

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

In the Matter of:	:
	:
Adell Polymers, Inc. 115 Potomac Avenue Petersburg, WV 26847,	: U.S. EPA Docket No. CAA-03-2022-0121DA
	:
	: Proceeding under Section 113(a)(1) and (4) of
	: the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (4)
Respondent.	:

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

A. PRELIMINARY STATEMENT

1. This Administrative Compliance Order on Consent (“ACOC”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA” or the “Agency”) by Section 113(a) of the Clean Air Act (the “Act” or “CAA”), 42 U.S.C. § 7413(a), with agreement of the Parties.
2. The Administrator of the EPA has delegated this authority under the Act to the Regional Administrators. The Regional Administrator of EPA Region III has redelegated this authority to the Director of the EPA Region III Enforcement and Compliance Assurance Division by EPA Delegation 7-6-A.
3. Adell Polymers, Inc. (“Respondent”) is a corporation formed under Maryland law in 1972 that is registered and doing business in the State of West Virginia (“West Virginia” or the “State”). Respondent is a “person,” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
4. Respondent signs this ACOC for purposes of reaching an amicable settlement with the EPA.
5. In satisfaction of the notice requirements of Section 113(a) of the CAA, 42 U.S.C. § 7413(a), on May 23, 2022, the EPA issued to Respondent a Notice of Violation, Finding of Violation and Opportunity to Confer dated May 18, 2022 (“NOVOC”), and provided a copy of the NOVOC to the West Virginia Department of Environmental Protection (“WVDEP”), thereby: (a) providing requisite notice to the Respondent and to the State of EPA’s findings that that the Respondent committed the violations alleged and described in Section C of this ACOC; and, (b) providing the Respondent with an opportunity to confer with EPA representatives.

B. STATUTORY AND REGULATORY BACKGROUND

6. The EPA is authorized by Section 113 of the Act, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. This includes requirements promulgated by the EPA and those contained in federally enforceable State Implementation Plans (“SIPs”) or permits.
7. The term “applicable implementation plan” is defined in Section 302(q) of the Act, 42 U.S.C. § 7602(q).
8. The applicable implementation plan for West Virginia, the West Virginia State Implementation Plan (“WV SIP”), is codified at 40 C.F.R. Part 52, Subpart XX.
9. The WV SIP regulations governing the control of air pollution from construction and modification of minor stationary sources are codified at 45 WV C.S.R. Section 13 (hereinafter, 45 WV C.S.R. § 13) and the WV SIP regulations governing the control of air pollution from construction and modification of major stationary sources are codified at W. Va. 45 WV C.S.R. Section 14 (hereinafter, 45 WV C.S.R. § 14). These regulations were part of the WV SIP approved by the EPA in 1972.
10. The West Virginia SIP has subsequently been revised on several occasions. Revisions to 45 WV C.S.R. § 13 became SIP effective on August 20, 2014. 79 Fed. Reg. 42211 (July 21, 2014). The State subsequently submitted 45 WV C.S.R. 13 administrative changes and some revisions to EPA which became SIP effective on November 5, 2018. 83 Fed. Reg. 50266 (October 5, 2018). Revisions to 45 WV C.S.R. § 14 were also submitted to EPA on June 6, 2012 and on July 1, 2014 and were conditionally approved by EPA, and became SIP effective, on July 27, 2015. 80 Fed. Reg. 36483 (June 25, 2015). Additional 45 WV C.S.R.. 14 SIP revisions were submitted to EPA on June 6, 2017 and became effective on October 29, 2018. 83 Fed. Reg. 48716 (September 27, 2018).
11. Pursuant to 45 WV C.S.R. § 13-2 and 45 WV C.S.R. § 30-2, respectively, the term:
 - a. “Person” means “all persons, natural or artificial, including ... any public or private corporation organized or existing under the laws of [West Virginia] or any other state or country, and any firm, partnership, association or business entity of whatever nature.” 45 WV C.S.R. § 13-2.18. 45 WV C.S.R. § 30-2.30.
 - b. "Stationary source" means “any building, structure, facility, installation, or emission unit or combination thereof,” which exceeds specified emission thresholds, including a source which discharges, or has the potential to discharge, more than six (6) pounds per hour and ten (10) tpy [tons per year] or more than 144 pounds per calendar day, of any regulated air pollutant; or which discharges or has the potential to discharge more than two (2) pounds per hour or five (5) tons per year of hazardous air pollutants considered on an aggregated basis. 45 WV C.S.R. § 13-2.24. 45 WV C.S.R. § 30-2.41.

