

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	:	
	:	
<b>Adell Polymers, Inc.,</b>	:	<b>Docket No. EPCRA-03-2022-0054</b>
	:	
<b>Respondent.</b>	:	
	:	
<b>Adell Polymers, Inc.</b>	:	
<b>115 Potomac Avenue</b>	:	<b>Proceeding Under Section 325(c) of</b>
<b>Petersburg, WV 26847</b>	:	<b>EPCRA, 42 U.S.C. § 11045(c)</b>
	:	
<b>Facility.</b>	:	

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”), and Adell Polymers, Inc. (“Respondent”), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA Section 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22.
  
2. Section 11045(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of the U.S. Environmental Protection Agency (“Administrator”) to assess penalties against any person (other than a governmental entity) who violates any requirement of Section 11022 or 11023 of EPCRA, 42 U.S.C. § 11022 or 11023. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order” or “CAFO”) resolve Complainant’s civil penalty claims against Respondent under EPCRA (or the “Act”) for the violations alleged herein.
  
3. The allegations herein pertain to the Respondent’s alleged violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, which impose annual toxic inventory reporting requirements on owners or operators of facilities that manufacture, process or otherwise use toxic chemicals listed under EPCRA Section 313(c), 42 U.S.C. § 11023(c), in quantities exceeding a regulatory threshold established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f).
  
4. In accordance with 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant hereby simultaneously commences and resolves this administrative

proceeding through this Consent Agreement and Final Order.

## **II. JURISDICTION**

5. The U.S. Environmental Protection Agency (“EPA” or the “Agency”) has jurisdiction over the above-captioned matter as described in Paragraph 1, above, and pursuant to 40 C.F.R. §§ 22.1(a)(1) and 22.4 of the *Consolidated Rules of Practice*.

## **III. GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
7. Except as provided in Paragraph 6, immediately above, Respondent neither admits nor denies the specific factual allegations set forth in this CAFO.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
9. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
10. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
11. Each party shall bear its own costs and attorney’s fees in connection with this proceeding.

## **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. EPCRA Section 329(4), 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define “facility” to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
14. EPCRA Section 313(a), 42 U.S.C. § 11023(a), requires subject owners or operators of any facility that, in any calendar year, manufactures, processes or otherwise uses a toxic chemical listed under EPCRA Section 313(c), 42 U.S.C. § 11023(c), in quantities exceeding a regulatory threshold established under EPCRA Section 313(f), 42 U.S.C. § 11023(f), to complete and submit a toxic inventory report (*i.e.*, “Form R” or “Form A”) for each such listed toxic chemical. Pursuant to EPCRA Section 313(a), 42 U.S.C. § 11023(a), each required Form R or Form A must include the information required under Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), and must be submitted to EPA and to the designated State agency by July 1 of the

year following the year for which such toxic inventory report is required.

