



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGIONS 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 29 2010

REPLY TO THE ATTENTION OF:
SM-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jeff Leech
Plant Manager
Emerald Performance Materials, LLC
1550 County Road 1450 N
Henry, Illinois 61537

Re: Emerald Performance Materials, LLC, Henry, Illinois, Consent Agreement and
Final Order, Docket Nos. MM-05-2010-0006 CERCLA-05-2010-0006 EPCRA-05-2010-001

Dear Mr. Leech:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on SEP 29 2010.

Please pay the Comprehensive Environmental Response, Compensation, and Liability Act civil penalty in the amount of \$23,500 in the manner prescribed in paragraph 105, and reference your check with the billing document number 2751030B005 and the docket number CERCLA-05-2010-0006.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$134,500 in the manner prescribed in paragraph 106, and reference your check with the billing document number 2751044E018 and the docket number EPCRA-05-2010-0014

Your payments are due on OCT 29 2010 [within 30 days of filing date].

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Mony Chabria, Associate Regional Counsel, at (312) 886-6842. Thank you for your assistance in resolving this matter.

Sincerely,

Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Jon England, Legal Counsel (w/ enclosure)
Kathy Allen (w/ enclosure)
IL SERC

Roy M. Harsch
Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698

RECEIVED
SEP 29 2010

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5 EPCRA-05-2010-0014

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)	Docket No. MM-05-2010-0006 CERCLA-05-2010-0006
)	
Emerald Performance Materials, LLC)	Proceeding to Assess a Civil Penalty Under
Henry, Illinois)	Section 109(b) of the Comprehensive
)	Environmental Response, Compensation, and
Respondent.)	Liability Act and Section 325(b)(2) of the
)	Emergency Planning and Community Right-to-
)	Know Act of 1986

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2) and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Emerald Performance Materials, LLC, a Delaware limited liability corporation doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the hazardous substance's reportable quantity.

10. Section 304(a)(1) of EPCRA, 42 U.S.C. § 11004(a)(1), requires the owner or operator of a facility to immediately provide notice, as described in Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than a reportable quantity occurs from a facility at which hazardous chemicals are produced, used, or stored and such release requires notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

11. Under Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), the owner or operator of a facility must give the notice required under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), immediately after the release, to the community emergency coordinator for the local emergency planning committee (LEPC) for any area likely to be affected by the release and to the state emergency planning commission (SERC) of any state likely to be affected by a release.

12. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires that, as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), the owner or operator of the facility must provide written follow-up emergency notice setting forth and updating the information required under Section 304(b), 42 U.S.C. § 11004(b).

13. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004, provide a mechanism to alert federal, state, and local agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the governments' response to an emergency and pose serious threats to human health and the environment.

14. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous chemicals.

15. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and Section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2), authorize U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103 and EPCRA Section 304. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004, to \$32,500 per day of violation for violations that occurred after March 15, 2004 through January 12, 2009, and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent is a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

17. Respondent is a "person" as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

18. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 1550 County Road 1450 North, Henry, Illinois (facility).

19. At all times relevant to this CAFO, Respondent was in charge of the facility.

20. Respondent's facility consists of buildings, structures, equipment, pipes or pipelines, storage containers, or sites or areas where a hazardous substance has been deposited, stored, placed, or otherwise come to be located.

21. Respondent's facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

22. Respondent's facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

23. Respondent's facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

24. At 40 C.F.R. Part 302, Table 302.4, carbon disulfide (CAS #75-15-0) has been designated as a hazardous substance under Section 102(a) of CERCLA, 42 U.S.C. § 9602(a).

25. Carbon disulfide (CAS #75-15-0) is a "hazardous substance," as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

26. Carbon disulfide (CAS #75-15-0) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

27. At 40 C.F.R. Part 355, Appendix A, carbon disulfide (CAS #75-15-0) has been designated as a extremely hazardous substance under Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

28. Carbon disulfide (CAS #75-15-0) is an “extremely hazardous substance,” as that term is defined at Section 329(3) of EPCRA, 42 U.S.C. § 11049(3).

29. Carbon disulfide (CAS #75-15-0) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 355, Appendix A.

30. Carbon disulfide (CAS #75-15-0) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

31. Carbon disulfide (CAS #75-15-0) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

32. At all times relevant to this CAFO, Respondent produced, used, or stored carbon disulfide at the facility.

33. On July 25, 2009, from approximately 10:50 am until approximately 10:00 pm intermittently, approximately 597.8 pounds of carbon disulfide was released from Respondent’s facility (the carbon disulfide release).

34. The carbon disulfide release exceeded 100 pounds in less than a 24-hour time period.

35. During the carbon disulfide release, approximately 597.8 pounds spilled, emitted, discharged, or escaped into the ambient air and/or air.

