



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

February 2, 2011

**HAND DELIVERY**

Lydia Guy  
Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Re: **In the Matter of Harsco Minerals PA, LLC**  
**U.S. EPA Docket No. EPCRA-03-2011-0053**

Dear Ms. Guy:

Enclosed please find the original and one copy of Consent Agreement and Final Order, along with a certificate of service.

Sincerely yours,

A handwritten signature in cursive script that reads "Cynthia T. Weiss".

Cynthia T. Weiss  
Senior Assistant Regional Counsel

Enclosures

cc: James M. Hauck, Esq.  
Perry Pandya (3HS61)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

February 2, 2011

James M. Hauck  
Hatchett & Hauck LLP  
111 Monument Circle, Suite 301  
Indianapolis, IN 46204-5124

Re: **In the Matter of Harsco Minerals PA, LLC**  
**U.S. EPA Docket No. EPCRA-03-2011-0053**

Dear Jim:

Enclosed please find a copy of Consent Agreement, which has been filed with the Regional Hearing Clerk today.

Sincerely yours,

A handwritten signature in cursive script that reads "Cynthia T. Weiss".

Cynthia T. Weiss  
Senior Assistant Regional Counsel

Enclosure



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PENNSYLVANIA 19103-2029**

**In the Matter of:**

**Harsco Minerals PA, LLC  
5000 Ritter Road  
Mechanicsburg, Pennsylvania 17055,**

**Respondent.**

**Excell Cement Technologies and  
Recmix of PA  
359 North Pike Road  
Sarver, Pennsylvania 16055,**

**and**

**Excell Turf Technologies  
737 Saxonburg Boulevard  
Saxonburg, Pennsylvania 16055,**

**Facilities.**

**U.S. EPA Docket No:  
EPCRA-03-2011-0053**

**Proceedings Pursuant to Sections 311,  
312 and 325 of the Emergency Planning  
and Community Right-to-Know Act, 42  
U.S.C. §§ 11021, 11022 and 11045**

**CONSENT AGREEMENT**

**STATUTORY AUTHORITY**

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), as amended, 42 U.S.C. § 11045, and under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 ("Part 22"). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (collectively, "CA/FO") as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

### **PRELIMINARY STATEMENT**

1. The implementing regulations for the hazardous chemical reporting requirements in Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, are codified at 40 C.F.R. Part 370. On November 3, 2008, EPA issued a final rule, 73 Fed. Reg. 65451 (Nov. 3, 2008), *inter alia*, to make these regulations easier to read by presenting them in a plain language format. The amendments resulted in a re-numbering of 40 C.F.R. Part 370, which became effective on December 3, 2008. This CA/FO references the newly effective numbering, but includes the pre-2008 numbering in parentheses since those regulations were in effect at the time of the violations alleged herein.

### **EPA'S FINDINGS OF FACT – SARVER FACILITY**

2. Harsco Minerals PA, LLC ("Respondent") is a limited liability company organized in the Commonwealth of Pennsylvania with its principal place of business located at 5000 Ritter Road in Mechanicsburg, Pennsylvania.

3. As a limited liability company, Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and its regulations, 40 C.F.R. § 370.66 (370.2).

4. Respondent is the owner and operator of a facility that manufactures engineered supplementary cementitious materials ("ESCM") d/b/a Excell Cement Technologies and a facility that recovers and manufactures metal products from steel producers d/b/a/ Recmix of PA, both of which are located at 359 North Pike Road in Sarver, Pennsylvania. The two facilities are collectively referred to herein as the "Sarver Facility."

5. The Sarver Facility is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and its regulations, 40 C.F.R. § 370.66 (370.2).

6. From January 1, 2005 through the end of 2007, the Sarver Facility was operated by Recmix of PA, Inc.

7. At the end of 2007, Recmix of PA, Inc. was reorganized as Recmix of PA, LLC.

8. During 2009, Recmix of PA, LLC was renamed Harsco Minerals PA, LLC.

9. At all times relevant to this CA/FO, Harsco Minerals PA, LLC, and its predecessor companies, owned and operated the Sarver Facility, within the meaning of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022.

10. On October 29, 2008, EPA conducted an inspection at the Sarver Facility to determine whether the facility had complied with Section 103 of CERCLA and Sections 302-312 of EPCRA.

