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

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In the Matter of:	:	
	:	
DuPont Teijin Films U.S. Limited Partnership	:	
3600 Discovery Drive	:	
Chester, Virginia 23836	:	**DOCKET NO. CAA-03-2014-055**
	:	**Proceeding Under Clean Air Act,**
	:	**Section 113(a) and (d)**
Respondent	:	

CONSENT AGREEMENT

I. Preliminary Statement

This administrative Consent Agreement (the "Consent Agreement") is entered into by and between the Complainant, the Director of the Air Protection Division, United States Environmental Protection Agency, Region III ("EPA" or "Complainant"), and the Respondent, DuPont Teijin Films U.S. Limited Partnership (the "Respondent"), pursuant to Section 113(a) and (d) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(a) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22 (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice at 40 C.F.R. § 22.13 provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be commenced and concluded simultaneously by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

This Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") address alleged violations by Respondent of: 1) the National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins, 40 C.F.R. Part 63, subpart JJJ (hereafter "Subpart JJJ"); 2) National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations and Wastewater, 40 C.F.R. Part 63, Subpart G (hereafter "Subpart G"); 3) certain leak detection and repair ("LDAR") requirements of 40 C.F.R. Part 63, Subpart H (hereafter "Subpart H"); and 4) the National Emission Standards for Hazardous Air Pollutants for Organic Liquid Distribution (Non-Gasoline), 40 C.F.R. Part 63, Subpart EEEE (hereafter "OLD

MACT"). The alleged violations by Respondent are at the facility Respondent owns and operates which manufactures polyethylene terephthalate ("PET") chips at 100 Discovery Drive, Chester, Virginia (the "Facility").

II. General Provisions

1. Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.

2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this Consent Agreement and the accompanying Final Order.

3. Except as provided in paragraph 2 above, Respondent neither admits nor denies the specific findings of fact and the conclusions of law set forth in this Consent Agreement and the accompanying Final Order.

4. Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order, agrees to comply with the terms and conditions set forth therein, and consents to the payment of a civil penalty as set forth in this CAFO.

5. Respondent agrees to pay its own costs and attorney fees.

6. Respondent agrees that this Consent Agreement and the accompanying Final Order shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns.

III. Findings Of Fact And Conclusions Of Law

7. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:

8. Respondent is a limited partnership organized under the laws of the State of Delaware and doing business at 3600 Discovery Drive, Chester, Virginia.

9. Respondent is a "person" as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).

10. Respondent is the owner and operator of the Facility and has been at all times relevant to this Consent Agreement.

11. Section 112 of the Act, 42 U.S.C. § 7412, establishes a list of hazardous air pollutants ("HAPs") and directs EPA to define the categories of sources that are required to control emissions of HAPs. Section 112(d) of the Act, 42 U.S.C. § 7412(d), directs EPA to establish national emissions standards for hazardous air pollutants ("NESHAPs") for sources in each category. NESHAPs established under the Act must require the maximum degree of reduction in emission of the HAPs, more commonly referred to as maximum available control technology ("MACT").

12. In 1996, EPA promulgated NESHAPs for Polymers and Resins Group IV, Subpart JJJ, which establishes emissions limitations, operating limits, and work practice standards for organic HAP emitted from new and existing sources containing thermoplastic product processing units ("TPPUs"), the primary product of which is a thermoplastic product. Thermoplastic products include PET manufactured using various processes. 40 C.F.R. § 63.1312(b).

13. In relevant part, 40 C.F.R. § 63.1310(a) states that the requirements of Subpart JJJ apply to each existing affected source, which is defined as each group of one or more TPPUs and associated equipment that is manufacturing the same primary product and that is located at a plant site that is a major source of HAP emissions.

14. The regulations define a "TPPU" as a collection of equipment assembled and connected by hard-piping or ductwork, used to process raw materials and to manufacture a thermoplastic product as its primary product. 40 C.F.R. § 63.1312.

