



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

AUG 16 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Timothy J. Wessel
Emerald Polymer Additives, LLC
1550 County Road 1450 N.
Henry, Illinois 61537

Dear Mr. Wessel:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves CAA-05-2014-0040. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on AUG 16 2014.

Pursuant to paragraph 85 of the CAFO, Emerald Polymer Additives, LLC must pay the civil penalty within 30 days of AUG 16 2014. Your electronic funds transfer must display the case name "Emerald Polymer Additives, LLC" and the docket number CAA-05-2014-0040.

Please direct any questions regarding this case to Padma Bending at (312) 353-8917.

Sincerely,

Sarah Marshall
Chief
Air Enforcement and Compliance Assurance Section (MI/WI section)

Enclosure

cc: Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
P. Bending/C-14J
M. Gonzales/C-14J
E. Jones/IEPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
) Docket No. CAA-05-2014-0040
)
) Emerald Polymer Additives, LLC)
) Proceeding to Assess a Civil Penalty
) Henry, Illinois,)
) Under Section 113(d) of the Clean Air Act,
) 42 U.S.C. § 7413(d)
) Respondent.)

Consent Agreement and Final Order

Preliminary Statement



1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 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. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Emerald Polymer Additives LLC (Emerald), a corporation doing business in 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 to the terms of this 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. The CAA establishes a regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401(b)(1).

10. Section 112 of the CAA sets forth a national program for the control of Hazardous Air Pollutants (HAPs). 42 U.S.C. § 7412.

11. Congress directed EPA to publish a list of all categories and subcategories of, *inter alia*, major sources of HAPs. 42 U.S.C. § 7412(c).

12. "Major source" was and is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1) and 40 C.F.R. § 63.2.

13. Congress directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, *inter alia*, major sources of HAPs listed. 42 U.S.C. § 7412(d)(1). These emission standards must require the maximum degree of reduction in emissions of HAPs that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy

requirements, determines is achievable for the new or existing sources in the category or subcategory to which the emission standard applies. 42 U.S.C. § 7412(d)(2).

14. To the extent that it is not feasible to prescribe or enforce an emission standard for control of a HAP, Congress authorized EPA to promulgate “design, equipment, work practice, or operational” standards, which are to be treated as emission standards. 42 U.S.C. §§ 7412(d)(2) and (h)(1).

15. The emission standards promulgated under Section 112 of the 1990 Amendments to the CAA, 42 U.S.C. § 7412, are known as the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Source Categories or maximum achievable control technology (MACT) standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

16. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

17. Under Section 112 of the CAA, 42 U.S.C. § 7412, the Administrator of EPA promulgated the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 C.F.R. Part 63, Subpart A; 40 C.F.R. § 63.1 – 63.16 on March 16, 1994. 59 *Fed. Reg.* 12430 (March 16, 1994) (“Subpart A”).

18. On July 1, 1996, EPA promulgated the NESHAP for Off-Site Waste and Recovery Operations, codified at 40 C.F.R. Part 63, Subpart DD. 61 *Fed. Reg.* 34158. (“Subpart DD”)

19. Subpart DD applies to the owner and operator of a plant site which is a major source of hazardous air pollutant (HAP) emissions as defined in 40 C.F.R. § 63.2, and has waste

management operations or recovery operations which are used on off-site materials received at the facility. 40 C.F.R. § 63.680(a).

20. One of the waste management operations which is subject to Subpart DD includes an operation that treats wastewater which is an off-site material and that is exempted from regulation as a hazardous waste treatment, storage, and disposal facility (TSD) under 40 C.F.R. § 264.1(g)(6). 40 C.F.R. § 63.680(a)(2)(ii).

21. The Hazardous Waste Treatment, Storage and Disposal (TSD) Facility regulations, at 40 C.F.R. §264.1(g)(6) state the requirements of this part do not apply to: The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 40 C.F.R. § 260.10.

22. The General Provisions of the TSD regulations exempt from regulation a wastewater treatment unit which 1) is part of a wastewater treatment facility that is subject to regulation under either section 402 or 307(b) of the Clean Water Act; 2) receives and treats or stores an influent wastewater that is a hazardous waste as defined in 40 C.F.R. § 261.3; and 3) meets the definition of tank or tank system in 40 CFR §260.10. *See* 40 C.F.R. §264.4(g)(6).