11. The state emergency response commission ("SERC") for the Sarver Facility is, and has been at all times relevant to this CA/FO, the Pennsylvania Department of Labor & Industry, Bureau of PENNSAFE, located at 7<sup>th</sup> and Forster, Room 155-E L&I Building, in Harrisburg, Pennsylvania.

12. The local emergency planning committee ("LEPC") for the Sarver Facility is, and has been at all times relevant to this CA/FO, the Butler County Local Emergency Planning Committee, located at Sunnyview Complex, 309 Sunnyview Circle, in Butler, Pennsylvania.

13. The local fire department for the Sarver Facility is, and has been at all times relevant to this CA/FO, the Sarver Fire Company, located at 110 Elliot Road, in Sarver, Pennsylvania.

14. Section 311 of EPCRA, 42 U.S.C. § 11021, as implemented by 40 C.F.R. Part 370 (40 C.F.R. § 370.21), requires an owner or operator of a facility required to prepare or have available a Material Safety Data Sheet ("MSDS") for a hazardous chemical in accordance with the Occupational Safety and Health Administration ("OSHA") Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility is present at any one time a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an extremely hazardous chemical ("EHS")) in a quantity equal to or greater than its applicable minimum threshold level for reporting ("MTL") or threshold planning quantity ("TPQ") established by 40 C.F.R. § 370.10 (40 C.F.R. § 370.20), to submit either MSDSs for, or a list identifying, those hazardous chemicals to the appropriate SERC, LEPC, and local fire department with jurisdiction over the facility, on or before October 17, 1990, or within three months after meeting the MTL or TPQ.

15. Respondent is engaged in a business where chemicals are either used, distributed, or are produced for use or distribution.

16. Respondent is an "employer" as that term is defined at 29 U.S.C. § 1910.1200(c).

17. Respondent is required to have an MSDS at its Sarver Facility for each hazardous chemical it uses, pursuant to 29 C.F.R. § 1910.1200(g).

18. The following chemicals are "hazardous chemicals" as defined by Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 40 C.F.R. § 370.66 (40 C.F.R. § 370.2): Reclime, slag, Excell Select CP, Excell Select RM, Excell Select 1P, flyash, GGBFS (New Cem), metakolin, silica fume and Type 1 Portland cement (collectively referred to as "Sarver 2007 Chemicals").

19. Respondent is the owner or operator of a facility that is required to prepare or have available MSDSs for the hazardous chemicals listed above under the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200.

20. Pursuant to 40 C.F.R. § 370.10, the MTL for each of the Sarver 2007 Chemicals is 10,000 pounds.

21. At any one time during calendar year 2007, Respondent had present at its Sarver Facility the following chemicals in the following quantities: 12,509,960 pounds of Reclime; 207,067,100 pounds of slag; 319,140 pounds of Excell Select CP; 321,640 pounds of Excell Select RM; 274,820 pounds of Excell Select 1P; 341,500 pounds of flyash; 198,100 pounds of GGBFS (New Cem); 186,760 pounds of metakolin; 133,960 pounds of silica fume; and 197,320 pounds of Type 1 Portland cement (referred to hereafter collectively as "Sarver 2007 Chemicals").

22. At any one time during calendar year 2007, Respondent had present at the Sarver Facility the Sarver 2007 Chemicals in quantities exceeding their respective MTLs.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA – SERC – SARVER FACILITY**

23. Respondent was required to submit to the SERC either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying the Sarver 2007 chemicals as being present at the Sarver Facility in quantities exceeding their respective MTLs no later than three (3) months after the Sarver 2007 Chemicals were present at the Facility in an amount equal to or greater than their respective MTLs.

24. Respondent failed to submit to the SERC either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying Sarver 2007 Chemicals as present at the Sarver Facility in quantities exceeding their respective MTLs, no later than three (3) months after the Sarver 2007 Chemicals were present at the Sarver Facility in an amount equal to or greater than their respective MTLs.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA – SERC  
SARVER FACILITY**

25. Respondent's failure to submit to the SERC either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying Sarver 2007 Chemicals as present at the Sarver Facility in quantities exceeding their respective MTLs constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA – LEPC  
SARVER FACILITY**

26. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 25 of this CA/FO are incorporated by reference herein as though fully set forth at length.