15. Existing affected sources were required to comply with Subpart JJJ no later than June 19, 2001, unless EPA granted an extension. 40 C.F.R. § 63.1311(c).

16. Owners and operators of existing affected sources are required to comply with the specific emissions control requirements referenced in 40 C.F.R. § 63.1313(a) and (b), and set forth in 40 C.F.R. §§ 63.1314 through 63.1330, for storage vessels, continuous process vents, batch process vents, heat exchange systems, process contact cooling towers, and wastewater associated with each TPPU. 40 C.F.R. § 63.1313(a).

17. Pursuant to 40 C.F.R. § 63.1330(b), the owner or operator of each affected source subject to Subpart JJJ must also comply with 40 C.F.R. §§ 63.132 through 63.149 (Subpart G), with respect to wastewater.

18. Subpart G requires that the owner or operator of an existing affected source comply with the control requirements specified in 40 C.F.R. § 63.138, for compounds listed in 40 C.F.R. Part 63, Subpart G, Table 9. Table 9 sets forth the list of organic HAPs subject to the Subpart G wastewater provisions. Specific performance standards for treating wastewater streams for Table 9 compounds are set forth in 40 C.F.R. § 63.138.

19. Instead of complying with the performance standards set forth in 40 C.F.R. § 63.138, the owner or operator of an existing affected source may elect to comply with Subpart G by transferring its wastewater stream to an off-site treatment operation. 40 C.F.R. § 63.132(g). However, the owner or operator may not transfer the wastewater stream unless the transferee has submitted to EPA a written certification that the transferee will manage and treat the wastewater stream in accordance with the requirements of Subpart G, 40 C.F.R. § 63.102(b), or Subpart D if alternative emission limitations have been granted to the transferor in accordance with those provisions. 40 C.F.R. § 63.132(g)(2).

20. For Subpart JJJ, in lieu of complying with specific emission control requirements set forth at 40 C.F.R. § 63.1313(a) and (b), an owner or operator of an existing affected source may have the option of controlling certain of its storage vessels, batch process vents, aggregate batch vent streams, continuous process vents, and wastewater streams and associated waste management units, through an emissions averaging compliance approach. 40 C.F.R. § 63.1313(c). The procedures for using such an emissions averaging plan ("EAP") are specified in 40 C.F.R. § 63.1332.

21. Under an emissions averaging compliance approach, an affected source may generate "debits" by undercontrolling the emissions from certain emission points, which it offsets or balances using "credits" that it generates by overcontrolling other emission points. 40 C.F.R. § 63.1332.

22. Debits are generated by the difference between the actual emissions from an emission point and the emissions that would occur if that emission point were controlled to the level required by Subpart JJJ standards. 40 C.F.R. § 63.1332(g).

23. Credits are generated by the difference between the actual emissions from an emission point that is controlled to a level more stringent than that required under Subpart JJJ, and the emissions if the emission point were controlled only to the level required by Subpart JJJ standards. 40 C.F.R. § 63.1332(h).

24. Certain emission points, including wastewater streams treated in biological treatment units, cannot be used to generate credits or debits to be used in emissions averaging. 40 C.F.R. § 63.1332(d)(4). Debits and credits may not include emissions during periods of startup, shutdown, or malfunction, or during periods of monitoring excursions. 40 C.F.R. §

63.1332(f).

25. The owner or operator of an affected source that chooses to utilize an emissions averaging compliance approach must develop and submit for approval by EPA an EAP in accordance with the requirements set forth at 40 C.F.R. § 63.1335(e)(4), unless an operating permit application has been submitted. 40 C.F.R. § 63.1332(b). An affected source's EAP was required to be submitted for approval by September 19, 2000. 40 C.F.R. § 63.1335(e)(4)(i).

26. The owner or operator of an affected source that is utilizing an emissions averaging compliance approach is required to prepare a supplement to its EAP if it uses any additional alternative controls or operating scenarios to achieve compliance. 40 C.F.R. § 63.1335(e)(4)(iii).

