

1 OFFICE OF THE GENERAL COUNSEL
2 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
3 NICHOLAS A. SANCHEZ, State Bar No. 207998
Assistant Chief Deputy Counsel
4 BRIAN TOMASOVIC, State Bar No. 314279
Principal Deputy District Counsel
5 JOSEPHINE LEE, State Bar No. 308439
Senior Deputy District Counsel
21865 Copley Drive
Diamond Bar, California 91765-0940
6 Telephone: (909) 396-2302
7 Fax: (909) 396-2961

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8 Attorneys for Petitioner
9 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

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

12 **In the Matter of**

CASE NO. 6225-1

13 SOUTH COAST AIR QUALITY
14 MANAGEMENT DISTRICT,

**PETITION FOR ORDER FOR
ABATEMENT**

Petitioner,

Health & Safety Code § 41700,
District Rule 402

15 v.

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

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

18 Respondent.

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

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

1 2. Respondent, STERIGENICS US, LLC, operates a medical sterilization business,
2 including two operationally connected buildings in the city of Vernon that are located within South
3 Coast AQMD’s jurisdiction and subject to South Coast AQMD’s rules and regulations. These
4 operations are the subject of this Petition and have the following addresses and facility ID
5 designations: 4900 South Gifford Avenue, Los Angeles, CA 90058, with Facility ID No. 126197
6 (49th Street facility), and 4801-63 East 50th Street, Los Angeles, CA 90058, with Facility ID No.
7 126191 (50th Street facility) [collectively the “Vernon Facilities”]. Respondent’s corporate
8 headquarters are located in Oak Brook, Illinois.

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

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

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

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

25 6. Measurements from the District’s monitors may vary according to a facility’s
26 operations and extant environmental conditions, such as prevailing wind direction or rain on the
27 day the measurement is taken. Based upon knowledge and observations of the Vernon Facilities’
28 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 in when estimating health risks in its air toxics program. Using OEHHA health values
3 and methodology, District staff has determined that EtO concentrations at 3.18 ppb pose a
4 significant 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. The District, by this Petition, seeks an Order for Abatement to require Respondent
24 to cease violation of District Rule 402 and Health & Safety Code § 41700 by either ceasing its non-
25 compliant operations or by taking risk reduction action approved by the District and this Board.

26 20. The District intends to submit a more detailed proposed order including specific
27 measures to reduce emissions to the greatest extent feasible and reduce the risk to public health as
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1 quickly as feasible, while permanent measures to minimize fugitive EtO emissions are
2 implemented.

3 21. Prior to the filing of this Petition, Respondent has engaged with the District on a
4 cooperative basis. The District reserves the right to file an amended petition prior to hearing if this
5 case may proceed on stipulation of the parties.

6 22. It is not unreasonable to require Respondent to comply with District rules and
7 State law.

8 23. The issuance of an Order for Abatement upon a fully noticed hearing would not
9 constitute a taking of property without due process of law.

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

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

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

15 1. That this Hearing Board issue an Order for Abatement consistent with the proposed
16 Findings and Decision to be submitted by the District in advance of the hearing, and order
17 Respondent to perform all the conditions and increments of progress set forth therein, or cease its
18 noncompliant operations.

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

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DATED: July 15, 2022

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT

By: 
Brian Tomasovic
Attorney for Petitioner

Digitally signed by Brian Tomasovic
DN: cn=Brian Tomasovic, o=General
Counsel's Office, ou=South Coast Air
Quality Management District,
email=btomasovic@aqmd.gov, c=US
Date: 2022.07.15 13:19:08 -0700