36. The carbon disulfide release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

37. The carbon disulfide release is a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

38. Respondent had knowledge that the carbon disulfide release occurred and that the release exceeded the reportable quantity for carbon disulfide on July 25, 2009, no later than approximately 10:00 p.m.

39. The carbon disulfide release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

40. The carbon disulfide release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

41. At 40 C.F.R. Part 302, Table 302.4, hydrogen sulfide (CAS #7783-06-4) has been designated as a hazardous substance under Section 102(a) of CERCLA, 42 U.S.C. § 9602(a).

42. Hydrogen sulfide (CAS #7783-06-4) is a “hazardous substance,” as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

43. Hydrogen sulfide (CAS #7783-06-4) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

44. At 40 C.F.R. Part 355, Appendix A, hydrogen sulfide (CAS #7783-06-4) has been designated as a extremely hazardous substance under Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

45. Hydrogen sulfide (CAS #7783-06-4) is an “extremely hazardous substance,” as that term is defined at Section 329(3) of EPCRA, 42 U.S.C. § 11049(3).

46. Hydrogen sulfide (CAS #7783-06-4) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 355, Appendix A.

47. Hydrogen sulfide (CAS #7783-06-4) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-

1.

48. Hydrogen sulfide (CAS #7783-06-4) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

49. At all times relevant to this CAFO, Respondent produced, used, or stored hydrogen sulfide at the facility.

50. On July 25, 2009, from approximately 10:50 am until approximately 10:00 pm intermittently, approximately 261 pounds of hydrogen sulfide was released from Respondent’s facility (the hydrogen sulfide release).

51. The hydrogen sulfide release exceeded 100 pounds in less than a 24-hour period.

52. During the hydrogen sulfide release, approximately 261 pounds spilled, emitted, discharged, or escaped into the ambient air and/or air.

53. The hydrogen sulfide release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

54. The hydrogen sulfide release is a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

55. Respondent had knowledge that the hydrogen sulfide release occurred and that the release exceeded the reportable quantity for hydrogen sulfide on July 25, 2009, no later than approximately 10:00 p.m.

56. The hydrogen sulfide release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

57. The hydrogen sulfide release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

58. The carbon disulfide release was likely to affect Illinois.

59. The hydrogen sulfide release was likely to affect Illinois.

60. At all times relevant to this CAFO, the Illinois Emergency Management Agency was the SERC for Illinois under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

61. The carbon disulfide release was likely to affect Marshall County, Illinois.

62. The hydrogen sulfide release was likely to affect Marshall County, Illinois.

63. At all times relevant to this CAFO, the Marshall County LEPC was the LEPC for Marshall County, Illinois under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

Count 1

64. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph:

65. Respondent notified the NRC of the carbon disulfide release on July 27, 2009, at 3:15 p.m.

66. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the carbon disulfide release.

67. Respondent's failure to immediately notify the NRC of the carbon disulfide release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Count 2

68. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

69. Respondent notified the SERC of the carbon disulfide release on July 27, 2009, at 3:37 p.m.

70. Respondent did not immediately notify the SERC after Respondent had knowledge of the carbon disulfide release.

71. Respondent's failure to immediately notify the SERC of the carbon disulfide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

Count 3

72. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

73. Respondent notified the LEPC of the carbon disulfide release on October 8, 2009, at 8:30 a.m.

74. Respondent did not immediately notify the LEPC after Respondent had knowledge of the carbon disulfide release.

75. Respondent's failure to immediately notify the LEPC of the carbon disulfide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

Count 4

76. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

77. Respondent provided written follow-up emergency notice of the carbon disulfide release to the SERC on October 19, 2009.

78. Respondent did not provide the SERC written follow-up emergency notice of the carbon disulfide release as soon as practicable after the carbon disulfide release occurred.

79. Respondent's failure to provide written follow-up emergency notice of the carbon disulfide release to the SERC as soon as practicable after the carbon disulfide release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Count 5

80. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

81. Respondent provided written follow-up emergency notice of the carbon disulfide release to the LEPC on October 19, 2009.

82. Respondent did not provide the LEPC written follow-up emergency notice of the carbon disulfide release as soon as practicable after the carbon disulfide release occurred.

83. Respondent's failure to provide written follow-up emergency notice of the carbon disulfide release to the LEPC as soon as practicable after the carbon disulfide release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Count 6

84. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

85. Respondent notified the NRC of the hydrogen sulfide release on July 28, 2009, at 10:38 a.m.

86. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the hydrogen sulfide release.

87. Respondent's failure to immediately notify the NRC of the hydrogen sulfide release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Count 7

~~88. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in~~
this paragraph.