27. The owner or operator of an affected source utilizing an emissions averaging compliance approach is required to submit for approval by EPA a written update of the source's EAP, at least 120 days prior to the date when the affected source begins using a control technique other than that specified in its EAP, or operates a control device in a manner other than that specified in the EAP. 40 C.F.R. § 63.1335(e)(4)(iv).

28. The owner or operator of the affected source using emissions averaging must demonstrate that its credit-generating points will be capable of generating sufficient credits to offset the debits from its debit-generating emission points. 40 C.F.R. § 63.1332(e)(3)(ii). This initial demonstration in the EAP must be made under representative operating conditions. *Id.* Subsequent demonstrations must be made using actual operating data from the affected source. *Id.*

29. The owner or operator of the affected source using emissions averaging is required to calculate and record monthly debits and credits for all emission points included in its EAP. 40 C.F.R. § 63.1332(e)(1) and (2). The owner or operator must also demonstrate that debits generated for quarterly periods are not more than 1.30 times the credits generated for that same period, 40 C.F.R. § 63.1332(e)(4), and that the annual credits generated by the affected source are greater than or equal to the debits calculated from the same annual compliance period. 40 C.F.R. § 63.1332(e)(3).

30. Annual and quarterly credits and debits must be recorded and reported in Periodic Reports. 40 C.F.R. § 63.1332(e)(5). The owner or operator of the affected source is required to submit these Periodic Reports no later than 60 days after the end of each quarter. 40 C.F.R. § 63.1332(e)(6)(xi)(A).

31. Affected sources subject to Subpart JJJ are, by reference, subject to LDAR requirements set forth at Subpart H and EPA Reference Method 21, set forth at 40 C.F.R. Part 60, Appendix A, except as provided in 40 C.F.R. § 63.1331(b) and (c). 40 C.F.R. § 63.1331(a). The Subpart H

regime is modified slightly as set forth in 40 C.F.R. §§ 63.1331(a)(1)-(13) to comport with the other requirements of Subpart JJJ.

32. The LDAR requirements of Subpart H were promulgated under the authority of Section 112 of the CAA, 42 U.S.C. § 7412. Subpart H applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, control devices, and closed-vent systems that are intended to operate in organic HAP service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 C.F.R. Part 63 that references Subpart H. 40 C.F.R. § 63.160(a).

33. Subpart H requires that each piece of equipment in a process unit to which Subpart H applies be identified such that it can be readily distinguished from other equipment that is not subject to Subpart H. 40 C.F.R. § 63.162(c).

34. Subpart H requires each owner or operator of a source subject to Subpart H to comply with the monitoring procedures and requirements of Method 21, at 40 C.F.R. Part 60, Appendix A. 40 C.F.R. § 63.180(a).

35. If a leak is detected, action must be taken to repair the leak within the time specified in the provisions of Subpart H pertaining to the particular type of component. Failure to repair the leak within the specified time is a violation of Subpart H. 40 C.F.R. § 63.162(h).

36. If a leak is detected in certain pumps, valves, and connectors subject to Subpart H, a first attempt at repair of that leak must be made no later than five days after the leak is detected. 40 C.F.R. §§ 63.163(c)(2), 63.168(f)(2), and 63.174(d).

37. If repair of a leaking component within 15 days is technically infeasible without a process shutdown, the owner or operator of the affected source may delay the repair of the component; however, repair is required to occur by the end of the next process unit shutdown. 40 C.F.R. § 63.171(a).

38. Sampling connection systems subject to Subpart H are required to be equipped with a closed-purge, closed-loop, or closed-vent system, unless the owner or operator of the affected source has sought and received a determination that it may use an alternative to this control. 40 C.F.R. § 63.166(a).