15. EPCRA Section 313(b), 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide, in relevant and applicable part, that a facility which meets the following criteria for a calendar year is a “covered facility” for that calendar year and must submit a toxic inventory report under 40 C.F.R. § 372.30: [a] the facility has 10 or more full-time employees; [b] the facility is in a Standard Industrial Classification (“SIC”) (as in effect on January 1, 1987) major group or industrial code listed in 40 C.F.R. § 372.23(a), for which the corresponding North American Industrial Classification System (“NAICS”) (as in effect on January 1, 2007, for reporting year 2008 and thereafter) subsector and industry codes are listed in 40 C.F.R. § 372.23(b) and (c); and, [c] the facility manufactured (including imported), processed, or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical set forth in 40 C.F.R. § 372.25, 372.27, or 375.28.
16. 40 C.F.R. § 372.30(a) provides, in relevant part, that for each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in 40 C.F.R. § 372.25, § 372.27, or § 372.28 at its covered facility for a calendar year, the owner or operator must submit to EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350–1) in accordance with the instructions referred to in 40 C.F.R. Part 372, Subpart E.
17. 40 C.F.R. § 372.30(d) provides, in relevant part, that: “[e]ach report under this section for activities involving a toxic chemical that occurred during a calendar year at a covered facility must be submitted on or before July 1 of the next year.”
18. EPCRA Section 329(7), 42 U.S.C. § 11049(7), defines “person” to include any corporation.
19. Respondent is a corporation formed under Maryland law in 1972 and registered in West Virginia that same year, and is a “person,” within the meaning and definition of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
20. Respondent owns and operates and, at the time of the violations alleged herein, owned and operated a thermoplastic compound manufacturing plant located at 115 Potomac Avenue, Petersburg, West Virginia (the “Facility”), which is a “facility,” as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.
21. On September 2, 2020 and again on September 15, 2020, EPA electronically sent Respondent letters requesting information pursuant to Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations implementing EPCRA Section 313 which are codified at 40 C.F.R. Part 372, Subpart B (“Reporting Requirements”). In those letters, the Agency requested that Respondent provide certain information relevant to EPA’s investigation of the Facility’s compliance status with the Toxic Release Inventory (“TRI”) reporting requirements of Section 313 of EPCRA, 42 U.S.C. §§ 11023, and the regulations codified at 40 C.F.R. Part 372.
22. Respondent replied to EPA’s letters on September 30, 2020 and on October 5, 2020 (hereinafter, “Responses”) and therein identified and described Facility operations during

calendar years 2017, 2018 and 2019 as including extrusion, blending, quenching, pelletizing, screening, quality assurance, shipping and receiving, equipment maintenance/calibration, and administration activities, which established the Facility as having: (a) a primary Standard Industrial Classification (“SIC”) code of 2821 and an NAICS code of 325211, respectively, both corresponding to plastic materials and resins manufacturing; and (b) a primary SIC major group code (*i.e.*, Major Group 20 – 39) listed in 40 C.F.R. § 372.23(a) for which the corresponding NAICS industry code (*i.e.*, Industry Code 325 – Chemical Manufacturing) is listed in 40 C.F.R. § 372.23(b).

23. In its Responses, Respondent also stated that the Facility employed 44 employees in 2017, 45 employees 2018, and 49 employees in 2019.
24. In its Responses, Respondent identified two (2) products, TFN Masterbatch and Biobarrier Premix, that it manufactured at the Facility during calendar years 2017, 2018 and 2019 and whose formulations included the processed TRI chemical *trifluralin*. Respondent stated that it produced 8,110 pounds of TFN Masterbatch at the Facility in 2017 and none in 2018 or 2019. Respondent also stated that it produced 181,351 pounds of Biobarrier Premix at the Facility in 2017, 163,062 pounds in 2018 and 101,090 pounds in 2019.
25. In its Responses, Respondent further identified two (2) additional products, BFN Masterbatch and PDM Masterbatch, that it manufactured at the Facility during calendar years 2017, 2018 and 2019 and whose formulations included the processed TRI chemical *pendimethalin*. Respondent stated that it produced 4,975 pounds of BFN Masterbatch at the Facility in 2017, none in 2018 and 500 pounds in 2019. Respondent also stated that it produced 6,000 pounds of PDM Masterbatch at the Facility in 2017, none in 2018 and 19,600 pounds in 2019.
26. In its Responses, Respondent further identified the percentage of the TRI chemical *trifluralin* contained in its manufactured product TFN Masterbatch as 25% and that in the manufactured product Biobarrier Premix as 28.47%. Respondent also therein identified the percentage of the TRI chemical *pendimethalin* contained in each of its manufactured products BFN Masterbatch and PDM Masterbatch as 25%.
27. Based upon the quantities of TFN Masterbatch, Biobarrier Premix, BFN Masterbatch and PDM Masterbatch manufactured and produced at the Facility in 2017, 2018 and 2019 and the percent concentrations of the TRI chemicals *trifluralin* and *pendimethalin* that Respondent processed (implemented into these products) in order to manufacture them in each of those calendar years, EPA has calculated that the Respondent processed the following quantities (in pounds) of the TRI chemicals *trifluralin* and *pendimethalin* at the Facility in each of those calendar years as follows:

Report- ing Year	TRI Chemical	Activity - Manufactured, Processed, or Otherwise Used	Total Pounds of TRI Chemical Processed During Calendar Year
2017	Trifluralin	Processed	53,655
2017	Pendimethalin	Processed	2,744

2018	Trifluralin	Processed	46,424
2018	Pendimethalin	Processed	0
2019	Trifluralin	Processed	28,780
2019	Pendimethalin	Processed	5,025

28. Pursuant to 40 C.F.R. § 372.28, *trifluralin* and *pendimethalin* are each TRI chemicals of special concern that have a “lower” manufacturing (including importing), processing, and use TRI reporting threshold than many of the chemicals listed in 40 C.F.R. § 372.65.
29. For purposes of toxic chemical release reporting, the Respondent’s Facility was a “covered facility,” within the meaning of 40 C.F.R. §§ 372.22 and 372.30(c), in each of calendar years 2017, 2018 and 2019.

## V. VIOLATIONS ALLEGED

### COUNT I

#### *Toxic Chemical Reporting Failure for TRI Chemical Trifluralin Processed at Facility During Calendar Year 2017*

30. The allegations of the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
31. *Trifluralin* is a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372. 3, and is listed in 40 C.F.R. § 372.65.
32. As provided in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and as set forth in 40 C.F.R. § 372.28, the reporting threshold amount for manufacturing (including importing), processing, and otherwise using *trifluralin* is 100 pounds.
33. Respondent processed more than 100 pounds of *trifluralin* at the Facility during calendar year 2017.
34. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and to the State of West Virginia by July 1, 2018 a completed Form R for the *trifluralin* processed at the Facility during calendar year 2017.
35. Respondent did not submit a complete Form R for the toxic chemical *trifluralin* that Respondent processed at the Facility during calendar year 2017 to the Administrator of EPA or to the State of West Virginia until on or about May 5, 2021.
36. Respondent’s failure to submit, on or before July 1, 2018, a complete Form R to EPA and to the State of West Virginia for the toxic chemical *trifluralin* that Respondent processed at the Facility during calendar year 2017 constitutes a violation of EPCRA Section 313, 42 U.S.C.

§ 11023, and 40 C.F.R. § 372.30.

**COUNT II**

*Toxic Chemical Reporting Failure  
for TRI Chemical Pendimethalin  
Processed at Facility During Calendar Year 2017*

37. The allegations of the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
38. *Pendimethalin* is a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372. 3, and is listed in 40 C.F.R. § 372.65.
39. As provided in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and as set forth in 40 C.F.R. § 372.28, the reporting threshold amount for manufacturing (including importing), processing, and otherwise using *pendimethalin* is 100 pounds.
40. Respondent processed more than 100 pounds of *pendimethalin* at the Facility during calendar year 2017.
41. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and to the State of West Virginia by July 1, 2018 a completed Form R for the *pendimethalin* processed at the Facility during calendar year 2017.
42. Respondent did not submit a complete Form R for the toxic chemical *pendimethalin* that Respondent processed at the Facility during calendar year 2017 to the Administrator of EPA or to the State of West Virginia until on or about May 5, 2021.
43. Respondent’s failure to submit, on or before July 1, 2018, a complete Form R to EPA and to the State of West Virginia for the toxic chemical *pendimethalin* that Respondent processed at the Facility during calendar year 2017 constitutes a violation of EPCRA Section 313, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**COUNT III**

*Toxic Chemical Reporting Failure  
for TRI Chemical Trifluralin  
Processed at Facility During Calendar Year 2018*

44. The allegations of the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
45. Respondent processed more than 100 pounds of *trifluralin* at the Facility during calendar year 2018.
46. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was

required to submit to the Administrator of EPA and to the State of West Virginia by July 1, 2019 a completed Form R for the *trifluralin* processed at the Facility during calendar year 2018.