27. Respondent was required to submit to the LEPC either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying the Sarver 2007 Chemicals as being present at the Sarver Facility in quantities exceeding their respective MTLs no later than three (3) months after the Sarver 2007 Chemicals were present at the Sarver Facility in an amount equal to or greater than their respective MTLs.

28. Respondent failed to submit to the LEPC either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying the Sarver 2007 Chemicals as present at the Sarver Facility in quantities exceeding their respective MTLs no later than three (3) months after the Sarver 2007 Chemicals were present at the Sarver Facility in an amount equal to or greater than their respective MTLs.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA – LEPC  
SARVER FACILITY**

29. Respondent's failure to submit to the LEPC either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying the Sarver 2007 Chemicals as present at the Sarver Facility in quantities exceeding their respective MTLs constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA’S FINDINGS OF FACT RELATED TO THE ALLEGED VIOLATION OF SECTION 311 OF EPCRA – LOCAL FIRE DEPARTMENT SARVER FACILITY**

30. EPA’s findings of fact and conclusions of law contained in Paragraphs 1 through 29 of this CA/FO are incorporated by reference herein as though fully set forth at length.

31. Respondent was required to submit to the local fire department either MSDSs for the Sarver 2007 Chemicals or list of hazardous chemicals identifying the Sarver 2007 Chemicals as being present at the Sarver Facility in quantities exceeding their respective MTLs no later than three (3) months after the Sarver 2007 Chemicals were present at the Sarver Facility in an amount equal to or greater than their respective MTLs.

32. Respondent failed to submit to the local fire department either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying the Sarver 2007 Chemicals as present at the Sarver Facility in quantities exceeding their respective MTLs no later than three (3) months after the Sarver 2007 Chemicals were present at the Sarver Facility in an amount equal to or greater than their respective MTLs.

**EPA’S CONCLUSION OF LAW RELATED TO THE ALLEGED VIOLATION OF SECTION 311 OF EPCRA – LOCAL FIRE DEPARTMENT SARVER FACILITY**

33. Respondent’s failure to submit to the local fire department either MSDSs for the Sarver 2007 Chemicals or a list of hazardous chemicals identifying the Sarver 2007 Chemicals as present at the Sarver Facility in quantities exceeding their respective MTLs constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA’S FINDINGS OF FACT RELATED TO THE ALLEGED VIOLATION OF SECTION 312 OF EPCRA – SARVER FACILITY**

34. EPA’s findings of fact and conclusions of law contained in Paragraphs 1 through 33 of this CA/FO are incorporated by reference herein as though fully set forth at length.

35. Section 312 of EPCRA, 42 U.S.C. § 11022, as implemented by 40 C.F.R. Part 370 (40 C.F.R. § 370.25), requires the owner or operator of a facility required to prepare or have available an MSDS for a hazardous chemical in accordance with OSHA’s Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an EHS) is present at any one time during a calendar year in a quantity equal to or greater than its applicable MTL or TPQ to submit on or before March 1, 1988, and by March 1<sup>st</sup>

of each year thereafter, a completed Emergency and Hazardous Chemical Inventory Form (“Chemical Inventory Form”) identifying the hazardous chemical and providing the information described in Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), to the appropriate SERC, LEPC, and local fire department with jurisdiction over the facility.

36. By March 1, 2008, Respondent was required to submit to the SERC, LEPC, and the local fire department a Chemical Inventory Form identifying the Sarver 2007 Chemicals as present at the Sarver Facility during calendar year 2007 in quantities greater than their respective MTLs, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the chemicals.

**EPA’S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007 –  
SERC – SARVER FACILITY**

37. EPA’s findings of fact and conclusions of law contained in Paragraphs 1 through 36 of this CA/FO are incorporated by reference herein as though fully set forth at length.

38. Respondent failed to submit to the SERC by March 1, 2008, a complete and accurate Chemical Inventory Form for the Sarver Facility for calendar year 2007 identifying the Sarver 2007 Chemicals.