39. In 2004, EPA promulgated the OLD MACT which establishes emission limitations, operating limits and work practice standards for organic HAPs emitted from organic liquids distribution ("OLD") operations at major sources of HAP emissions. The OLD MACT applies to new and existing OLD operations, including activities and equipment used to distribute organic liquids into, out of, and within a facility that is a major source of HAP. 40 C.F.R. §§ 63.2330,

63.2334, and 63.2338. Existing affected sources were required to comply with the OLD MACT by February 5, 2007. 40 C.F.R. § 63.2342(b)(1).

40. The OLD MACT requires, *inter alia*, that for each pump, valve, and sampling connection that operates in organic liquids service for at least 300 hours per year, the affected source must comply with the equipment leak requirements under 40 C.F.R. part 63, Subpart TT (control level 1), Subpart UU (control level 2), or Subpart H.

41. 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. These include requirements promulgated by EPA and those contained in federally enforceable SIPs or permits.

42. EPA conducted a compliance inspection at the Facility from April 14 – 18, 2008 to determine compliance with requirements of the Act. This inspection included LDAR comparative monitoring.

43. The Commonwealth of Virginia's Department of Environmental Quality ("VADEQ") has issued a Federal Operating Permit for the Facility (Permit # PRO-50418), effective January 1, 2005, through January 1, 2010 ("Title V Permit").

44. Pursuant to the terms of the Title V Permit (Section V, Para. 40), the Facility is required to be operated in compliance with all requirements of Subpart JJJ.

45. At the time of the April 2008 inspection, EPA further alleges Respondent had chosen to comply with Subpart JJJ requirements through an emissions averaging compliance approach pursuant to 40 C.F.R. § 63.1313(c).

46. The Facility produces PET resins and films in two major manufacturing areas: the polymer plant, which manufactures PET chips, and the film plant, which melts the chips, forms them into plastic sheets, and applies the film coating required by the customer.

47. Pursuant to Section 112(a) of the Act, 42 U.S.C. § 7412(a), a "major source" is a stationary source 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. The term HAP means any air pollutant listed pursuant to Section 112(b) of the Act, 42 U.S.C. § 7412(b).

48. The Facility is a stationary source which emits or has the potential to emit in the aggregate more than 25 tons a year of methanol and acetaldehyde, which are HAPs listed pursuant to Section 112(b) of the Act. The Facility is therefore a major source of HAPs because it is a stationary source which emits methanol and acetaldehyde at levels above major source thresholds.

49. EPA issued Respondent a Finding of Violation on July 7, 2009 and a Notice of Violation on December 6, 2010.

50. Respondent is subject to Subpart JJJ because it manufactures a thermoplastic product, PET, and has one or more TPPUs and associated equipment that is manufacturing the same primary product, located at a plant site that is a major source of HAP emissions.

51. From approximately January 2000 until approximately April 2012, Respondent sent "still wash," generated from the washing of the ethylene glycol batch stills, which are part of the affected TPPU, by tanker truck to the Hopewell Regional Wastewater Treatment Facility ("HRWTF") for biological treatment. This "still wash" is a Group 1 wastewater stream, as defined at 40 CFR § 63.1312. *See also* 40 C.F.R. 63.132(c) and (d).

52. From June 2002 until approximately April 2012, Respondent calculated its emissions average for its EAP for the Facility using debits generated by this Group 1 "still wash" wastewater that is transferred to the HRWTF for treatment.

53. From June 2002 until approximately April 2012, Respondent's inclusion in its emissions average of debits from the shipment of a Group 1 wastewater stream to the HRWTF was in violation of 40 C.F.R. § 63.1332(a)(1)(i), because the HRWTF is neither an affected source, nor part of Respondent's plant site.

54. Wastewater streams treated in biological treatment units cannot be used to generate credits or debits. 40 C.F.R. § 63.1332(d)(4) and (e)(2).

