for hazardous waste management at the Facility.
19. During the CEI, Respondent did not provide Inspectors with the required names of Facility personnel that filled each position listed in the Facility's hazardous waste management training program.
20. Therefore, EPA alleges that Respondent failed to comply with the requirements of 22 C.C.R. §§262.34 (a)(4), and 22 C.C.R. §§265.16(d)(1) [*see also* 40 C.F.R. §262.34(a)(4) and §265.16].

COUNT II

[Failure to Amend Facility Contingency Plan.]

21. Paragraphs 1 through 20 above are incorporated herein by this reference as if they were set forth here in their entirety.
22. Pursuant to the requirements of 22 C.C.R. §§ 66262.34(a)(4) and 66265.54 [*see also* 40 C.F.R. §§ 262.34(a)(4) and 265.54], a facility's "contingency plan shall be reviewed, and immediately amended, if necessary, whenever: (a) the applicable regulations are revised; (b) the plan fails in an emergency; (c) the facility changes in its design, construction, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency; (d) the list of emergency coordinators changes; or (e) the list of emergency equipment changes."
23. At the time of the CEI, the secondary emergency coordinators listed in the Facility's contingency plan were no longer employed by the Respondent. As a result, the Facility's contingency plan did not accurately reflect the fact that the "list of emergency coordinators [had] change[d]," in a specific way. Respondent's contingency plan did not

include the name of the Facility's current secondary emergency coordinator. Accordingly, Respondent's plan did not meet all of the contingency plan requirements stipulated by the regulations.

24. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. §§ 66262.34(a)(4) and 66265.54 [*See also* 40 C.F.R. §§ 262.34(a)(4) and 265.54].

COUNT III

[Failure to Properly Close Containers, and Lack of Compliance with Hazardous Waste Air Emission Control Requirements.]

25. Paragraphs 1 through 24 above are incorporated herein by this reference as if they were set forth herein in their entirety.
26. **Open Containers.** Pursuant to the requirements of 22 C.C.R. §§ 66262.34(a)(1)(A) and 66265.173(a) [*see also* 40 C.F.R. §§ 262.34(a)(1)(i) and 265.173(a)], “[a] container holding hazardous waste shall always be closed during transfer and storage, except when it is necessary to add or remove waste.”
27. During the CEI, Inspectors observed containers of hazardous wastes to be open, at a time when waste was not being added or removed from those containers.
28. Respondent's failure to properly close the containers of hazardous waste constituted a violation of 22 C.C.R. §§ 66262.34(a)(1)(A) and 66265.173(a) [*see also* 40 C.F.R. §§ 262.34(a)(1)(i) and 265.173(a)].
29. **Air Pollutant Emission Controls.** Pursuant to the container air pollutant emission control requirements of 22 C.C.R. §§ 66265.1087(b)(1), 66265.1087(c), and 66265.1087(d) [*see also* 40 C.F.R. §§ 265.1087(b)(1), 265.1087(c), and 265.1087(d)], a generator of hazardous waste must meet “Container Level 1,” and/or “Container Level 2” standards.
30. The contents of three hazardous waste accumulation containers (i.e., three 300-gallon tote containers (“totes”), observed by Inspectors in one of the Facility's 90-day accumulation areas, consisted primarily of spent acetone, a volatile organic (“VO”) hazardous waste.
31. Spent acetone has an average VO content of greater than 500 parts per million by weight (“ppmw”). Pursuant to 22 C.C.R. §§ 66265.1087(b)(1), 66265.1087(c), and 66265.1087(d) [*see also* 40 C.F.R. §§ 265.1087(b)(1), 265.1087(c), and 265.1087(d)], large quantity generators with containers greater than 122-gallon storage capacity of VO waste – with concentrations equal to or greater than 500 ppmw – must apply Container Level 2 (“Level 2”) controls to those containers, to limit the exposure of VO hazardous waste to the atmosphere.

32. Facility personnel had not properly evaluated the containers within this satellite area to determine whether Respondent had appropriately complied with the regulations. Respondent had neither developed, nor implemented, a program to comply with VO hazardous waste accumulation. As a result, Respondent failed to meet either Container Level 1 or Container Level 2 emission control requirements.
33. Therefore, EPA alleges that Respondent has failed to comply with the air emission requirements of 22 C.C.R. §§ 66265.1087(b)(1), 66265.1087(c), and 66265.1087(d) [*See also* 40 C.F.R. §§ 265.1087(b)(1), 265.1087(c), and 265.1087(d)].

COUNT IV

[Failure to Perform Required Weekly Inspections.]