**EPA’S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007 –  
SERC – SARVER FACILITY**

39. Respondent’s failure to submit a complete and accurate Chemical Inventory Form for the Sarver Facility to the SERC by March 1, 2008, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA’S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007 –  
LEPC – SARVER FACILITY**

40. EPA’s findings of fact and conclusions of law contained in Paragraphs 1 through 39 of this CA/FO are incorporated by reference herein as though fully set forth at length.

41. Respondent failed to submit to the LEPC by March 1, 2008, a complete and accurate Chemical Inventory Form for the Sarver Facility for calendar year 2007 identifying the Sarver 2007 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007  
LEPC – SARVER FACILITY**

42. Respondent's failure to submit a complete and accurate Chemical Inventory Form for the Sarver Facility to the LEPC by March 1, 2008, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007  
FIRE DEPARTMENT - SARVER FACILITY**

43. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 42 of this CA/FO are incorporated by reference herein as though fully set forth at length.

44. Respondent failed to submit to the local fire department by March 1, 2008, a complete and accurate Chemical Inventory Form for the Sarver Facility for calendar year 2007 identifying the Sarver 2007 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007 –  
FIRE DEPARTMENT - SARVER FACILITY**

45. Respondent's failure to submit a complete and accurate Chemical Inventory Form for the Sarver Facility to the local fire department by March 1, 2008, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2006  
SARVER FACILITY**

46. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 45 of this CA/FO are incorporated by reference herein as though fully set forth at length.

47. During calendar year 2006, Respondent had present at its Sarver Facility the following chemicals in the following quantities: 12,440,000 pounds of Reclime; 173,064,700 pounds of slag; 326,740 pounds of Excell Select CP; 222,540 pounds of Excell Select RM; 192,160 pounds of flyash; 139,740 pounds of GGBFS (New Cem); 69,760 pounds of metakolin; and 26,700 pounds of silica fume (referred to hereafter collectively as "Sarver 2006 Chemicals").

48. At any one time during calendar year 2006, Respondent had present at the Sarver Facility the Sarver 2006 Chemicals in quantities exceeding their respective MTLs.

49. By March 1, 2007, Respondent was required to submit to the SERC, LEPC, and the local fire department a Chemical Inventory Form identifying the Sarver 2006 Chemicals as present at the Sarver Facility during calendar year 2006 in a quantity greater than their respective MTLs, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the chemicals.

50. Respondent failed to submit to the SERC, LEPC, and the local fire department by March 1, 2007, a complete and accurate Chemical Inventory Form for the Sarver Facility for calendar year 2006 identifying the Sarver 2006 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2006  
SARVER FACILITY**

51. Respondent's failure to submit to the SERC, LEPC, and the local fire department by March 1, 2007, a complete and accurate Chemical Inventory Form for the Sarver Facility for calendar year 2006, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2005  
SARVER FACILITY**

52. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 51 of this CA/FO are incorporated by reference herein as though fully set forth at length.

53. During calendar year 2005, Respondent had present at its Sarver Facility the following chemicals in the following quantities: 211,731,360 pounds of slag and 12,000,000 pounds of Reclime (referred to collectively as the "Sarver 2005 Chemicals").

54. At any one time during calendar year 2005, Respondent had present at the Sarver Facility the Sarver 2005 Chemicals in quantities exceeding their respective MTLs.

55. By March 1, 2006, Respondent was required to submit to the SERC, LEPC, and local fire department a Chemical Inventory Form identifying the Sarver 2005 Chemicals as present at the Sarver Facility during calendar year 2005 in a quantity greater than their respective MTLs, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the chemicals.

56. Respondent failed to submit to the SERC, LEPC, and the local fire department by March 1, 2006, a complete and accurate Chemical Inventory Form for the Sarver Facility for calendar year 2005 identifying the Sarver 2005 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2005**

57. Respondent's failure to submit to the SERC, LEPC, and the local fire department by March 1, 2006, a complete and accurate Chemical Inventory Form for the Sarver Facility for calendar year 2005, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT – SAXONBURG FACILITY**

58. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 57 of this CA/FO are incorporated by reference herein as though fully set forth at length.

59. From January 2005 to July 5, 2008, Respondent operated a primary metals processing facility d/b/a Excell Turf Technologies, located at Ivy Wood Industrial Works, 737 Saxonburg Boulevard in Saxonburg, Pennsylvania (hereinafter the "Saxonburg Facility").