55. The HRWTF is an industrial publicly owned treatment works ("POTW"), which treats wastewater through biological treatment. From June 2002 until approximately April 2012, Respondent has transferred its Group 1 wastewater to the HRWTF for treatment and generated debits for this transferred Group 1 wastewater stream under its emissions averaging compliance approach.

56. Because an affected source may not calculate debits using wastewater streams treated in biological treatment units, Respondent's calculation of debits from its transferred Group 1 wastewater stream which is biologically treated at the HRWTF was in violation of 40 C.F.R. § 63.1332(d)(4) and (e)(2) from June 2002 until approximately April 2012.

57. The owner or operator of an affected source must also comply with the general recordkeeping and reporting requirements set forth at 40 C.F.R. § 63.1335(e), including the requirement to send all reports required under Subpart JJJ to the Administrator of EPA. 40 C.F.R. § 63.1335(e)(2). The required reports for Subpart JJJ include, *inter alia*, the EAP, updates to the EAP, periodic reports, and quarterly reports for emissions averaging.

58. Until April 2012, Respondent had failed to submit all reports identified in Table 9 of Subpart JJJ to EPA in violation of 40 C.F.R. § 63.1335(e)(2).

59. Subpart JJJ at 40 C.F.R. § 63.1323(a) requires owners and operators of batch process vents at affected sources to determine the group status of each batch process vent in accordance with the methods and procedures in 40 C.F.R. § 63.1323. 40 C.F.R. § 63.1323(b) provides that an owner or operator shall calculate organic HAP emissions for each batch process vent in accordance with methods in (b)(1) through (8) of 40 C.F.R. § 63.1323.

60. 40 C.F.R. § 63.1323(b)(6) allows for the use of "engineering assessment" to estimate emissions from certain batch emission episodes, but only under certain conditions as approved by EPA.

61. 40 C.F.R. § 63.1336 allows Subpart JJJ to be implemented and enforced by a delegated authority, such as the applicable state, but explicitly states that certain authorities cannot be delegated. The authorities that cannot be delegated are specified in paragraphs (c)(1) through (4) of this section, and includes the authority contained in 40 C.F.R. § 63.1323(b)(6) to use "engineering assessment" to estimate emissions from batch emission episodes.

62. While the Commonwealth of Virginia (through VADEQ) has been delegated many authorities for implementing Subpart JJJ, VADEQ was not delegated authority to approve the use of engineering assessment as described in Subpart JJJ in 40 C.F.R. § 63.1323(b)(6)(i)(C) for estimating emissions from batch vents.

63. Therefore, Respondent would have needed approval from EPA to use engineering assessment to estimate emissions from certain batch emission episodes at batch process vents. Respondent did not submit to EPA any request to use engineering assessment for determining emissions from the batch vents.

64. Respondent failed to obtain approval from EPA for the use of engineering assessment in accordance with 40 C.F.R. § 63.1323(b)(6)(i)(C) and therefore, Respondent violated 40 C.F.R. § 63.1323(a) by failing to determine the group status of each batch process vent in accordance with the methods and procedures in 40 C.F.R. § 63.1323(b) from June 2002 until approximately April 2012.

65. Pursuant to 40 C.F.R. § 63.1330(a) and (b), the owner or operator of each affected source subject to Subpart JJJ must comply with Subpart G with respect to wastewater.

66. Subpart G permits the owner or operator of an affected source to transfer its Group 1 wastewater streams off-site for treatment. 40 C.F.R. § 63.132(g). However, the owner or operator of an affected source may not transfer the wastewater stream unless the transferee has

submitted to EPA a written certification that the transferee will manage and treat the Group 1 wastewater stream in accordance with the requirements of 40 C.F.R. §§ 63.133 through 63.147. 40 C.F.R. § 63.132(g)(2).

67. From June 2002 until approximately April 2012, Respondent transferred its Group 1 "still wash" wastewater stream off-site to the HRWTF.

68. The HRWTF has never certified to EPA that it will manage and treat Respondent's Group 1 "still wash" wastewater stream in accordance with the requirements of 40 C.F.R. §§ 63.133 through 63.147.