34. Paragraphs 1 through 33 above are incorporated herein by this reference as if they were set forth here in their entirety.
35. 22 C.C.R. §§ 66262.34(a)(1)(A), and 66265.174 [*See also* 40 C.F.R. §§ 262.34(a)(1)(i), and 265.274] require that Respondent “inspect areas used for container storage or transfer, at least weekly, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.”
36. At the time of the CEI, Inspectors noted the following violations of these requirements: (1) failure to complete a written inspection log, as of the date of the CEI; (2) failure to maintain a record of weekly inspections that might have enabled Respondent to observe, and remedy, any open container(s); and (3) failure to maintain a record of weekly inspections, that might have enabled Respondent to observe that labeling requirements had not been met. Respondent failed to document inspections of its Facility for 14 weeks. Also, Respondent was unable to adequately demonstrate that it had conducted at least weekly inspections of two of the Facility’s 90-day accumulation areas. Any inspections Respondent may have conducted, could not be verified.
37. Therefore, EPA alleges that Respondent has violated 22 C.C.R. §§ 66262.34(a)(1)(A), and 66262.174 [*See also* 40 C.F.R. §§ 262.34(a)(1)(i), and 265.174].

COUNT V

[Storage of Hazardous Waste Without a Permit.]

38. Paragraphs 1 through 37 above are incorporated herein by this reference as if they were set forth here in their entirety.
39. 22 C.C.R. §66270.1(c) [*see also* 40 C.F.R. §270.1(c)] requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed of must have a permit. At the time of the inspection, respondent did not have a permit or

grant of interim status to store hazardous waste under 22 C.C.R. §66270.1(c).

40. 22 C.C.R. §66262.34(a) provides that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain conditions. Generators who fail to meet the requirements 22 C.C.R. §66262.34, are subject to the permitting requirements of 22 C.C.R. §66270.1 [see also 40 C.F.R. §270.1].
41. Respondent has failed to comply with several of the requirements set forth, or referenced, in 22 C.C.R. §66262.34 [see also 40 C.F.R. §262.34], as set forth in more detail in paragraphs 42 through 54.
42. **Storage Over 90 Days.** 22 C.C.R. §6626.34 (a) [see also 40 C.F.R. §262.34(a)] provides that a large quantity generator of hazardous waste may accumulate hazardous waste onsite for up 90 days without a permit, or a grant of interim status, provided the generator meets certain conditions.
43. During the April 27, 2009 CEI, EPA inspectors observed that a container of hazardous waste was stored at the facility for more than 90 days (i.e., the container had an accumulation start date of December 18, 2008 – 39 days over the 90 day storage limit).
44. Therefore, EPA alleges that Respondent has violated 22 C.C.R. §66270.1(c) [see also 40 C.F.R. §270.1].
45. **Container Labeling.** (A) Hazardous Waste. 22 C.C.R. §66262.34(a) [see also 40 C.F.R. §262.34(a)(3)], and 22 C.C.R. §66262.34(f), require that generators who accumulate hazardous waste onsite without a permit, or grant of interim status, shall label containers with the words “hazardous waste” and with the composition and physical state of wastes, a statement of the hazardous properties of the waste, and the name and address of the person producing the waste. Generators who fail to label containers of hazardous waste, fail to meet the requirements of 22 C.C.R. §66262.34(a) [see also 40 C.F.R. §262.34(a)(3)] and 66262.34(f) [see also 40 C.F.R. 262.34(f)], and are subject to the permitting requirements of 22 C.C.R. §66270.1 [see also 40 C.F.R. §270.1]. (B) Accumulation Start Date. 22 C.C.R. §66262.34(f) [see also 40 C.F.R. §262.34(f)] requires that generators who accumulate hazardous waste onsite without a permit or grant of interim status shall label containers of hazardous waste with the date accumulation of the waste begins. Generators who fail to label containers of hazardous waste accordingly, fail to meet the requirements of 22 C.C.R. §66262.34(f) [see also 40 C.F.R. §262.34(f)] and are subject to the permitting requirements of 22 C.C.R. §66270.1(c) [see also 40 C.F.R. §270.1].
46. At the time of the CEI, Inspectors observed that six of Respondent’s hazardous waste accumulation containers were not properly labeled, as required. All six of the above-

referenced hazardous waste container labels were missing one or more pieces of the following information: (1) generator address; (2) composition, and physical state of the hazardous waste; and (3) the properties of hazardous waste at the Facility.