60. The Saxonburg Facility is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and its regulations, 40 C.F.R. § 370.66.

61. From 2005 through the end of 2007, the Saxonburg Facility was operated by Recmix of PA, Inc. under the trademark EXCELLERATOR.

62. At all times relevant to this CA/FO, Harsco Minerals PA, LLC, and its predecessor companies operated the Saxonburg Facility within the meaning of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022.

63. Respondent, or its predecessor companies, leased the Saxonburg Facility from Ivy Woods Industrial Works, Inc. from January 2005 until July 5, 2008.

64. On July 5, 2008, a fire consumed much of the Saxonburg Facility.

65. On October 29, 2008, EPA conducted an inspection in connection with the Saxonburg Facility to determine whether the facility had complied with Section 103 of CERCLA and Sections 302-312 of EPCRA.

66. The state emergency response commission ("SERC") for the Saxonburg Facility is, and has been at all times relevant to this CA/FO, the Pennsylvania Department of Labor & Industry, Bureau of PENNSAFE, located at 7<sup>th</sup> and Forster, Room 155-E L&I Building, in Harrisburg, Pennsylvania.

67. The local emergency planning committee ("LEPC") for the Saxonburg Facility is, and has been at all times relevant to this CA/FO, the Butler County Local Emergency Planning Committee, located at Sunnyview Complex, 309 Sunnyview Circle, in Butler, Pennsylvania.

68. The local fire department for the Saxonburg Facility is, and has been at all times relevant to this CA/FO, the Saxonburg Volunteer Fire Company, located at 210 Horne Avenue, in Saxonburg, Pennsylvania.

69. Respondent is engaged in a business where chemicals are either used, distributed, or are produced for use or distribution.

70. Respondent is an "employer" as that term is defined at 29 U.S.C. § 1910.1200(e).

71. Respondent was required to have an MSDS at its Saxonburg Facility for each hazardous chemical it used, during its operation of the facility, pursuant to 29 C.F.R. § 1910.1200(g).

72. Respondent was the owner or operator of a facility that at all times relevant to this matter was required to prepare or have available an MSDS for hazardous chemicals under the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200.

73. The following four chemicals are "hazardous chemicals" as defined by Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 40 C.F.R. § 370.66 (40 C.F.R. § 370.2): Excellerator, Reclime, Peridur and Excell Micronutrient Mix (collectively referred to as "Saxonburg 2007 Chemicals").

74. Pursuant to 40 C.F.R. § 370.10, the MTL for each of the Saxonburg 2007 Chemicals is 10,000 pounds.

75. During calendar year 2007, Respondent had present at its Saxonburg Facility the following chemicals in the following amounts: 2,171,860 pounds of Excellerator; 284,560 pounds of Reclime; 83,820 pounds of Peridur; and 64,000 pounds of Excell Micronutrient Mix.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA  
SERC – SAXONBURG FACILITY**

76. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 75 of this CA/FO are incorporated by reference herein as though fully set forth at length.

77. At any one time during calendar year 2007, Respondent had present at the Saxonburg Facility the Saxonburg 2007 Chemicals in quantities exceeding their respective MTLs.

78. Respondent was required to submit to the SERC either MSDSs for the Saxonburg 2007 Chemicals or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as being present at the Saxonburg Facility in quantities exceeding their respective MTLs, no later than three (3) months after the Saxonburg 2007 Chemicals were present at the Saxonburg Facility in an amount equal to or greater than their respective MTLs.

79. Respondent failed to submit to the SERC either MSDSs for the Saxonburg 2007 Chemicals or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as present at the Saxonburg Facility in quantities exceeding their respective MTLs no later than three (3) months after the Saxonburg 2007 Chemicals were present at the Saxonburg Facility in an amount equal to or greater than their respective MTLs.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA  
SERC – SAXONBURG FACILITY**

80. Respondent's failure to submit to the SERC either MSDSs for the Saxonburg 2007 Chemicals, or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as present at the Saxonburg Facility in quantities exceeding their respective MTLs, constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA  
LEPC – SAXONBURG FACILITY**

81. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 80 of this CA/FO are incorporated by reference herein as though fully set forth at length.