47. Respondent did not submit a complete Form R for the toxic chemical *trifluralin* that Respondent processed at the Facility during calendar year 2018 to the Administrator of EPA or to the State of West Virginia until on or about May 5, 2021.
48. Respondent's failure to submit, on or before July 1, 2019, a complete Form R to EPA and to the State of West Virginia for the toxic chemical *trifluralin* that Respondent processed at the Facility during calendar year 2018 constitutes a violation of EPCRA Section 313, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **COUNT IV**

*Toxic Chemical Reporting Failure  
for TRI Chemical Trifluralin  
Processed at Facility During Calendar Year 2019*

49. The allegations of the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
50. Respondent processed more than 100 pounds of *trifluralin* at the Facility during calendar year 2019.
51. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and to the State of West Virginia by July 1, 2020 a completed Form R for the *trifluralin* processed at the Facility during calendar year 2019.
52. Respondent did not submit a complete Form R for the toxic chemical *trifluralin* that Respondent processed at the Facility during calendar year 2019 to the Administrator of EPA or to the State of West Virginia until on or about May 5, 2021.
53. Respondent's failure to submit, on or before July 1, 2020, a complete Form R to EPA and to the State of West Virginia for the toxic chemical *trifluralin* that Respondent processed at the Facility during calendar year 2019 constitutes a violation of EPCRA Section 313, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **COUNT V**

*Toxic Chemical Reporting Failure  
for TRI Chemical Pendimethalin  
Processed at Facility During Calendar Year 2019*

54. The allegations of the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.

55. Respondent processed more than 100 pounds of *pendimethalin* at the Facility during calendar year 2019.
56. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and to the State of West Virginia by July 1, 2020 a completed Form R for the *pendimethalin* processed at the Facility during calendar year 2019.
57. Respondent did not submit a complete Form R for the toxic chemical *pendimethalin* that Respondent processed at the Facility during calendar year 2019 to the Administrator of EPA or to the State of West Virginia until on or about May 5, 2021.
58. Respondent's failure to submit, on or before July 1, 2020, a complete Form R to EPA and to the State of West Virginia for the toxic chemical *pendimethalin* that Respondent processed at the Facility during calendar year 2019 constitutes a violation of EPCRA Section 313, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

## **VI. CIVIL PENALTY**

59. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
60. The civil penalty is based upon EPA's consideration of a number of factors, including the statutory factors set forth in Section 325(b)(1)(C) of EPCRA, 42 USC § 11045(b)(1)(C), *i.e.*, the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990), February 24, 2017 (Amended)*, which reflects the statutory penalty criteria and factors set forth at Section 325(b)(1)(C) of EPCRA, 42 USC § 11045(b)(1)(C), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation. EPA and Respondent further acknowledge and represent that the agreed civil penalty is also based, in part, upon EPA's consideration of the Respondent's ability to pay a civil penalty and that EPA has reviewed and considered financial information that Respondent has provided to EPA, and has considered the Respondent's specific circumstances, pursuant to applicable provisions of EPA's June 29, 2015 *Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action* and associated implementing memoranda, in determining an appropriate civil penalty herein.