23. Subpart DD defines off-site material as, among other things, waste as a material generated from industrial, commercial, mining, or agricultural operations or from community activities that is discarded, discharged, or is being accumulated, stored, or physically, chemically, thermally, or biologically treated prior to being discarded or discharged, which contains a HAP (listed in Table 1 of Subpart DD) at the point-of-delivery and is delivered, transferred, or otherwise moved to the plant site from a location outside the boundaries of the plant site. 40 C.F.R. § 63.680(b)(1).

24. Subpart DD defines the point-of-delivery as the point at the boundary or within the plant site where the owner or operator first accepts custody, takes possession, or assumes responsibility for the management of an off-site material stream. Subpart DD, at 40 C.F.R. § 63.680(d), states that the owner or operator of affected sources subject to this subpart is exempted from the requirements of 40 C.F.R. §§ 63.682 through 63.699 of this subpart in situations with a total annual quantity of the HAP that is contained in the off-site material received at the plant site is less than 1 megagram per year. To qualify for this exemption, the owner must meet the following 3 requirements:

- a. “The owner or operator must prepare an initial determination of the total annual HAP quantity in the off-site material received at the plant site. This determination is based on the total quantity of the HAP listed in Table 1 of this subpart as determined at the point-of-delivery for each off-site material stream”;
- b. “The owner or operator must prepare new documentation whenever the extent of changes to the quantity or composition of the off-site material received at the plant site could cause the total annual HAP quantity in the off-site material received at the plant site to exceed the limit of 1 megagram per year”; and
- c. “The owner or operator must maintain documentation to support the owner’s or operator’s determination of the total annual HAP quantity in the off-site material received at the plant site. This documentation must include the basis and data used for determining the HAP content of the off-site material.”

25. Subpart A, at 40 C.F.R. § 63.9(h), states, among other things, that when an affected source becomes subject to a relevant standard, the owner or operator of such source shall submit to the Administrator a notification of compliance status, signed by the responsible

official who shall certify its accuracy, attesting to whether the source has complied with the relevant standard.

26. Subpart A, at 40 C.F.R. § 63.10(b)(3), states, among other things, that if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to section 112(d) or (f), and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under this part) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source).

27. On November 10, 2003, EPA promulgated the NESHAP for Miscellaneous Organic Chemical Manufacturing (MON), codified at 40 C.F.R. Part 63, Subpart FFFF. 68 *Fed. Reg.* 63888. The NESHAP for MON establishes emission standards, requirements to demonstrate initial and continuous compliance with emission limits, operating limits, work practice standards, and recordkeeping requirements associated with miscellaneous organic chemical manufacturing. *See* 40 C.F.R. § 63.2430.

28. The NESHAP for MON, at 40 C.F.R. § 63.2445(b), provides that owners and operators of existing sources subject to the MON must comply with the requirements for existing sources no later than May 10, 2008.

29. The NESHAP for MON, at 40 C.F.R. § 63.2435(a), provides that owners and operators are subject to the MON if they operate miscellaneous organic chemical manufacturing process units (MCPU) that are located at, or are part of, a major source of HAP emissions as defined in Section 112(a) of the Clean Air Act.

30. The NESHAP for MON, at 40 C.F.R. § 63.2550, defines “miscellaneous organic chemical manufacturing process” as all equipment which collectively functions to produce a product or isolated intermediate that is “material” described in 40 C.F.R. § 63.2435(b). Process includes any, all or a combination of reaction, recovery, separation, purification, or other activity, operation, manufacture, or treatment which are used to produce a product or isolated intermediate.

31. The NESHAP for MON, at 40 C.F.R. § 63.2435(b), provides that a MCPU includes equipment necessary to operate a miscellaneous organic chemical manufacturing process that, among other things, processes, uses or generates any of the organic HAPs listed in Section 112(b) of the CAA. A MCPU also includes any assigned storage tanks and transfer racks; equipment in open systems that is used to convey or store water having the same concentration and flow characteristics as wastewater; and components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, and instrumentation systems that are used to manufacture any material or family, including but not limited to an organic chemical with an SIC code listed in 40 C.F.R. § 63.2435(b)(1)(i).

32. The NESHAP for MON, at 40 C.F.R. § 63.2550, defines “in organic HAP service” to mean a piece of equipment that either contains or contacts a fluid (liquid or gas) that

is at least 5 percent by weight of total organic as determined according to Method 18 of 40 C.F.R. Part 60, Appendix A. *See also* 40 C.F.R. § 63.180(d)(1).

33. The NESHAP for MON, at 40 C.F.R. § 63.2480 says “You must meet each requirement in table 6 to this Subpart that applies to your equipment leaks, except as specified in paragraphs (b) through (d) of this Section.”