82. Respondent was required to submit to the LEPC either MSDSs for the Saxonburg 2007 Chemicals or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as

being present at the Saxonburg Facility in quantities exceeding their respective MTLs no later than three (3) months after the Saxonburg 2007 Chemicals were present at the Saxonburg Facility in an amount equal to or greater than their respective MTLs.

83. Respondent failed to submit to the LEPC either MSDSs for the Saxonburg 2007 Chemicals or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as present at the Saxonburg Facility in quantities exceeding their respective MTLs no later than three (3) months after the Saxonburg 2007 Chemicals were present at the Saxonburg Facility in an amount equal to or greater than their respective MTLs.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA  
LEPC - SAXONBURG FACILITY**

84. Respondent's failure to submit to the LEPC either MSDSs for the Saxonburg 2007 Chemicals, or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as present at the Saxonburg Facility in quantities exceeding their respective MTLs, constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA  
LOCAL FIRE DEPARTMENT - SAXONBURG FACILITY**

85. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 84 of this CA/FO are incorporated by reference herein as though fully set forth at length.

86. Respondent was required to submit to the local fire department either MSDSs for the Saxonburg 2007 Chemicals or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as being present at the Saxonburg Facility in quantities exceeding their respective MTLs no later than three (3) months after the Saxonburg 2007 Chemicals were present at the Saxonburg Facility in an amount equal to or greater than their respective MTLs.

87. Respondent failed to submit to the local fire department either MSDSs for the Saxonburg 2007 Chemicals or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as present at the Saxonburg Facility in quantities exceeding their respective MTLs no later than three (3) months after the Saxonburg 2007 Chemicals were present at the Saxonburg Facility in an amount equal to or greater than their respective MTLs.

**EPA’S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 311 OF EPCRA  
LOCAL FIRE DEPARTMENT – SAXONBURG FACILITY**

88. Respondent’s failure to submit to the local fire department either an MSDS for the Saxonburg 2007 Chemicals or a list of hazardous chemicals identifying the Saxonburg 2007 Chemicals as present at the Saxonburg Facility in quantities exceeding their respective MTLs constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA’S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007  
SERC – SAXONBURG FACILITY**

89. EPA’s findings of fact and conclusions of law contained in Paragraphs 1 through 88 of this CA/FO are incorporated by reference herein as though fully set forth at length.

90. By March 1, 2008, Respondent was required to submit to the SERC, LEPC, and the local fire department a Chemical Inventory Form identifying the Saxonburg 2007 Chemicals as present at the Saxonburg Facility during calendar year 2007 in quantities greater than their respective MTLs, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the chemicals.

91. Respondent failed to submit to the SERC by March 1, 2008, a complete and accurate Chemical Inventory Form for the Saxonburg Facility for calendar year 2007 identifying the Saxonburg 2007 Chemicals.

**EPA’S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007  
SERC – SAXONBURG FACILITY**

92. Respondent’s failure to submit a complete and accurate Chemical Inventory Form for the Saxonburg Facility to the SERC by March 1, 2008, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA’S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007  
LEPC – SAXONBURG FACILITY**

93. EPA’s findings of fact and conclusions of law contained in Paragraphs 1 through 92 of this CA/FO are incorporated by reference herein as though fully set forth at length.

94. Respondent failed to submit to the LEPC by March 1, 2008, a complete and accurate Chemical Inventory Form for the Saxonburg Facility for calendar year 2007 identifying the Saxonburg 2007 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007 –  
LEPC – SAXONBURG FACILITY**

95. Respondent's failure to submit a complete and accurate Chemical Inventory Form for the Saxonburg Facility to the LEPC by March 1, 2008, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007  
FIRE DEPARTMENT - SAXONBURG FACILITY**

96. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 95 of this CA/FO are incorporated by reference herein as though fully set forth at length.

97. Respondent failed to submit to the local fire department by March 1, 2008, a complete and accurate Chemical Inventory Form for the Saxonburg Facility for calendar year 2007 identifying the Saxonburg 2007 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2007  
FIRE DEPARTMENT - SAXONBURG FACILITY**

98. Respondent's failure to submit a complete and accurate Chemical Inventory Form for the Saxonburg Facility to the LEPC by March 1, 2008, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2006  
SAXONBURG FACILITY**

99. EPA's findings of fact and conclusions of law contained in Paragraphs 1 through 98 of this CA/FO are incorporated by reference herein as though fully set forth at length.

