

Environmental Performance Agreement

Respecting the Use of Tin Stabilizers in the Vinyl Industry

BETWEEN

**Her Majesty the Queen in Right of Canada, as represented by
the Minister of the Environment who is responsible for Environment Canada**

AND

**the Vinyl Council of Canada,
an Operating Council of the Canadian Plastics Industry Association**

AND

the Tin Stabilizers Association

AND

Participating Vinyl Compounding Facilities

WHEREAS, in order to determine whether or not they are toxic or capable of becoming toxic to the environment or human health, Environment Canada ("EC") has assessed over 100 organotin substances on the Domestic Substances List and 9 other organotin substances notified to EC from 1994 to 2000 under the New Substances and/or Transitional Substances provisions of the *Canadian Environmental Protection Act, 1999* ("CEPA 1999");

WHEREAS, mono and dialkyltin stabilizers (monomethyltins monobutyltins, monooctyltins, dimethyltins, dibutyltins, dioctyltins, herein referred to as "tin stabilizers") used to produce vinyl compounds, were included in such assessment;

WHEREAS, available data and weight of evidence show that tin stabilizers are currently not entering the environment in a quantity or concentration or under conditions that have or may have an immediate or long-term harmful effect on the environment, or its biological diversity, or that constitute or may constitute a danger to the environment on which life depends (criteria in paragraphs 64(a) or 64(b) of CEPA 1999), due to the presence of industry-wide stewardship efforts;

WHEREAS, in the absence of effective stewardship practices, tin stabilizers may enter the environment in quantities or concentrations above an acceptable level and could, in particular, present a risk to sensitive species;

WHEREAS the Vinyl Council of Canada (**VCC**) and the Tin Stabilizers Association (**TSA**)¹, as part of their industry-wide stewardship efforts, have developed a "**Guideline for the Environmental Management of Tin Stabilizers in Canada**" (Annex 1, herein referred to as the "**Guideline**"), in consultation with EC, for all vinyl compounding facilities using tin stabilizers in Canada, in order to prevent the release of tin stabilizers into the environment;

WHEREAS Environment Canada recognizes the proactive efforts taken by the TSA and the VCC to encourage full implementation of the Guideline by vinyl compounding facilities using tin stabilizers and, EC recognizes that this agreement represents a positive step towards industry-wide stewardship.

WHEREAS in light of industry-wide efforts which help ensure tin stabilizers are not entering the environment in a quantity or concentration above an acceptable level, these substances have not been recommended to be added to Schedule 1, the List of Toxic Substances of CEPA 1999;

WHEREAS a draft of this agreement was posted for public consultation on EC's website and on the CEPA Environmental Registry for consultations from April 23, 2007 to June 22, 2007, as well as on the VCC's and the TSA's websites, and a copy of the draft was sent to the Public Advisory Panel ("**PAP**") of the VCC for comment as a part of this public consultation process;

THEREFORE, the Parties agree to the following:

1.0 PURPOSE:

The purpose of this agreement is to prevent the release of tin stabilizers into the environment, in quantity or concentration above an acceptable level, through the full implementation of the Guideline by all vinyl compounding facilities using tin stabilizers in Canada.

2.0 PARTIES AND LEGAL STATUS:

2.1 This agreement represents an understanding between EC, the VCC and the TSA, and each vinyl compounding facility using tin stabilizers that will agree to participate in this agreement (herein called a "**participating facility**"). EC, the VCC, the TSA and participating facilities shall collectively be referred to herein as "**the Parties**".

¹ The VCC represents vinyl processing facilities and the TSA represents the manufacturers of tin stabilizers.

- 2.2 This agreement is not intended to create legally binding obligations between the Parties and is therefore not legally enforceable by any Party. Nothing in this agreement and the Guideline attached thereto should be construed as precluding a party from implementing any other environmental initiatives as it sees fit. Adherence to this agreement and the Guideline does not in any way exempt any participating facility from complying with any and all applicable laws and regulations, nor does it replace consultations any participating facility may require with its own specialists and lawyers in implementing the Guideline;
- 2.3 By signing a commitment form (Annex 2: "Participating Facility Commitment Form") and returning a copy to the VCC, which will forward a copy to EC, each participating facility agrees to participate in this agreement, and to fully implement the Guideline for as long as this agreement remains in effect.