61. EPA reviewed financial information submitted by the Respondent, including federal Form 1040 income tax returns for the years 2016 through 2020, consolidated financial statements for the years 2015 through 2020, Respondent's completed "Financial Statement for Business" form, trade accounts receivable detail and 2020 fixed assets detail, Loan Application and approval information for the Small Business Association-backed Paycheck Protection Program ("PPP") loan received by Respondent on May 26, 2020, the Loan Forgiveness Application and the forgiveness approval documentation for the PPP loan forgiveness granted Respondent on March 31, 2021, the Loan Application and approval information for the subsequent PPP loan received by Respondent in March, 2021, current and up-to-date information on Respondent's existing Revolving Line of Credit, including current balance, current maturity date (previously identified as November 5, 2021), and statement of expected extension, Respondent's current Agreement for Equipment Credit Facility scheduled to mature on November 5, 2021 along with current balance information and statement of expected extension, and a letter from Respondent's certified public accounting firm clarifying Note 12 from Respondent's 2019 and 2020 financial statements. Upon review of such information, EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 59, above, in settlement of the above-captioned action.
62. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, Docket No. EPCRA-03-2022-0054;
  - b. All checks shall be made payable to the "United States Treasury";
  - c. All payments made by check and sent by regular mail shall be addressed and mailed to:  

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000
  - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:  

<https://www.epa.gov/financial/makepayment>
  - e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

A.J. D'Angelo, Esq.  
Sr. Assistant Regional Counsel  
U.S. EPA, Region III (3RC30)  
e-mail: [dangelo.aj@epa.gov](mailto:dangelo.aj@epa.gov)

and

U.S. EPA Region III Regional Hearing Clerk  
e-mail: [R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

63. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
64. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
65. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within 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).
66. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives – Case 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 payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
67. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 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. 31 C.F.R. § 901.9(d).

68. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
69. Complainant and Respondent consent to service of the fully executed and filed Consent Agreement and Final Order upon each of them by e-mail at the following valid e-mail addresses: [dangelo.aj@epa.gov](mailto:dangelo.aj@epa.gov) (Counsel for Complainant); and [Sdellheim@adellplas.com](mailto:Sdellheim@adellplas.com) (Representative of Respondent).

#### **VII. GENERAL SETTLEMENT CONDITIONS**

70. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order do not contain any confidential business information or personally identifiable information from Respondent.
71. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

#### **VIII. CERTIFICATION OF COMPLIANCE**

72. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

#### **IX. OTHER APPLICABLE LAWS**

73. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order do not constitute a waiver, suspension or modification of the requirements of EPCRA, or any regulations promulgated thereunder.

**X. RESERVATION OF RIGHTS**

74. This Consent Agreement and Final Order resolve only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after their effective date.

**XI. EXECUTION /PARTIES BOUND**

75. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

**XII. EFFECTIVE DATE**


76. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the *Consolidated Rules of Practice*.

**XIII. ENTIRE AGREEMENT**

77. This Consent Agreement and Final Order constitute the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent:

Date: 01-17-2022 By:

  
Mr. Arthur Dellheim, President  
Adell Polymers, Inc.

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
Karen Melvin, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

By: \_\_\_\_\_  
A.J. D'Angelo, Esq.  
Sr. Assistant Regional Counsel  
Air & Toxics Branch (3RC30)  
U.S. EPA – Region III

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

<b>In the Matter of:</b>	:	
	:	
<b>Adell Polymers, Inc.,</b>	:	<b>Docket No. EPCRA-03-2022-0054</b>
	:	
<b>Respondent.</b>	:	
	:	
<b>Adell Polymers, Inc.</b>	:	<b>Proceeding Under Section 325(c) of</b>
<b>115 Potomac Avenue</b>	:	<b>EPCRA, 42 U.S.C. § 11045(c)</b>
<b>Petersburg, WV 26847</b>	:	
	:	
<b>Facility.</b>	:	

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“EPA” or the “Agency”), Region III, and Respondent, Adell Polymers, Inc. have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors set forth in Section 325(b)(1)(C) of EPCRA, 42 USC § 11045(b)(1)(C), EPA’s *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990), February 24, 2017 (Amended)*, the

appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and applicable implementing guidance.

**NOW, THEREFORE**, pursuant to Section 325(b)(1)(C) of EPCRA, 42 USC § 11045(b)(1)(C), and Section 22.18(b)(3) of the *Consolidated Rules of Practice*, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)** in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

---

Joseph J. Lisa  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III