34. Table 6 to Subpart FFFF of Part 63, titled “Requirements for Equipment Leaks” explains that “as required in § 63.2480, you must meet each requirement in the following table that applies to your equipment leaks”: (1) For all equipment that is in organic HAP service (a) Comply with the requirements of subpart UU of this Part 63 and the requirements referenced therein, except as specified in § 63.2480(b) and (d); or (b) comply with the requirements of subpart H of this part 63 and the requirements referenced therein, except as specified in § 63.2480(b) and (d); or (c) comply with the requirements of 40 C.F.R. part 65, subpart F and the requirements referenced therein, except as specified in § 63.2480(c) and (d).

35. Subpart UU, “National Emission Standards for Equipment Leaks – Control Level 2 Standards,” located at 40 C.F.R. §§ 63.1019 – 1039, was effective June 29, 1999. *See 64 Fed. Reg.* 34854 (June 29, 1999).

36. 40 C.F.R. § 63.1019(a) states that the provisions of 40 C.F.R. Part 63, Subpart UU apply to the control of air emissions from equipment leaks when another subpart of Part 63 references the use of Subpart UU for such air emission control. 40 C.F.R § 63.1019(b) specifies, among other things, that the provisions of this Subpart and the referencing Subpart apply to equipment that contains or contacts regulated material; and that this Subpart applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves

or lines, valves, connectors, instrumentation systems, and closed vent systems and control devices used to meet the requirements of this Subpart.

37. 40 C.F.R. § 63.1033(b)(1) states, “Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve...”

38. Each State must submit to the Administrator or EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

39. On February 21, 1980, EPA approved 35 Illinois Administrative Code (IAC) Part 215.301 as part of the federally enforceable State Implementation Plan (SIP) for Illinois. 45 *Fed. Reg.* 11472 (February 21, 1980).

40. 35 IAC Part 215.301 states no person shall cause or allow the discharge of more than 8 pounds per hour of organic material into the atmosphere from any emission source subject to various exceptions set forth in the code.

41. Sections 501 through 507 of the CAA, 42 U.S.C. §§ 7661 through 7661f, establish an operating permit program for major stationary sources and other sources made subject to Section 502(a) of the CAA, 42 U.S.C. § 7661a(a).

42. Section 502(a) of the CAA provides that after the effective date of any permit program approved or promulgated under this subchapter, “it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter. . .”

43. Pursuant to Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), on July 21, 1992, EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. 57 *Fed. Reg.* 32295 (July 21, 1992). These regulations are codified at 40 C.F.R. Part 70.

44. Section 502(d)(1) of the CAA, 42 U.S.C. § 7661a(d)(1), requires that each State develop and submit for EPA's approval a permit program under State law.

45. On December 4, 2001, EPA granted Illinois full approval of its Clean Air Act Permit Program. 66 *Fed. Reg.* 62946 (December 4, 2001). The program became effective on November 30, 2001.

46. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

47. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

48. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

49. Emerald owns and operates the facility located at 1550 County Road 1450 N., Henry, Illinois 61537 (Facility).

50. Emerald manufactures organic chemicals, specifically antioxidants and accelerators to be used in the manufacture of rubber and plastics.

51. Emerald uses acetonitrile which is a HAP listed under Section 112(b) of the Act, 42 U.S.C. §7412(b).

52. Emerald is a “major source” of HAPs.

53. Emerald has notified the Agency that it is subject to the MON, and has elected to comply with the National Emission Standards for Equipment Leaks – Control Level 2 standards at 40 C.F.R. Part 63, Subpart UU.

54. Emerald has several MCPUs subject to the MON, at 40 C.F.R. Part 63, Subpart FFFF and the leak detection and repair (LDAR) program:

- Building 711: MBT-Crude and NaMBT & NaSH Production
- Building 711N: NaMBT Purification
- Building 722: 3114 Antioxidant and 3125 Antioxidant
- Building 725: Cure-Rite 18

55. Emerald currently operates its Facility under Title V Clean Air Act Permit Program Permit No. 123803AAD issued by the Illinois Environmental Protection Agency on November 24, 2003, as required by Title V of the Federal Clean Air Act of 1990.

56. Emerald operates a waste management operation at 1550 County Road 1450 N, Henry, Illinois as defined in 40 C.F.R. § 63.681. A waste management operation is defined as the collection of off-site material management units, process vents, and equipment components used at a plant site to manage an off-site material stream from the point-of-delivery to the point it is discharged from the plant site.