3.0 DURATION, AMENDMENTS AND OTHER MEASURES:

- 3.1 This agreement will be in effect for a 5 year period from the day of signing by EC, after which it will be reviewed and potentially renewed;
- 3.2 This Agreement may be amended by agreement of EC, the VCC and the TSA evidenced in writing. Such amendments will be applicable to participating facilities that have indicated their concurrence, in writing, to the amendments;
- 3.3 Nothing in this agreement precludes the federal government from taking regulatory action or any other measure it may consider necessary; and
- 3.4 Nothing in this agreement precludes the VCC, the TSA or any participating facility from implementing additional environmental initiatives.

4.0 PERFORMANCE OBJECTIVES:

Each participating facility agrees to fully implement the Guideline by September 30, 2008.

5.0 REPORTING:

- 5.1 By June 30 of each year this agreement is in effect, plus one year, participating facilities will continue to report to the VCC by completing the "Annual Report on Compliance with the Guideline for the Environmental Management of Tin Stabilizers in Canada" (Appendix G of the Guideline). The reports from participating facilities will be reviewed and consolidated by the VCC, to produce

an annual conformance report. Raw data or reports from specific participating facilities will be available to EC if necessary.

- 5.2 By September 30 of each year of this agreement is in effect, plus one year, the VCC will provide EC and the PAP with a consolidated Annual Conformance Report. It is expected that the first consolidated Annual Conformance Report will be available by September 2008, referencing the status of conformance as of December 31, 2007.
- 5.3 Every year this agreement is in effect, plus one year, EC will publish on its website (available at <http://www.ec.gc.ca/epa-epe>) a report of progress made under this agreement. Prior to publication of this report, or other information to be published by EC pertinent to this agreement, EC will provide a draft of this information to the VCC for review and gain VCC agreement before publication.

6.0 ROLES AND RESPONSIBILITIES:

6.1 Environment Canada: In addition to the specific reporting requirements outlined in section 5.3, EC agrees to:

- 6.1.1 Monitor progress under this agreement, and oversee the administration of this agreement;
- 6.1.2 Consult with the VCC and the TSA to determine what further steps may be necessary if the purpose and objectives of this agreement, as outlined in section 1.0, are not being met; and
- 6.1.3 Participate in the verification program described in section 7.0.

6.2 Vinyl Council of Canada: In addition to the specific reporting requirements outlined in section 5.2, the VCC agrees to:

- 6.2.1 Assist EC in administering this agreement;
- 6.2.2 Provide information about this agreement and the Guideline to all known vinyl compounding facilities in Canada using tin stabilizers within 3 months after signing this agreement;
- 6.2.3 Collect commitment forms from participating facilities and share these with EC and the TSA by June 30, 2008;
- 6.2.4 Collect annual compliance reports from all participating facilities as described in section 5.1;
- 6.2.5 Identify, with the TSA's assistance, any new facilities that should be encouraged to participate in this agreement;
- 6.2.6 Maintain a comprehensive list of current vinyl compounding facilities using tin stabilizers, including those that are and are not members of the VCC, and periodically update EC on the overall status of this list;
- 6.2.7 Develop a verification program with participation from the TSA and EC;
- 6.2.8 Work with the TSA to assist participating facilities to obtain compliance; and

6.2.9 Encourage participating facilities to share their annual compliance report with their suppliers.

6.3 Tin Stabilizers Association: The TSA agrees to:

- 6.3.1 Provide information about this agreement and the Guideline to all known suppliers of tin stabilizers for vinyl compounding in Canada, within 3 months after signing the agreement;
- 6.3.2 Promote the implementation of the Guideline among clients of its members, and support the VCC in promoting implementation with all users of tin stabilizers in Canada;
- 6.3.3 Assist the VCC in identifying any new facilities that should be encouraged to participate in this agreement;
- 6.3.4 Complete and submit to EC an update of Annex B of the Guideline, Report on Tin Stabilizer Sold in Canada, every three years beginning in 2008 for the 2007 calendar year;
- 6.3.5 Participate in the verification program described in section 7.0;
- 6.3.6 Assist facilities that are out of compliance to meet the requirements of the Guideline; and
- 6.3.7 Continue to facilitate the use of re-usable containers for tin stabilizers, as outlined in section 7.0 of the Guideline.