89. Respondent notified the SERC of the hydrogen sulfide release on July 28, 2009, at 10:59 a.m.

90. Respondent did not immediately notify the SERC after Respondent had knowledge of the hydrogen sulfide release.

91. Respondent's failure to immediately notify the SERC of the hydrogen sulfide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

Count 8

92. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

93. Respondent notified the LEPC of the hydrogen sulfide release on October 8, 2009, at 8:30 a.m.

94. Respondent did not immediately notify the LEPC after Respondent had knowledge of the hydrogen sulfide release.

95. Respondent's failure to immediately notify the LEPC of the hydrogen sulfide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

Count 9

96. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

97. Respondent provided written follow-up emergency notice of the hydrogen sulfide release to the SERC on October 19, 2009.

98. Respondent did not provide the SERC written follow-up emergency notice of the hydrogen sulfide release as soon as practicable after the hydrogen sulfide release occurred.

99. Respondent's failure to provide written follow-up emergency notice of the hydrogen sulfide release to the SERC as soon as practicable after the hydrogen sulfide release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Count 10

100. Complainant incorporates paragraphs 1 through 63 of this CAFO as if set forth in this paragraph.

101. Respondent provided written follow-up emergency notice of the hydrogen sulfide release to the LEPC on October 19, 2009.

102. Respondent did not provide the LEPC written follow-up emergency notice of the hydrogen sulfide release as soon as practicable after the hydrogen sulfide release occurred.

103. Respondent's failure to provide written follow-up emergency notice of the hydrogen sulfide release to the LEPC as soon as practicable after the hydrogen sulfide release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Civil Penalty

104. In consideration of the nature, extent, gravity, and circumstances of the violations and Respondent's ability to pay, prior history of violations, degree of culpability, economic benefit, cooperation, and willingness to settle quickly, U.S. EPA has determined that an appropriate civil penalty settle this action is \$158,000.

105. Within 30 days after the effective date of this CAFO, Respondent must pay a \$23,500 civil penalty for the CERCLA violations. Respondent must pay the penalty by electronic funds transfer, payable to "EPA Hazardous Substance Superfund," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire should read "D68010727
Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following: In the matter of Emerald Performance Materials, LLC, the docket number of this CAFO and the billing document number CERCLA-05-2010-0006 . BD# **2751030B005**

106. Within 30 days after the effective date of this CAFO, Respondent must pay a \$134,500 civil penalty for the EPCRA violations. Respondent must pay the penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire should read "D68010727
Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following: In the matter of Emerald Performance Materials, LLC, the docket number of this CAFO and the billing document number EPCRA-05-2010-0014 . BD# **2751044E018**

107. When Respondent makes the electronic funds transfers referenced in the preceding two paragraphs, Respondent must send a notice of such transfer to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

James Entzminger, (SM-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Mony Chabria, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

108. This civil penalty is not deductible for federal tax purposes.

109. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

110. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

111. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

112. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

113. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004.

114. This CAFO does not affect Respondent's responsibility to comply with CERCLA, EPCRA and other applicable federal, state and local laws, and regulations.

115. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Sections 304, 311, and 312 of EPCRA and Section 103 of CERCLA.

116. The terms of this CAFO bind Respondent and its successors, and assigns.

117. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

118. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

119. This CAFO constitutes the entire agreement between the parties.

Emerald Performance Materials, LLC, Respondent

Sept. 22, 2010
Date

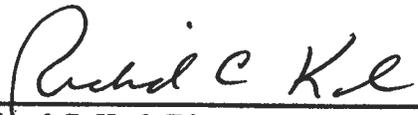


Jeff Leech, Plant Manager
Emerald Performance Materials, LLC

**In the Matter of:
Emerald Performance Materials, LLC
Docket No.**

U.S. Environmental Protection Agency, Complainant

9-27-10
Date


Richard C. Karl, Director
Superfund Division

In the Matter of:

Emerald Performance Materials, LLC

Docket No. CERCLA-05-2010-0006 EPCRA-05-2010-0014 MM-05-2010-0006

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-28-10

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

RECEIVED
SEP 29 2010

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:

Emerald Performance Materials, LLC

Docket No. CERCLA-05-2010-0006

EPCRA-05-2010-0014

MM-05-2010-0006

Certificate of Service

I, James Entzminger, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number _____ to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Emerald Performance Material and its Counsel by placing them in the custody of the United States Postal Service addressed as follows:

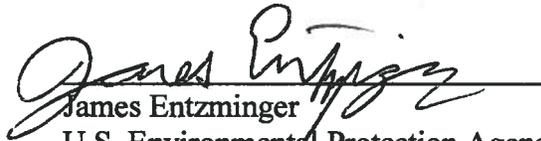
Jeff Leech
Plant Manager
Emerald Performance Materials, LLC
1550 County Road 1450 N
Henry, IL 61537

Roy M. Harsch
Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
Chicago, IL 60606-1698

RECEIVED
SEP 29 2010

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

on the 29 day of September, 2010


James Entzminger
U.S. Environmental Protection Agency
Region 5