- c. “Hazardous air pollutant” (HAP) is defined as any substance listed pursuant to § 112(b) of the Act, 42 U.S.C. § 7412(b), and as any substance listed on 45 WV C.S.R. § 30, Table 45-30A. 45 WV C.S.R. § 13-2.14. 45 WV C.S.R. § 30-2.24.
 - d. "Construction" means any physical change or change in the method of operation (including onsite fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in an increase in the potential to emit or an increase in actual emissions of regulated air pollutants unless otherwise specifically provided within this rule. 45 WV C.S.R. § 13-2.5. 45 WV C.S.R. § 30-2.11.
12. Subchapter V (herein referred to as “Title V”) of the Act, 42 U.S.C. §§ 7661 -7661f, mandates a federally enforceable operating permit program for certain sources, which States may implement.
 13. Title V of the Act, at 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator a permit program meeting the requirements of CAA Title V.
 14. Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the EPA Administrator promulgated regulations providing for the establishment of Title V permitting programs at 40 C.F.R. Part 70.
 15. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.
 16. The West Virginia regulations establishing and governing of a comprehensive air quality permitting system consistent with the requirements of Title V of the Act received interim approval by EPA on November 15, 1995 (60 Fed. Reg. 57352) and became effective on December 15, 1995. West Virginia’s Title V operating permit program was granted final approval, as amended, by EPA on October 3, 2001 (66 Fed. Reg. 50325) and the program became effective on November 19, 2001. 40 C.F.R. § 70 Appendix A. West Virginia subsequently amended its Title V operating permit program in response to amendments made to the Federal Title V regulations that went into effect on November 27, 2001, in order to correct the definitions of “major source” and “volatile organic compound.” EPA approved these program revisions, by direct final action, on February 26, 2007 (72 Fed. Reg. 8280) and they became effective on April 27, 2007.
 17. The West Virginia (or “State”) regulations governing the State’s EPA-approved Title V permitting program are located at 45 WV C.S.R. Section 30 (herein cited as “45 C.S.R. § 30”).
 18. In West Virginia, the West Virginia Department of Environmental Protection (“WVDEP”), Division of Air Quality, is the “Permitting Authority,” as that term is

defined in CAA Section 501(4), 42 U.S.C. § 7661(4), authorized by the EPA Administrator to carry out a CAA Title V permit program in the State.

19. Pursuant to 45 WV C.S.R. § 13-5.1., no person shall cause, suffer, allow or permit the construction, modification, relocation and operation of any stationary source to be commenced without notifying the Secretary [of the WVDEP] of such intent and obtaining a permit to construct, modify, relocate and operate the stationary source as required in this rule or any other applicable rule promulgated by the Secretary.
20. Pursuant to 45 WV C.S.R. §§ 30-2.30, -2.41, -2.24 and -2.11, the definitions and meanings of the terms “person,” “stationary source,” “hazardous air pollutant” and “construction,” respectively, are the same as those set forth in 45 WV C.S.R. § 13-2, as enumerated in Paragraphs 11.a - .d., above.
21. Pursuant to 45 WV C.S.R. § 30-2.41, a “source” or “stationary source” means “any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under §112(b) of the Clean Air Act.”
22. Pursuant to 45 WV C.S.R. § 30-2.26.a.1 and .b, a “major source” under Section 112 of the Clean Air Act (for pollutants other than radionuclides) includes “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, in the aggregate, ten (10) tpy or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act, or twenty-five (25) tpy or more of any combination of such hazardous air pollutants”; and “a major stationary source of air pollutants, as defined in Section 302 of the Clean Air Act, that directly emits or has the potential to emit, one hundred (100) tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule of the Secretary).”
23. Pursuant to 45 WV C.S.R. § 30-2.31, “potential to emit” (or “PTE”) means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable.
24. Pursuant to 45 WV C.S.R. § 30-4.1.a.1.F., a permit application for all stationary sources subject to the Title V operating permit rule (with exceptions not herein applicable and listed at 45 WV C.S.R. § 30-4.1.a.1.A. – E.) is required to be submitted to the Secretary of the WVDEP within twelve (12) months of the effective date of the Title V operating permit program.
25. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires that each Title V operating permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements,

including those contained in a state implementation plan (or “SIP”). 42 U.S.C. § 7661c(a); see also, 45 WV C.S.R. § 30-5.