6.4 Participating Facilities: In addition to the specific reporting requirements outlined in section 5.1, participating facilities agree to:

- 6.4.1 Take all necessary steps to familiarize themselves with the content and requirements of the Guideline within 12 months of signing this agreement;
- 6.4.2 Take all necessary action to implement all sections of the Guideline that pertain to their operation;
- 6.4.3 Participate in the verification program described in section 7.0; and,
- 6.4.4 Complete follow up actions identified from the verification program.

7.0 VERIFICATION:

7.1 Verification Program

- 7.1.1 In order to ensure that participating facilities comply with the Guideline, the VCC, the TSA and EC will develop a verification program within two months of signing this agreement.
- 7.1.2 Verification will be conducted by a "**Verification Team**" consisting of representatives from the VCC and/or the TSA or their designate and/or EC.
- 7.1.3 The results of the first verification will be available by December 31, 2008.
- 7.1.4 The VCC will inform the PAP about the verification program and the results of verifications. EC will publicly post a summary of verification results on EC's website (available at <http://www.ec.gc.ca/epa-epe>)

7.2 Corrective Action

Participating facilities that are not in compliance with any element of the Guideline, as indicated in the results of a verification, will correct the deficiency according to a time-frame agreed to between the facility and the Verification Team, and will notify the VCC once the deficiency has been corrected. Corrective action is to be noted in the Annual Conformance Report.

8.0 FAILURE TO IMPLEMENT

If the Guideline is not fully implemented by all vinyl compounding facilities using tin stabilizers, further risk management action respecting the environmental management of tin stabilizers may be taken. This includes the potential for further assessment of risk posed by these substances, a possible outcome of which is their addition to Schedule 1 of CEPA 1999 (List of Toxic Substances).

9.0 AVAILABILITY OF AGREEMENT AND INFORMATION

9.1 A copy of this agreement will be made available on EC's website (available at <http://ec.gc.ca/epa-epe>) as well as on the VCC's and the TSA's websites.

9.2 Subject to all applicable laws, the Parties agree to keep confidential any information obtained under this agreement and identified as being confidential, or required to be treated as confidential, unless the Parties agree otherwise.

SIGNED FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA, AS REPRESENTED BY THE MINISTER OF THE ENVIRONMENT

BY: Cécile Cléroux
Assistant Deputy Minister
Environmental Stewardship Branch

SIGNATURE:




DATE:

08/03/10

SIGNED FOR THE VINYL COUNCIL OF CANADA:

BY: Marion Axmith
Director General

SIGNATURE:



DATE:

Feb 25/08

SIGNED FOR THE TIN STABILIZERS ASSOCIATION:

BY: Paul Meyer
Director and Treasurer

SIGNATURE:



DATE:

Feb. 25/08

ENVIRONMENTAL PERFORMANCE AGREEMENT
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Annex 2 – Participating Facility Commitment Form

The vinyl compounding facility or facilities (using tin stabilizers) listed below:

- is/are already in process of implementing the *Guideline for the Environmental Management of Tin Stabilizers in Canada*;
- agrees/agree to fully implement the *Guideline* by September 30, 2008 and to participate in the *Environmental Performance Agreement Respecting the Use of Tin Stabilizers in the Vinyl Industry*, for as long as it remains in effect;

Company/Facility Name	Facility Address

Authorized by:

Name: _____ Title: _____

Signature: _____ Date: _____

N.B.

1. Companies with more than one facility have the choice of providing a separate commitment form for each facility, each signed by an appropriate manager at that facility, or providing one form with all facilities listed in the table above.
2. The Annual Report on Compliance form (Appendix G of the *Guideline*) **must** continue to be completed on a facility basis.