69. Therefore, Respondent's transfer of its Group 1 "still wash" wastewater stream off-site to the HRWTF violates the requirements of 40 C.F.R. §§ 63.1330(a) and (b) and 63.132(g).

70. Until approximately April 2012, Respondent treated its Group 1 "scrubber recirculation" wastewater stream onsite using a form of biological treatment.

71. Wastewater streams treated in biological treatment units cannot be used to generate credits or debits. 40 C.F.R. § 63.1332(d)(4) and (e)(2).

72. Because an affected source may not calculate debits using wastewater streams treated in biological treatment units, Respondent's calculation of debits for its EAP to meet requirements in Subpart JJJ from its Group 1 "scrubber recirculation" wastewater stream was in violation of 40 C.F.R. § 63.1332(d)(4) and (e)(2) from June 2002 until approximately April 2012.

73. In addition, the owner or operator of an affected source utilizing biological treatment to treat its wastewater streams must complete performance testing for its biological treatment unit pursuant to 40 C.F.R. § 63.145 to make sure that the treatment unit meets the requirements of Subpart G. 40 C.F.R. § 63.1330(a) and (b) requires compliance with provisions in Subpart G for wastewater streams subject to Subpart JJJ.

74. Prior to April 2012, Respondent had not completed performance testing for its onsite biological treatment, as required by 40 C.F.R. § 63.145. Therefore, Respondent has not demonstrated that it is properly controlling its emissions from its Group 1 "scrubber recirculation" waste stream or from its biological treatment of that waste stream in violation of 40 C.F.R. §§ 63.1330(a) and (b) and 63.145.

75. Pursuant to 40 C.F.R. § 63.138(a)(3), waste management units upstream of an open or closed biological treatment process shall meet the requirements of 40 C.F.R. §§ 63.133 through 63.137, as applicable. "Waste management unit" is defined at 40 C.F.R. § 63.111 as the equipment, structure(s), and/or devices used to convey, store, treat, or dispose of wastewater streams or residuals. Examples include wastewater tanks, surface impoundments, individual

drain systems, and biological waste water treatment units.

76. The owner or operator of an affected source must, among other things, control emissions from its waste management units, by use of a cover and/or other emission control device. 40 C.F.R. §§ 63.133(a) (wastewater tanks); 63.134(b) (surface impoundments); 63.135(b) (containers); 63.136(b) (individual drain systems); and, 63.137(a) (oil-water separators).

77. Until approximately April 2012, Respondent did not use covers or other emission control devices to control emissions from the waste management units that convey the Group 1 "scrubber recirculation" wastewater from its point of origin to its onsite biological treatment, in violation of 40 C.F.R. §§ 63.1330(b), and 63.132 through 63.149.

78. Affected sources subject to Subpart JJJ are, by reference, subject to LDAR requirements set forth at Subpart H and EPA Reference Method 21, set forth at 40 C.F.R. Part 60, Appendix A, except as provided in 40 C.F.R. § 63.1331(b) and (c). 40 C.F.R. § 63.1331(a).

79. The owner or operator of an affected source is required to equip sampling collection systems with a closed-purge, closed loop, or closed vent system, unless the owner or operator has sought a determination of an alternative means of control pursuant to 40 C.F.R. § 63.162(b). 40 C.F.R. § 63.166.

80. At the time of the April 2008 inspection, EPA identified, and Respondent confirmed, a sampling port that was clamped, but which was open to the atmosphere. Clamping is not a "closed-purge, closed loop, or closed vent system." 40 C.F.R. § 63.161.

81. EPA has not received a request for, or approved, any alternative means of emission limitation for Respondent's sampling collection system in accordance with 40 C.F.R. § 63.162(b). Therefore, at the April 2008 inspection, Respondent had failed to equip one of its sampling collection systems with a closed-purge, closed loop, or closed vent system, in violation of 40 C.F.R. § 63.166.