26. Pursuant to 45 C.S.R. §§ 30-3.1. and 30-4.1.a.2., a major source which becomes subject to 45 C.S.R. Chapter 30 (Title V operating permit program) after the effective date of the operating permit program shall file a complete application to obtain a Title V operating permit or permit revision within twelve (12) months after commencing operation, and shall not operate without, or in violation of the terms of, the applicable Title V operating permit.
27. Pursuant to the provisions of 45 WV C.S.R. § 13-5.5., a facility whose potential to emit (PTE) a regulated pollutant exceeds the Title V applicability threshold may, in lieu of applying for and obtaining a Title V operating permit, impose physical or operational limitations in order to reduce the emissions of that pollutant to below the Title V applicability threshold [in accordance with 40 C.F.R. § 52.21(b)(4)] under a State Synthetic Minor Operating Permit in which the State, pursuant to the provisions of 45 WV C.S.R. § 13-5.10., imposes or incorporates, consistent with all applicable rules, enforcement conditions which assure that all emission limitations contained within the permit are quantifiable, permanent and practicably enforceable.

C. FINDINGS

28. Respondent is the owner and operator of the Facility, located at 115 Potomac Avenue, Petersburg, West Virginia, which operates as a thermoplastic compound manufacturing plant (primary NAICS Code 325991 – custom mixing and blending plastics resins made elsewhere or reformulating plastics resins from recycled plastics products; secondary NAICS code 325221 – manufacturing resins, plastics materials, and non-vulcanizable thermoplastic elastomers and mixing and blending resins on a custom basis and/or manufacturing non-customized synthetic resins).
29. Respondent began operations at the Facility in 1973 and, since that time, has owned and operated the Facility and has therein engaged in the production of compounded products (based on commodity and engineering grade resins), including adhesives and rubber products, to produce raw materials for the medical, automotive, film, fiber, and electronics industries.
30. The Respondent’s Facility is located in Grant County, West Virginia, which is currently an attainment area for the 8-hour ozone National Ambient Air Quality Standards (“NAAQS”) and the ozone NAAQS.
31. On February 25, 2020, duly authorized representatives of the EPA conducted a compliance evaluation inspection at the Facility pursuant to the authority of Section 114 of the Act, 42 U.S.C. § 7414 (the “Inspection”).