100. During calendar year 2006, Respondent had present at its Saxonburg Facility the

following chemicals in the following quantities: 3,257,400 pounds of Excellerator; 422,600 pounds of Reclime; 83,820 pounds of Peridur; and 54,820 pounds of Excell Micronutrient Mix (collectively referred to as the “Saxonburg 2006 Chemicals”).

101. At any one time during calendar year 2006, Respondent had present at the Saxonburg Facility the Saxonburg 2006 Chemicals in quantities exceeding their respective MTLs.

102. By March 1, 2007, Respondent was required to submit to the SERC, LEPC, and the local fire department a Chemical Inventory Form identifying the Saxonburg 2006 Chemicals as present at the Saxonburg Facility during calendar year 2006 in a quantity greater than their respective MTLs, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the chemicals.

103. Respondent failed to submit to the SERC, LEPC, and the local fire department by March 1, 2007, a complete and accurate Chemical Inventory Form for the Saxonburg Facility for calendar year 2006 identifying the Saxonburg 2006 Chemicals.

**EPA’S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2006  
SAXONBURG FACILITY**

104. Respondent’s failure to submit to the SERC, LEPC, and the local fire department by March 1, 2007, a complete and accurate Chemical Inventory Form for the Facility for calendar year 2006, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA’S FINDINGS OF FACT RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2005  
SAXONBURG FACILITY**

105. EPA’s findings of fact and conclusions of law contained in Paragraphs 1 through 104 of this CA/FO are incorporated by reference herein as though fully set forth at length.

106. During calendar year 2005, Respondent had present at its Saxonburg Facility the following chemicals in the following quantities: 1,703,080 pounds of Excellerator; 569,860 pounds of Reclime; 50,000 pounds of Peridur; and 55,000 pounds of Excell Micronutrient Mix (collectively referred to as “Saxonburg 2005 Chemicals”).

107. At any one time during calendar year 2005, Respondent had present at the Saxonburg Facility the Saxonburg 2005 Chemicals in quantities exceeding their respective MTLs.

108. By March 1, 2006, Respondent was required to submit to the SERC, LEPC, and local fire department a Chemical Inventory Form identifying the Saxonburg 2005 Chemicals as present at the Saxonburg Facility during calendar year 2005 in a quantity greater than their respective MTLs, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the chemicals.

109. Respondent failed to submit to the SERC, LEPC, and the local fire department by March 1, 2006, a complete and accurate Chemical Inventory Form for the Saxonburg Facility for calendar year 2005 identifying the Saxonburg 2005 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
ALLEGED VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2005  
SAXONBURG FACILITY**

110. Respondent's failure to submit to the SERC, LEPC, and the local fire department by March 1, 2006, a complete and accurate Chemical Inventory Form for the Saxonburg Facility for calendar year 2005, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**CIVIL PENALTY**

111. In full and final settlement and resolution of all allegations referenced in the foregoing EPA's Findings of Fact and EPA's Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the alleged violations of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, set forth above, in the amount of **\$146,382**.

**PAYMENT TERMS**

112. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, the Respondent must pay the civil penalty, totaling **\$146,382**, no later than thirty (30) days after the Effective Date as set forth in the Final Order (the "final due date"). Payment of the civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action;
- b. All checks shall be made payable to **United States Treasury**;
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Contact: Eric Volck 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA  
Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: Eric Volck 513-487-2105

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
D 68010727 Environmental Protection Agency

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX /Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

i. Additional payment guidance is available at.

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

113. The Respondent shall submit a copy of the check, or verification of wire transfer or ACH to the following persons:

Lydia Guy (3RC00)  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103-2029

Cynthia T. Weiss (3RC42)  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103-2029

114. The civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the following: the nature, circumstances, extent and gravity of the violation, and with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit (if any) resulting from the violation, and such matters as justice may require. The penalty is consistent with 40 C.F.R. Part 19 and the *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (September 30, 1999).

115. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply

with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

116. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid no later than thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

117. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

118. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

119. Failure by the Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

#### **GENERAL PROVISIONS**

120. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

121. For the purpose of this proceeding, Respondent agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of the CA/FO.

122. Except as set forth in paragraph 120 above, for the purpose of this proceeding, Respondent neither admits nor denies factual allegations and conclusions of law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

123. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal this Final Order under Section 325 of EPCRA, 42 U.S.C. § 11045.

124. The provisions of the CA/FO shall be binding upon EPA, Respondent,

Respondent's officers and directors (in their official capacity), and Respondent's successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of each party is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind the party to the terms and conditions of the Consent Agreement and accompanying Final Order.

125. The CA/FO does not constitute a waiver, suspension or modification of the requirements of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 and 11022, or any regulations promulgated thereunder.

126. This CA/FO is a complete and final settlement of all civil and administrative claims and causes of action set forth in this CA/FO for alleged violations of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 and 11022. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanction available by virtue of Respondent's violation of this agreement, other statutes and regulations, or any other applicable provision of law.

127. Each party to this action shall bear its own costs and attorney's fees.

In re Harsco Minerals PA, LLC

U.S. EPA Docket No. EPCRA-03-2011-0053

FOR HARSCO MINERALS PA, LLC



1/19/11  
DATE

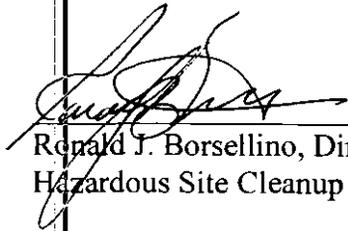
Name: DANIEL S. M<sup>C</sup>ATEE

Title: PRESIDENT HARSCO MINERALS

In re Harsco Minerals PA, LLC

U.S. EPA Docket No. EPCRA-03-2011-0053

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



---

Ronald J. Borsellino, Director  
Hazardous Site Cleanup Division

1/24/2011

---

DATE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PENNSYLVANIA 19103-2029

In the Matter of:	)	
	)	
Harsco Minerals PA, LLC	)	U.S. EPA Docket No:
5000 Ritter Road	)	EPCRA-03-2011-0053
Mechanicsburg, Pennsylvania 17055,	)	
	)	
Respondent.	)	
	)	
Excell Cement Technologies and	)	
Recmix of PA	)	
359 North Pike Road	)	
Sarver, Pennsylvania 16055,	)	
	)	
and	)	
	)	
Excell Turf Technologies	)	Proceedings Pursuant to Sections 311,
737 Saxonburg Boulevard	)	312 and 325 of the Emergency Planning
Saxonburg, Pennsylvania 16055,	)	and Community Right-to-Know Act, 42
	)	U.S.C. §§ 11021, 11022 and 11045
Facilities.	)	

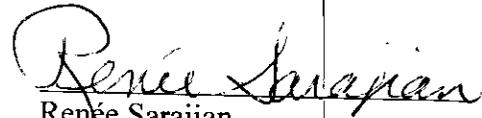
**FINAL ORDER**

Pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), as amended, 42 U.S.C. § 11045, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

**Effective Date**

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

Date: 2/1/11

  
Renee Sarajian  
Regional Judicial Officer  
EPA, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

In the Matter of:

Harsco Minerals PA, LLC  
5000 Ritter Road  
Mechanicsburg, Pennsylvania 17055,

Respondent.

Excell Cement Technologies and  
Recmix of PA  
359 North Pike Road  
Sarver, Pennsylvania 16055,

and

Excell Turf Technologies  
737 Saxonburg Boulevard  
Saxonburg, Pennsylvania 16055,

Facilities.

U.S. EPA Docket No:  
EPCRA-03-2011-0053

Proceedings Pursuant to Sections 311,  
312 and 325 of the Emergency Planning  
and Community Right-to-Know Act, 42  
U.S.C. §§ 11021, 11022 and 11045

CERTIFICATE OF SERVICE

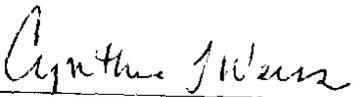
I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent:

Via certified mail, return receipt requested, to:

James M. Hauck  
Hatchett & Hauck LLP  
111 Monument Circle, Suite 301  
Indianapolis, IN 46204-5124

Date

0/2/11

  
Cynthia T. Weiss (3RC42)  
Senior Assistant Regional Counsel