82. The owner or operator of an affected source is required to equip open-ended valves or lines with a cap, blind flange, plug, or second valve. 40 C.F.R. § 63.167.

83. At the time of the April 2008 inspection, EPA identified one open-ended valve located in Line 1 that was open to the atmosphere without a cap, blind flange, plug or second valve, in violation of 40 C.F.R. § 63.167. Therefore, at the April 2008 inspection, Respondent had failed to equip an open-ended valve as required in violation of 40 C.F.R. § 63.166.

84. The owner or operator of an affected source must identify each piece of equipment in a process unit to which Subpart H applies such that it can be readily distinguished from other equipment that is not subject to Subpart H. 40 C.F.R. § 63.162(c).

85. During its April 2008 inspection, EPA discovered that Respondent's monitoring plan failed to identify components for lines loading methanol into railcars; components for demister tanks located after the capacity vessels for the Methanol condensers; and lines identified as glycol/methanol in the distillation column, in violation of 40 C.F.R. §§ 63.1331 and 63.162(c).

86. Therefore, prior to and during the April 2008 inspection, Respondent had failed to identify each piece of equipment subject to Subpart H in violation of 40 C.F.R. § 63.162(c).

87. The Facility, which is a major source of HAPs as described above, produces as a byproduct methanol, a volatile HAP containing organics, within the polymer plant. Byproduct methanol is stored in 2 storage tanks, and loaded, through a loading rack, to rail cars for transport. This process distributing an organic liquid is subject to the OLD MACT and Respondent submitted its OLD MACT compliance approach to VADEQ in June 2006.

88. The OLD MACT requires, *inter alia*, that for each pump, valve, and sampling connection that operates in organic liquids service for at least 300 hours per year, the affected source must comply with the equipment leak requirements under 40 C.F.R. part 63, Subpart TT (control level 1), Subpart UU (control level 2), or Subpart H.

89. The Respondent is subject to the OLD MACT and has pumps, valves and sampling connections in organic liquids service (containing methanol) for at least 300 hours per year.

90. The owner or operator of an affected source subject to the OLD MACT is required to comply with the equipment leak requirements under 40 C.F.R. Part 63, Subpart TT (control level 1), Subpart UU (control level 2), or Subpart H, for each pump, valve, and sampling connection that operates in organic liquids service for at least 300 hours per year. 40 C.F.R. § 63.2346(c).

91. At the time of the April 2008 inspection, EPA identified lines that transfer methanol, an organic liquid, from storage tanks at Respondent's Facility into railcars. Respondent confirmed that these lines are in organic service more than 300 hours per year.

92. Therefore, the methanol lines should have been part of Respondent's LDAR program and failure to include them in a LDAR program under 40 C.F.R. Part 63, Subparts TT, UU or H is a violation of 40 C.F.R. § 63.2346(c).

IV. Settlement Recitation, Settlement Conditions, and Civil Penalty

93. Complainant and Respondent enter into this Consent Agreement and the accompanying Final Order in order to settle fully and resolve the violations specifically set forth in Section III of this Consent Agreement.

94. In full and final settlement of the alleged violations enumerated above in Section III of this Consent Agreement, Respondent consents to the assessment and agrees to pay a civil penalty in the amount of Fifty-five Thousand Dollars ($55,000.00) within the time and manner specified herein.

95. The settlement amount of Fifty-five Thousand Dollars ($55,000.00) is based upon Complainant's consideration of and application of the statutory penalty factors set forth in Section 113(e), of the Act, 42 U.S.C. § 7413(e), (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall constitute full and final satisfaction of the violations set forth in Section III of this Consent Agreement.

96. Respondent shall pay the civil penalty of Fifty-five Thousand Dollars ($55,000.00) no later than thirty (30) days after the effective date of this Consent Agreement and accompanying Final Order in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this Consent Agreement and accompanying Final Order.