32. The Inspection was conducted, among other reasons, to verify Respondent's compliance with CAA permitting requirements and applicable State and Federal regulations at the Facility.
33. During the Inspection, EPA representatives observed that the Facility is comprised of four (4) extrusion lines: three (3) primary extrusion lines (Lines #2, #6 and #7) and a backup extrusion line (Line #3).
34. During the Inspection, Respondent's Facility representative advised the EPA representatives that Extrusion Line #3 at the Facility was installed in July 2019 as a replacement for an extrusion line that was previously removed and that both the Facility's PTE and actual HAP emissions had remained at static levels since 1973.
35. During the Inspection, a representative of the Respondent told the EPA representatives that WVDEP had exempted the Facility from 45 WV C.S.R. § 13 requirement to obtain State air permit because the Facility was a minor source of air pollutants that had begun operation in 1973, had not installed any new equipment since initial operations began and because the Facility's PTE before controls was below 2 pounds per hour ("lbs/hr.") and 5 tpy of any hazardous air pollutant (HAP).
36. Also during the Inspection, a representative of the Respondent told the EPA representatives that WVDEP had exempted the Facility from the 45 WV C.S.R. § 13 requirement to obtain State air permit because it was WVDEP's understanding that the Facility was a minor source of air pollutants that had begun operation in 1973, had not installed any new equipment since initial operations began and because the Facility's PTE before controls was below 2 pounds per hour ("lbs/hr.") and 5 tpy of any HAP.
37. On May 5, 2020, April 7, 2021 and July 19, 2021, respectively, and pursuant to its CAA Section 114(a), 42 U.S.C. §7414(a), information gathering authorities, EPA issued the Respondent formal requests for information regarding its potential to emit (PTE) and its actual annual emissions of: (i) Particulate Matter ("PM"), (ii) Volatile Organic Compounds ("VOCs"); and, (iii) Hazardous Air Pollutants (HAPs) from the Facility. In response to requests for assistance and clarification by the Respondent and consistent with its CAA Section 114(a) information gathering authorities, EPA thereafter sent the Respondent specific instructions and specific follow-up requests for additional information, via e-mail, between August, 2021 and April 19, 2022 (with these various requests for information collectively referred to herein as "RFI").
38. In numerous partial and incomplete RFI responses (hereinafter, "RFI Response(s)"), including RFI Responses dated May 27, 2020, May 20, 2021, September 14, 2021, December 28, 2021, March 8, 2022, Respondent provided EPA with information regarding its potential to emit (PTE) the HAPs Trifluralin and Antimony Compounds.
39. In its December 28, 2021 RFI Response, Respondent informed EPA that Trifluralin emissions from the Facility were attributed to the Facility's Line #2 production processes, that Respondent had calculated the highest annual actual Trifluralin emissions from the

Facility in the past 5 years to be 236 pounds (“lbs.”) in calendar year 2017, and that Respondent had calculated the Facility’s Trifluralin PTE to be 4.6 tpy.

40. In its March 8, 2022 RFI Response, Respondent informed EPA that Antimony Trioxide (*i.e.*, Antimony Compounds) emissions from the Facility were attributed to the Facility’s Lines #3, #6 and #7 production processes and that Respondent had calculated the highest annual actual Antimony Compounds emissions from the Facility in the past 5 years to be 2.265 tons in calendar year 2017.
41. In an April 11, 2022 RFI Response, Respondent contrastingly informed EPA that its July 2019 Line #3 extrusion line replacement project was not truly a “like-kind” replacement project in that Line #3’s “throughput potential was increased.”
42. In a follow-up April 19, 2022 RFI Response, Respondent further provided EPA with information sufficient to establish that the Facility’s current Antimony Compounds PTE (from Lines #3, #6 and #7 combined) is 762.96 tpy; that its July 2019 Line #3 replacement project actually doubled Line #3’s throughput capacity and resulted in a Line #3 Antimony Compounds PTE increase from 126.6 tpy to 325.2413 tpy; and, that Facility Antimony Compounds PTE has exceeded the one hundred (100) tpy “major source” threshold since on and before May 2017.
43. Based upon the April 11, 2022 and April 19, 2022 RFI Responses that Respondent provided to EPA, the Respondent’s July 2019 Line #3 extrusion line replacement project resulted in an increase in Facility Antimony Compounds PTE and constituted “construction” activities within the meaning and definition of 45 WV C.S.R. § 13-2.5.
44. Pursuant to Section 112(b) of the Act, 42 U.S.C. § 7412(b), and 45 WV C.S.R. § 30, Table 45-30A, “Hazardous Air Pollutants,” or HAPs, include “Trifluralin” and “Antimony Compounds.”
45. Based upon the HAP PTE information contained in the RFI Responses that Respondent submitted to EPA, the Facility’s current Antimony Compounds PTE is calculated to be 762.96 tpy, its current aggregate HAP PTE is calculated to be 767.56 tpy and that Facility Antimony Compounds and aggregate HAP PTE have exceeded the one hundred (100) tpy “major stationary source of air pollutants, as defined in § 302 of the Clean Air Act” threshold since at least May 2017.
46. Respondent never applied for, does not currently have, and has never had, a federally enforceable CAA Title V Operating Permit for the Facility (or a State Synthetic Minor Operating Permit that places physical or operational limitations on its capacity to emit HAPs from the Facility).
47. EPA finds that that since at least May 2017, Respondent’s Facility has had the potential to emit: (a) in the aggregate, ten (10) tpy or more of the HAP Antimony Compounds; (b) twenty-five (25) tpy or more of the HAP Antimony Compounds; and (c) one hundred (100) tpy or more of the HAP Antimony Compounds and of the aggregate HAPs

Trifluralin and Antimony Compounds, which subject the Facility to CAA Title V regulation.