57. Emerald treats a wastewater stream which the Agency alleges is an off-site material as defined by 40 C.F.R. § 63.680(a)(2)(ii).

58. This off-site material is a waste that is not produced or generated by Emerald, but the material is transferred via pipeline, to Emerald from Mexichem, S.A.B. de C.V. (“Mexichem”)’s adjacent facility. Additionally, the waste contains vinyl chloride, a HAP listed

in Table 1 of Subpart DD, based on the composition of the material at the point-of-delivery (40 C.F.R. § 63.680(b)).

59. Emerald's waste management operation is exempted from regulation as a hazardous waste treatment, storage, and disposal facility (TSDF) under 40 C.F.R. § 264.1(g)(6) or 40 C.F.R. § 265.1(c)(10), as required by 40 C.F.R. § 63.680(a)(2)(ii). The waste management operation is exempt from TSDF regulations because Emerald is an owner or operator of a wastewater treatment unit subject to regulation under the Clean Water Act as defined in 40 C.F.R. § 260.10. Emerald is regulated under section 402 of the Clean Water Act, and receives and treats influent waste water from Mexichem with vinyl chloride concentrations defining it as a hazardous waste, and meets the definition of a tank system.

60. Prior to November 2011, Emerald had not formally submitted an initial determination whether or not the total annual HAPs quantity in the off-site material received at its facility was less than 1 megagram per year as determined at the point-of-delivery.

61. Emissions from Emerald's wastewater treatment plant are subject to the applicable VOM emission limit set forth in Ill. Admin. Code tit. 35 § 215.301, which requires that organic material emissions not exceed 8 pounds per hour or do not qualify as a photochemically reactive material (as defined in in Ill. Admin. Code tit .35 § 211.4690).

62. Section 7.8.3.c. of Emerald's Title V permit states that Emerald's wastewater treatment facility is subject to Ill. Admin. Code tit. 35 § 215.301.

63. EPA issued a Finding of Violation (FOV) to Emerald on April 8, 2008, alleging that Emerald was subject to and had violated provisions of Subpart DD.

64. EPA and Emerald held a conference on the FOV on July 16, 2008.

65. EPA sent Emerald Requests for Information under Section 114 of the CAA, on or about January 15, 2008, July 9, 2008, October 23, 2009, March 10, 2010, September 9, 2010, June 26, 2012 and August 20, 2012. Emerald responded to all those requests for information in a timely manner.

66. EPA conducted a sampling event at the Emerald facility on May 5-6, 2011.

67. EPA contemporaneously provided Emerald with split samples from EPA's sampling event.

68. EPA's and Emerald's labs reported different concentrations of various HAPs from the split samples.

69. EPA and Emerald had several telephone conferences to discuss the sampling results and Emerald's reported flow rates for the Wastewater Treatment Plant.

70. Emerald's attorney submitted to the United States, on November 2, 2011, Emerald's determination that it receives less than 1 megagram of HAPs per year from PolyOne Corporation. PolyOne Corporation formerly owned the facility adjacent to Emerald that is now owned and operated by Mexichem.

71. Because Emerald receives less than 1 megagram of HAPs per year from Mexichem, it is subject only to Subpart A and 40 C.F.R. § 63.680 and 40 C.F.R. § 63.681 of Subpart DD.

72. EPA issued a Finding of Violation and Notice of Violation (FOV/NOV) to Emerald on November 20, 2012, alleging that Emerald had provided information in response to an information request from EPA which indicated that Emerald had calculated a discharge of more than 8 lbs per hour of toluene, an organic material, from its wastewater treatment system.

73. In response to the FOV/NOV, EPA and Emerald had a Section 113 conference on January 31, 2013. Both during and following this conference, Emerald provided EPA with information and documentation of actions taken by Emerald to evaluate the issue identified in the FOV/NOV.

74. On April 11, 2013, Emerald submitted the results of Water 9 modeling for the wastewater treatment system and updated its toluene inventory tracking system confirming that the wastewater treatment system does not discharge more than 8 lbs per hour of toluene. Emerald has represented that this information is consistent with historical data.

75. EPA conducted an inspection at the Emerald facility from July 28-29, 2009.

76. During the July 28-29, 2009 inspection, EPA identified 13 uncapped open-ended lines.

77. EPA issued a FOV to Emerald on January 22, 2010.

78. The FOV alleged, among other things, that Emerald violated the following NESHAP requirements: Emerald failed to comply with 40 C.F.R. § 63.1033(b)(1) which states, "Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve..."