47. Therefore, EPA alleges that Respondent has violated the requirements of 22 C.C.R. §66270.1(c) [see also 40 C.F.R. §270.1].
48. **Failure to Close Containers of Hazardous Waste.** 22 C.C.R. §66262.34 [see also 40 C.F.R. §262.34] requires that large quantity generators who accumulate hazardous waste onsite without a permit, or grant of interim status, comply with the requirements of 22 C.C.R. §66265.173 [see also 40 C.F.R. §265.173]. 22 C.C.R. §66265.173(a) [see also 40 C.F.R. §265.173(a)] requires that containers holding hazardous waste shall always be closed during transfer and storage, except when necessary to add or remove waste.
49. During the CEI, Inspectors observed three containers of F006 hazardous waste, and one container of spent acetone hazardous waste, that were open at a time when waste was not being added or removed from the containers.
50. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. §265.173(a) [see also 40 C.F.R. §265.173] and 22 C.C.R. §66262.34 [see also 40 C.F.R. §262.34]. Therefore EPA alleges that Respondent has violated 22 C.C.R. §66270.1(c) [see also 40 C.F.R. §270.1].
51. **Failure to Conduct Weekly Inspections.** 22 C.C.R. § 262.34(a) [see also 40 C.F.R. § 262.34] requires large quantity generators who accumulate hazardous waste onsite, without a permit or grant of interim status, to comply with the requirements of 22 C.C.R. § 66265.174 [see also 40 C.F.R. § 265.174]. 22 C.C.R. § 66265.174 requires the owner or operator of a facility to inspect, at least weekly, areas where containers of hazardous waste are stored, for leaks, and deterioration of the containers stemming from corrosion and other factors.
52. Respondent maintains three 90-day accumulation areas for storage of: (1) spent F006 wastes; (2) spent acetone waste; (3) non-RCRA hazardous wastes; (4) universal wastes; and (4) other wastes at the Facility.
53. During the April 27, 2009 CEI, Inspectors observed that a weekly inspection for two of the Facility's accumulation areas had not been performed since January 19, 2009 – a total of 98 days.
54. Respondent's failure to conduct weekly inspections of two of the Facility's 90-day hazardous waste accumulation areas violated 22 C.C.R. § 66265.174 [see also 40 C.F.R. § 265.174]. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66270.1(c) [see also 40 C.F.R. § 270.1(c)].

D. CIVIL PENALTY

55. Section 3008(c) of RCRA, 42 U.S.C. §6928(c), as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, (61 Fed. Reg. 69360 (Dec. 31, 1996)), and the Civil Monetary Penalty Inflation Adjustment Rule (73 Fed. Reg. 75340 (Dec. 11, 2008), and 74 Fed. Reg. 626 (Jan. 7, 2009)) authorizes a civil penalty of up to THIRTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$37,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq., occurring after January 12, 2009. Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed TWENTY-EIGHT THOUSAND DOLLARS (\$28,000.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "June 2003 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix to determine a gravity-based penalty. That penalty amount is then adjusted to take into account multi-day-violations, for case-specific circumstances, and for the economic benefit gained from non-compliance, where appropriate.

E. ADMISSIONS AND WAIVERS OF RIGHTS

56. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
57. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

58. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been

paid in accordance with Section G, any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.

59. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
60. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

61. Respondent consents to the assessment of and agrees to pay a civil penalty of TWENTY-EIGHT THOUSAND DOLLARS (\$28,000.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.
62. Respondent shall submit payment of the \$28,000.00 within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent to:

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

At the time payment is made, a copy of the check shall be sent to:

Steve Armsey
Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

and

John Schofield (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region 9

75 Hawthorne Street
San Francisco, CA 94105.

63. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

64. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:

For failure to submit a payment to EPA by the time required in this CA/FO: ONE THOUSAND DOLLARS (\$1,000) per day for first to fifteenth day of delay, ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) per day for sixteenth to thirtieth day of delay, and TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) per day for each day of delay thereafter.

65. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
66. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 60.
67. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
68. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

I. RESERVATION OF RIGHTS

69. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States.
70. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
71. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.
72. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

J. OTHER CLAIMS

73. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

K. MISCELLANEOUS

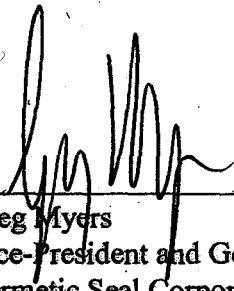
74. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
75. The headings in this CA/FO are for convenience of reference only and shall not affect

interpretation of this CA/FO.

76. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

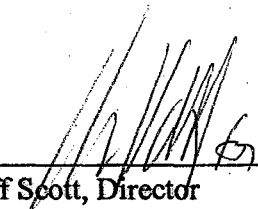
IT IS SO AGREED.

1/22/10
Date



Greg Myers
Vice-President and General Manager
Hermetic Seal Corporation

3.3.10
Date



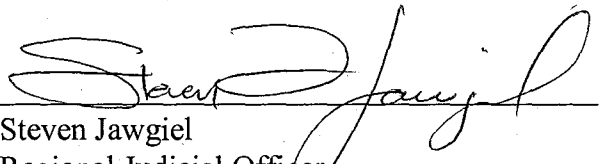
Jeff Scott, Director
Waste Management Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-9-2010-0006) be entered and that Hermetic Seal Corporation pay a civil penalty of \$28,000.00 due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order. Payment must be made pursuant to Section G of the Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

03/04/10
Date


Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

I hereby certify that on the date below, the original copy of the foregoing Complaint, Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region IX, and that copies were sent by:

Certified Mail, Return Receipt Requested to:

Mr. Greg Myers
Vice-President and General Manager
Hermetic Seal Corporation
c/o Sealtron
9705 Reading Road
Cincinnati, OH 45215

3/4/10

Date



for: Steven Armsey
Regional Hearing Clerk
Office of Regional Counsel, Region IX

US EPA ARCHIVE DOCUMENT