48. As a result of the findings set forth in the three (3) preceding paragraphs, EPA also finds that since on or before May 2017, Respondent has been operating the Facility as a “major source” within the meaning and definition of Section 112 of the Act, 42 U.S.C. § 7412, Title V of the CAA and 45 WV C.S.R. § 30 without a federally enforceable CAA Title V Operating Permit for the Facility (or a State Synthetic Minor Operating Permit that places physical or operational limitations on its capacity to emit HAPs from the Facility).
49. EPA additionally finds that by and through Respondent’s failure to apply for, and obtain, a Title V Major Source Operating Permit for the Facility in accordance with Section 502 of the Act, 42 U.S.C. § 7661a(a), and pursuant to 45 WV C.S.R. § 30-4.1.a.2. (or to apply for and obtain a Synthetic Minor Operating Permit that places physical or operational limitations on its capacity to emit HAPs from the Facility, in accordance with 45 WV C.S.R. 13-5.5.), within twelve (12) months of the Facility’s commencement of operation as a “major source,” Respondent violated Sections 502(a) (of Title V) and 113(a) of the Act, 42 U.S.C. §§ 7661a(a) and 7413(a), and 45 WV C.S.R. § 30-3.

D. ORDER

CLEAN AIR ACT PERMIT APPLICATION REQUIREMENTS

50. Within ninety (90) calendar days of the effective date of this ACOC, Respondent shall submit to the WVDEP (for WVDEP review, comment and approval) and to EPA (for the Agency’s information), a complete CAA permit application for the Facility and its operations in which Respondent therein shall apply for, and request WVDEP issuance of either:
 - a. a CAA Title V Major Source Operating permit for the Facility pursuant to 45 WV C.S.R. § 30-4.; or
 - b. a CAA Synthetic Minor Permit that places appropriate physical and/or operational limitations on Respondent’s capacity to emit HAPs from the Facility, pursuant to 45 WV C.S.R. § 13-5. (with specific reference to WV C.S.R. § 13-5-5 and its applicable requirements and provisions).

If Respondent subsequently makes any Facility modification(s), equipment addition(s) and/or change(s) in the method(s) of operation at the Facility, Respondent shall evaluate potential air emissions resulting from such modification(s), addition(s) and/or change(s) and shall submit a timely and appropriate CAA permit application, revised CAA permit application or request for a CAA permit determination to WVDEP.

51. In its Facility CAA permit application to WVDEP, as required pursuant to the preceding paragraph, Respondent shall include (and copy upon EPA):

- a. those calculations, referenced above, in which Respondent represented to EPA that it had calculated the Facility's current Trifluralin PTE to be 4.6 tpy and its Antimony Compounds PTE to be 762.96 tpy;
- b. those calculations, referenced above, in which Respondent represented to EPA that it had calculated the Facility's actual annual emissions of the HAPs Trifluralin and Antimony Compounds in each of the past five (5) calendar years (2017 – 2021) and that the Facility's highest annual calendar year emissions of Trifluralin and Antimony Compounds occurred in 2017, when actual annual Facility Trifluralin emissions were 236 lbs and actual annual Facility Antimony Compound emissions were 2.265 tons; and
- c. any and all subsequent Trifluralin PTE and/or Antimony Compounds PTE calculations performed by the Respondent, if any, in order to more accurately estimate the Facility's Trifluralin and/or Antimony Compounds PTE or actual emissions, which shall be accompanied by all supporting sampling documentation and analytical testing results.