79. In response to the FOV, EPA and Emerald had a Section 113 conference on February 23, 2010. Both during and following this conference, Emerald provided EPA with information and documentation of actions taken by Emerald to correct the issue identified in the FOV. The information and documentation provided by Emerald included purchase orders for caps to be used to cap and/or double block the 13 open ended lines identified during the July 28-29, 2009 inspection.

80. On May 9, 2013, EPA and Emerald signed Administrative Consent Order (ACO) EPA-5-13-113(a)-IL-02 requiring Emerald to perform a third-party audit of the facility's LDAR program, develop an LDAR manual, and incorporate quality assurance and quality control steps into the facility's LDAR program.

81. On April 8, 2014, Emerald submitted a Corrective Action Plan to EPA detailing the actions taken by the facility to correct the facility's LDAR program.

82. On March 30, 2014, EPA and Emerald signed ACO EPA-5-14-113(a)-IL-06 requiring Emerald to: 1) conduct sampling, over a 12 month period, of its incoming off-site wastewater streams to confirm the initial determination that it meets the 1 megagram per year exemption; 2) track all volatile organic materials entering its wastewater treatment plant; and 3) submit a revision to its Title V permit incorporating certain requirements of this ACO.

83. EPA alleges that Emerald has failed to keep a record of the applicability determination for Subpart DD on site at the source for a period of 5 years after the determination or until the source changes its operations to become an affected source, whichever comes first.

84. EPA alleges that, prior to April 2013, Emerald violated the emission limitation at Ill. Admin. Code tit. 35 § 215.301 IAC of the Illinois SIP and Emerald's Title V permit, along with the associated recordkeeping requirements of the Illinois SIP and Emerald's Title V permit.

Civil Penalty

85. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, the execution of two ACOs, and Emerald's cooperativeness, Complainant has determined that an appropriate civil penalty to settle this action is \$ 60,966.

Within 30 days after the effective date of this CAFO, Respondent must pay a \$ 60,966 civil penalty by FedWire electronic funds transfer, payable to "Treasurer, United States of America," and send to:

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

In the comment or description field of the electronic funds transfer, state Respondent's name, the docket number of this CAFO.

86. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

P. Bending (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

88. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the

collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

89. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the ~~United States enforcement expenses, including but not limited to attorneys' fees and costs~~ incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

90. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in this CAFO, including all alleged violations set forth in EPA's April 8, 2008 FOV, January 22, 2010 FOV and November 20, 2012 FOV/NOV issued to Emerald.

91. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

92. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 90, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

93. Respondent certifies to the best of its knowledge and belief, that it is complying fully with 40 C.F.R. Part 63, Subparts A, DD and FFFF along with the Illinois SIP and Emerald's Title V permit.

94. This CAFO constitutes an “enforcement response” as that term is used in EPA’s Clean Air Act Stationary Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

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

96. 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.

97. Each party agrees to bear its own costs and attorneys’ fees in this action.

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

Emerald Polymer Additives Respondent

July 7, 2014
Date

Timothy J. Wessel
Timothy J. Wessel
President
Emerald Polymer Additives LLC

United States Environmental Protection Agency, Complainant

7/22/14
Date

George T. Czerniak
George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

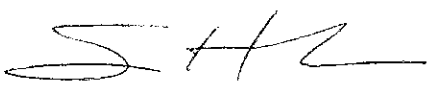
**Consent Agreement and Final Order
In the Matter of: Emerald Polymer Additives LLC
Docket No.**

CAA-05-2014-0040

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.

7-29-2014
Date



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

Consent Agreement and Final Order
In the Matter of: Emerald Polymer Additives, LLC
Docket No. CAA-05-2014-0040

Certificate of Service

I certify that I filed two originals of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2014-0040 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed one original to the Respondent by first-class, postage prepaid, certified mail, return receipt requested, addressed as follows:

Timothy J. Wessel
Emerald Polymer Additives, LLC
1550 County Road 1450 N.
Henry, Illinois 61537

I certify that I sent a copy of the CAFO by intra-office mail to:

Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

I also certify that I mailed a copy of the CAFO by first-class mail to:

Eric Jones, Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

Heidi B. Goldstein
Thompson Hine
3900 Key Center
127 Public Square
Cleveland, OH 44114-1291

On the 6th day of AUG. 2014.

Loretta Shaffer for
Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER(S):

7011-1150-0000-2039-2802