STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of: Heraeus Ameril Inc. 45875 Northpoint Loop East Fremont, California 94538 EPA ID No. CA0 000 026 914 Respondent.	)	Docket No. SRPD99/00 NNS-2029 STIPULATION & ORDER Health and Safety Code Section 25187

The State Department of Toxic Substances Control (Department) and Heraeus Ameril Inc.(Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order issued by the Department on March 31, 2000. (Attached as Exhibit 1.)

2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.

3. Jurisdiction exists pursuant to Health and Safety Code (HSC) section 25187.

4. Respondent waives any right to a hearing in this matter.

5.1. Based on the available facility information, the Respondent's Phase I Environmental Assessment and Checklist concludes that their facility requires no further investigation at this time.

5.2. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

6. Respondent did comply with the following:

6.1. Respondent submitted to the Department a completed DTSC Form #1151 (Tiered Permitting phase 1 environmental assessment checklist) as specified in HSC, section 25200.14(b) on October 1, 1999.

6.2. Submittals: All submittals from Respondent pursuant to this Order shall be sent to:

Lawrence Wong, Section Chief
Northern California Branch
State Regulatory Programs Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

6.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

6.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified; or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

6.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

6.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

6.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

6.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 7.14 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

6.9. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

6.10. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

6.11. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

6.12. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

6.13. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

6.14. Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

PAYMENTS

7. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total of $8,000, of which $5,000 is a penalty and $3,000 is reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the

Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control
Accounting Office
400 P Street, 4th Floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Lawrence Wong, Section Chief
Northern California Branch
State Regulatory Programs Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to HSC § 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

8. Effective Date: The effective date of this Order is the date it is signed by the Department.

9. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 4/5/00

Signature of Respondent's Representative

Dated: 4/5/00

JAMES W. RUST II, SITE MANAGER

Typed or Printed Name and Title of Respondent's Representative

Dated: 4/10/00

Lawrence Wong, Section Chief
Northern California Branch
State Regulatory Programs Division
Department of Toxic Substances Control