COMPLIANCE PROGRAM - EMISSIONS LIMITS MONITORING, COLLECTION & RECORDKEEPING REQUIREMENTS

52. Beginning upon the effective date of this ACOC and during each respective 3 full month quarterly period in which this ACOC remains in effect (*i.e.*, prior to ACOC termination pursuant to paragraph 72, below), Respondent is ordered to:

- a. comply with each of the following Facility emissions limits:
 - i. Respondent's aggregated HAP emissions to the air, Facility-wide, shall not exceed 6.225 tons during any quarterly period.
 - ii. Respondent's combined (Line #3, #6 and #7) Antimony Compounds emissions to the air from the Facility shall not exceed 4.75 tons during any quarterly period.
 - iii. Respondent's Trifluralin emissions to the air from (Line #2 of) the Facility shall not exceed 1.25 tons during any quarterly period.
- b. monitor, collect and record daily throughput, equipment breakdown and other data and information necessary to calculate Facility emissions and to document any exceedance of prescribed emission limits, as follows:
 - i. Respondent shall maintain a daily log at the Facility in which it shall therein record:
 - A. Respondent's daily Trifluralin throughput at Facility Extrusion Line #2;

- B. Respondent's daily Antimony Compounds throughput at each of Facility Extrusion Lines #3, #6 and #7;
- C. any time periods of Extrusion Line and other Facility equipment breakdowns (including the hours during which any such Extrusion Line and/or piece of equipment is non-operational each day because of breakdown);
- D. those time periods, if any, during which there was an exceedance of any of the emissions limits prescribed in Paragraph 52.a.i., ii. and/or iii.; and
- E. all additional information, if any, that Respondent must compile and maintain on either a daily, regular or intermittent basis in order for Respondent to be able to provide to EPA (pursuant to Paragraphs 53.a.i., ii., and iii., below):
 - 1. a true and accurate calculation of the Trifluralin emissions to the air from Extrusion Line #2 (and any other source) at the Facility during each quarterly period in which this ACOC is in effect;
 - 2. a true and accurate calculation of the Antimony Compounds emissions to the air from Extrusion Lines #3, #6 and #7 (and any other source) at the Facility during each quarterly period in which this ACOC is in effect; and
 - 3. a true and accurate calculation of the aggregate Facility-wide HAP emissions to the air from the Facility during each quarterly period in which this ACOC is in effect.

REPORTING REQUIREMENTS

- 53. Within twenty (20) calendar days immediately following the end of each quarterly period during which this ACOC remains in effect (*i.e.*, within 20 days immediately following the end of each 3 full month time period that this ACOC is in effect, beginning upon the effective date of this ACOC), Respondent shall submit to EPA a "Quarterly Report" in which Respondent shall include:
 - a. a true and accurate calculation of:
 - i. the Trifluralin emissions to the air from Extrusion Line #2 (and any other source) at the Facility during the quarterly period;

- ii. the Antimony Compounds emissions to the air from Extrusion Lines #3, #6 and #7 (and any other source) at the Facility during the quarterly period;
 - iii. the total aggregate HAP emissions to the air from the Facility during the quarterly period; and
- b. a true and correct list of any time periods of Extrusion Line and other Facility equipment breakdowns (including the hours during which any such Extrusion Line and/or piece of equipment is non-operational each day because of breakdown) during the quarterly period; and
 - c. A summary of the current status of each instance of non-compliance, if any, previously reported to the Agency in accordance with the notification provisions of Paragraph 54, immediately below.

54. If Respondent fails to comply with (*i.e.*, exceeds) any of the Facility emissions limitations set forth in described in paragraphs 53.a.i., ii., and/or iii., above, or otherwise fails to comply with any requirement herein, Respondent shall:

- a. notify the EPA in writing, within seven (7) calendar days of the date of non-compliance by submitting to the Agency a “Notice of Non-compliance” which shall include a narrative description of each emissions exceedance and/or other requirement with which Respondent failed to comply, the date(s) of each such emissions exceedance and/or other instance of non-compliance and a detailed narrative description of:
 - i. the cause of each emissions exceedance and/or other instance of non-compliance, if known to Respondent;
 - ii. the actions, if any, that Respondent has taken to correct each emissions exceedance and/or instance of non-compliance;
 - iii. the results of the actions, if any, taken by Respondent to correct each emissions exceedance and/or instance of non-compliance, including Respondent’s written representation as to whether each such emissions exceedance and/or instance of non-compliance has now been corrected or remains ongoing in nature; and
 - iv. those actions, if any, that Respondent plans and commits to take to prevent future emissions exceedances and/or similar instances of non-compliance, along with Respondent’s written representation as to when it commits to complete and/or implement any such actions.