97. 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 or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

98. Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of this executed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid 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).

99. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. §13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9,

EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

100. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent for 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).

101. Thus, in accordance with the above provisions, to avoid the assessment of interest, late payment penalties, and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this Consent Agreement and accompanying Final Order.

102. Payment of the penalty in Paragraph 94 shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments are payable to Treasurer, United States of America and shall reference the above case caption and docket number **(CAA-03-2014-055)**.

103. All checks shall be made payable to Treasurer, United States of America and shall be mailed to the attention of:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000
Customer service contact: 513-487-2105.

Overnight deliveries shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. Environmental Protection Agency
Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: (314) 418-1028.

All electronic wire transfer payments shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Payments through ACH (also known as REX or remittance express) shall be directed to:

U.S Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - checking
33 Liberty Street
New York, N.Y. 10045

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681, or REX at 1-866-234-5681

An on-line, internet payment option, is also available through the United States Department of Treasury. This payment option can be accessed from www.pay.gov. Enter sfo 1.1 in the search field. Open form and complete required fields.

Additional payment guidance is available at:
http://www.epa.gov/ocfo/finservices/make_a_payment.htm

104. All payments made by check also shall reference the above case caption and docket number, **CAA-03-2014-055**. At the same time that any payment is made, copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, to Donna L. Mastro, Esq., Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Kristen Hall (3AP20), U.S. EPA

Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.

105. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this Consent Agreement and accompanying Final Order.

106. Payment of the penalty specified in Paragraph 94 in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges as set forth above shall constitute full and final satisfaction of all civil claims for penalties for the specific violations alleged in Section III of this Consent Agreement. Compliance with this Consent Agreement and accompanying Final Order shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.

107. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this Consent Agreement and the accompanying Final Order in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

V. Reservation of Rights

108. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in Section III of this Consent Agreement. 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. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

VI. Effective Date

109. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Consent Agreement and Final Order is filed with the Regional Hearing Clerk of EPA Region III.

VII. Waiver of Hearing

110. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), with respect to any issue of law or fact set forth in this CAFO. Respondent also waives its right to appeal the accompanying Final Order.

VIII. Entire Agreement

111. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the accompanying Final Order. Nothing in this Consent Agreement or the accompanying Final Order shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this Consent Agreement and the accompanying Final Order.

IX. Execution

112. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For the Respondent:

3/17/2014
Date

[name] JOSEPH S. BOURNE
[title] PLANT MANAGER
DuPont Teijin Films U.S. Limited Partnership

For the Complainant:

March 17, 2014
Date

Donna L. Mastro
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of EPA Region III or his designee, the Regional Judicial Officer, ratify this Consent Agreement and issue the accompanying Final Order. The amount of the recommended civil penalty assessment is Fifty-five Thousand Dollars ($55,000.00).

March 24, 2014
Date

Diana Esher, Director
Air Protection Division
U.S. Environmental Protection Agency, Region III

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

RECEIVED
2014 MAR 25 PM 3:
REGIONAL HEARING CLERK
EPA REGION III, PHILADELPHIA

In the Matter of:	:	
	:	
DuPont Teijin Films U.S. Limited Partnership	:	
100 Discovery Drive	:	
Chester, Virginia 23836	:	**DOCKET NO. CAA-03-2014-055**
	:	**Proceeding Under Clean Air Act,**
	:	**Section 113(a) and (d)**
Respondent	:	

FINAL ORDER

The terms of the forgoing Consent Agreement are hereby accepted by the undersigned and incorporated into this Final Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and 40 C.F.R. § 22.18(b)(3) of the Consolidated Rules of Practice, Respondent, DuPont Teijin Films U.S. Limited Partnership, is assessed a civil penalty of Fifty-five Thousand Dollars ($55,000.00).

The effective date of this Final Order is the date that it is filed with the Regional Hearing Clerk.

Date: 3/25/14

Renée Sarajian

Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III