- v. Respondent shall also include any such reported emissions exceedances and instances of non-compliance in the quarterly report that it is required to submit to the Agency pursuant to paragraph 53., above.
55. In the event that WVDEP has not issued a final CAA Title V permit or a final CAA Synthetic Minor permit for the Facility and its operations to Respondent within two hundred and ten (210) days of the effective date of this ACOC, Respondent shall submit a written notice to EPA advising the Agency that a final CAA permit has not yet been issued, informing the Agency of the status of the Respondent's permit application and explaining to the Agency the reason(s) why permit issuance has been delayed (if known to the Respondent), any efforts that have been made by the Respondent, if any, to address the cause(s) of any such delay and any information in Respondent's possession or control that might reasonably inform the Agency as to when a WVDEP-issued final CAA Title V permit or a final CAA Synthetic Minor permit for the Facility and its operations may be forthcoming to the Respondent. ("Notice of CAA Permit Non-Issuance").
56. Each Quarterly Report and any Notice of Non-compliance and Notice of CAA Permit Non-Issuance submitted to EPA by Respondent, in accordance with the requirements and provisions of Paragraphs 53. 54.a. and/or 55., above, and any Notice of Transfer made to EPA by the Respondent in accordance with the requirements and provisions of Paragraph 65, below, shall be accompanied by the following "Statement of Certification" that shall be signed by the president, secretary, treasurer, or vice-president in charge of a principal business function, or another executive with authority to perform similar policy or decision-making functions, of Respondent:

STATEMENT OF CERTIFICATION

I, [INSERT NAME *of the president, secretary, treasurer, or vice-president in charge of a principal business function, or another executive with authority to perform similar policy or decision-making functions of Adell Polymers, Inc.*], am submitting the enclosed Quarterly Report and the information contained therein to the United States Environmental Protection Agency pursuant to an Administrative Order on Consent (U.S. EPA Docket No. CAA-03-2022-0121DA) issued to Respondent Adell Polymers, Inc. pursuant to Section 113(a) of the Clean Air Act, 42 U.S.C. §§ 7661a(a) and 7413(a), and 45 WV C.S.R. § 30-4.1.a.2.

I certify that I am fully authorized by Adell Polymers, Inc. to provide the above information on its behalf to EPA.

I certify under penalty of law that I have personally examined and am familiar with the statements and information submitted in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, correct, accurate and complete. I am aware that there are significant penalties for submitting false statements and information, or omitting required

statements and information, including the possibility of fines and imprisonment for knowing violations.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

57. Respondent reserves the right to supplement any submission made to the Agency pursuant to paragraphs 53 through 55, above.
58. If Respondent would like to request a modification of the terms set forth in Section D (“ORDER”) of this ACOC, Respondent shall submit to the EPA a copy of such proposed modification(s), in writing, for its review, along with an explanation of the reason(s) for each proposed modification. Upon acceptance by the EPA, in writing, of any proposed modification(s), it/they will be incorporated, by EPA, into a written “Amended Order” that will become and effective part of this ACOC upon the signature of both parties.

E. OTHER TERMS AND CONDITIONS

59. Respondent admits the jurisdictional allegations contained in this ACOC.
60. Respondent neither admits nor denies the findings in Section C (“FINDINGS”) of this ACOC.
61. In the event a force majeure event impacts the ability of Respondent to comply with the terms in Section D (“ORDER”) of this ACOC, Respondent shall contact the EPA at the earliest sign of potential noncompliance. For purposes of this ACOC, “force majeure” is defined as any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent’s contractors, that delays or prevents the compliance of the terms in Section D (“ORDER”) of this ACOC despite Respondent’s best efforts to fulfill its obligations. Increased costs or expenses associated with compliance, or a change in Respondent’s economic circumstances, do not constitute force majeure. Respondent shall identify how a force majeure was the cause of any non-compliance, and the decisions and actions taken in response, including best efforts to comply with the terms in Section D (“ORDER”) of this ACOC. The EPA and Respondent shall work cooperatively to mutually agree to a reasonable modification to the terms of the ACOC. Respondent shall act responsibly under the circumstances in order to minimize the duration of any non-compliance with any terms in Section D (“ORDER”) of this ACOC that are caused by a force majeure.

F. GENERAL PROVISIONS

62. Any violation of this ACOC may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$109,024 per day per violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), or \$51,796 per day per violation, or both, as provided in Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), which reflects 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. Additionally, any violations of this Order may result in criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this ACOC in an administrative, civil, judicial, or criminal action.
63. Nothing in this ACOC shall relieve Respondent of the duty to comply with all applicable provisions of the Act or other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
64. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
65. The provisions of this ACOC shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this ACOC, as set out in paragraph 70, below, until the Termination Date as set out in paragraph 72, below, Respondent must give written notice and a copy of this ACOC to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation ("Notice of Transfer") to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this ACOC unless the EPA has provided written approval of the release of said obligations or liabilities.
66. Unless this ACOC states otherwise, whenever, under the terms of this ACOC, written notice or other document is required to be given to either party, it shall be directed to the individual(s) specified below and sent to him/them, via e-mail, at the e-mail address(es) specified below (unless those individuals or their successors give notice of a change of address to the other party in writing):

Mr. Paul Arnold
Environmental Engineer
U.S. EPA, Region III (3ED21)
(via e-mail at: Arnold.Paul@epa.gov)

and

Mr. Sam Dellheim
Business Development Manager
Adell Corporation
(via e-mail at: Sdellheim@adellplas.com)

67. All notices, documents, and submissions shall be considered effective upon receipt. Notices, documents, or submissions due to the EPA shall be sent via email to Arnold.Paul@epa.gov (or to any successor at the prescribed change of e-mail address) unless arrangements are otherwise made by contacting Mr. Arnold at (215) 814-2194 or Arnold.Paul@epa.gov (or any successor at the prescribed telephone number or e-mail address).
68. To the extent this ACOC requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.
69. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this ACOC to execute and bind legally the Parties to this document. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), Respondent's performance of the Paragraph 50 through 58 permit application, compliance program and reporting requirements set forth in Section D ("Order") of this ACOC constitute activities that Respondent is required to perform in order to come into compliance with the law.

G. EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

70. Pursuant to Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this ACOC, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this ACOC. Accordingly, this ACOC will take effect immediately upon signature by the latter of Respondent or the EPA.

H. JUDICIAL REVIEW

71. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this ACOC, including any right of judicial review under Section 307(b)(1) of the Act, 42 U.S.C. § 7607(b)(1).

I. TERMINATION

72. This ACOC shall terminate on the earlier of the following (the “Termination Date”):
- a. One year after the Effective Date of this ACOC;
 - b. The effective date of any determination by the EPA that Respondent must comply with new operational limitations;
 - c. Immediately upon receipt by Respondent of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred; or
 - d. WVDEP issuance of a final CAA Permit to Respondent for the Facility and its operations.
73. In the event that this ACOC terminates prior to WVDEP’s issuance of a final CAA Permit to Respondent for the Facility and its operations, then during the period between this ACOC’s Termination Date and the date of Respondent’s receipt of a final CAA Permit for the Facility and its operations from WVDEP then, pursuant to 45 WV C.S.R. § 13-5.6, Respondent shall operate the Facility in accordance with the provisions of its CAA Permit Application, the applicable rules promulgated by the Secretary of WVDEP, and W. Va. Code § 22-5-1, et seq.

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

In the Matter of:

**Adell Polymers, Inc.
115 Potomac Avenue
Petersburg, WV 26847,**

Respondent.

**Administrative
Compliance Order on Consent**

**U.S. EPA Docket No.
CAA-03-2022-0121DA**


**Proceeding under Section 113(a)(1) and (4) of
the Clean Air Act, 42 U.S.C. 7413(a)(1) and (4)**

For United States Environmental Protection Agency, Region III:

(Electronically Signed and Dated by)
Karen Melvin, Director
Office of Enforcement and Compliance Assurance
U.S. EPA, Region III (3ED00)

For Respondent Adell Polymers, Inc.

7/27/22
Date


Mr. Arthur Dellheim, President
Adell Polymers, Inc.

