

**ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM**

<u>In the Matter of:</u>	:	Re: Enforcement Order No.
Neville Chemical Company	:	211001
2800 Neville Road	:	
Neville Twp., PA 15225	:	
	:	

CONSENT ORDER AND AGREEMENT

This CONSENT ORDER AND AGREEMENT (“Consent Agreement”) is entered into this 23rd of February, 2022 by and between the ALLEGHENY COUNTY HEALTH DEPARTMENT ("ACHD" or the "Department"), and NEVILLE CHEMICAL COMPANY ("Neville"),

WHEREAS, the Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., and the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001 et seq., and the ACHD is a local health agency organized under Local Health Administration Law, Act 315 of August 24, 1951, P.L. 1304, as amended, 16 Pa.C.S. §12001 et seq., whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including the Allegheny County Health Department's Rules and Regulations, Article XXI, Air Pollution Control (hereinafter “Article XXI”);

WHEREAS, Neville owns and operates a facility manufacturing synthetic hydrocarbon resins, plasticizers, and plasticizing oils, located at 2800 Neville Road, Neville Township, Pennsylvania (hereinafter “Facility”);

WHEREAS, on September 28, 2015 and November 10, 2020, the ACHD issued Title V Operating Permit 0060 and 0060d (hereinafter “TVOP-0060d”), respectively, to Neville;

WHEREAS, on September 2, 2021, the Facility experienced a breakdown with respect to its 2-4 Resin Kettle, causing a release of emissions (hereinafter referred to as the “September 2, 2021 Incident”);

WHEREAS, at approximately 9:00 AM on September 3, 2021, Neville submitted an initial breakdown report for the 2-4 Resin Kettle incident while continuing to investigate the issue. The preliminary breakdown report indicated a valving issue as the nature of the breakdown;

WHEREAS, at approximately 3:39 PM on September 9, 2021, Neville submitted the final breakdown report. The report stated the breakdown began at 11:00 PM on September 1, 2021 and was resolved at 4:00 AM on September 2, 2021;

WHEREAS, on September 28, 2021, Neville provided supplemental information to the final breakdown report. Neville clarified that the 2-4 Resin Kettle was the source of the emissions release. Neville further stated the direct cause of the release was a bottom valve on the Heat Polymerization Still #18 that leaked through allowing atypical raw material into the 2-4 Resin Kettle;

WHEREAS, on October 5, 2021, the ACHD issued Enforcement Order No. 211001 to Neville, and determined that emissions released as a result of the September 2, 2021 Incident were in excess of the Facility's short-term VOC emissions limit of 0.51 lbs/hr (over a 3-hour average), short-term HAP emissions limit of 0.01 lbs/hr (over a 3-hour average), and long-term HAP emissions limit of 0.36 tons/yr (over any consecutive 12-month period) for the 2-4 Resin Kettle, as specified in Condition V.E.1.f of TVOP-0060d;

WHEREAS, the Department, in Enforcement Order No. 211001, determined that Neville's initial breakdown report submitted in connection with the September 2, 2021 Incident was submitted late, in violation of Condition IV.8 of TVOP-0060d and Section 2108.01.c of Article XXI;

WHEREAS, the Department also determined in Enforcement Order No. 211001 that the September 2, 2021 Incident was contrary to good engineering control practices and constituted a condition of air pollution, in violation of Condition V.E.6.b of TVOP-0060d and Section 2101.11 of Article XXI;

WHEREAS, Enforcement Order No. 211001 assessed Neville a civil penalty of \$62,075.00 for the above alleged violations stemming from the September 2, 2021 Incident;

WHEREAS, on November 1, 2021, Neville filed an appeal of the Enforcement Order No. 211001, disputing several of the alleged violations and posting the civil penalty for purposes of perfecting its appeal;

WHEREAS, the Parties, following discussion of the various aspects of the violations, have determined that the matter may be resolved without the necessity of further litigation and indeed, desire to resolve any disputes respecting Enforcement Order No. 211001 by the issuance of this Consent Agreement;

WHEREAS, the Parties agree that Neville, by the execution of this Consent Agreement, does not waive any defenses or claims available to it as a matter of law;

WHEREAS, after a full and complete negotiation of all matters set forth in this Consent Agreement and upon mutual exchange of covenants contained herein, the Parties agree that this Consent Agreement is in the best interest of the Parties and the public;

NOW, THEREFORE, without any final determination or admission of fact or law, and intending to be legally bound hereby, and with the consent of the Parties, it is hereby **AGREED, ORDERED** and **DECREED** as follows:

I. JURISDICTION

1. Solely for the purposes of this Consent Agreement and the underlying violations, Neville waives all objections and defenses it may have to jurisdiction or venue. Neville shall not challenge ACHD's jurisdiction to enter into or to enforce this Consent Agreement.

2. The Parties agree that as a consequence of Neville's appeal, the Hearing Officer of the Allegheny County Health Department maintains jurisdiction over the matters currently on appeal, and therefore, jurisdiction over the resolution of said matters presently on appeal.

II. APPLICABILITY

3. The provisions of this Consent Agreement shall apply to, be binding upon, and inure to the benefit of the ACHD, Neville, and upon their respective officers, directors, agents, contractors, employees, servants, successors, and assigns.

4. The undersigned representative of Neville certifies that he or she is fully authorized to execute this Consent Agreement on behalf of Neville, and to legally bind Neville to this Consent Agreement.

III. CONDITIONS

5. The Parties agree that the violations alleged by the ACHD in Enforcement Order No. 211001 have been corrected to the satisfaction of the ACHD, and that the corrective action plan submitted by Neville pursuant to Enforcement Order No. 211001 has been completed to the satisfaction of the ACHD.

6. The Parties agree that the civil penalty imposed in Enforcement Order No. 211001 shall be reduced to \$56,550.00. Any monies paid to ACHD or posted in escrow by Neville in

excess of this reduced civil penalty shall be returned to Neville within forty-five (45) days of the execution of this Consent Agreement.

7. The entry of this Consent Agreement shall resolve all liability of Neville for all violations of TVOP-0060d or Article XXI set forth in Enforcement Order No. 211001.

8. Within 30 days of entry of this Consent Agreement, Neville shall withdraw its appeal of Enforcement Order No. 211001.

9. The Parties do not authorize any other persons to use the findings in this Consent Agreement in any matter or proceeding.

10. Nothing herein is intended to limit the authority of the ACHD with respect to violations that may have occurred prior or subsequent to the date of this Consent Agreement, if any, or to limit the authority of ACHD to seek further enforcement of this Consent Agreement.

11. Enforcement Order No. 211001 included a violation and civil penalty for an exceedance of the No. 2 Packaging Center's long-term HAP emission limitations (any 12 consecutive month period) for the Resin Drain Kettles. This Consent Agreement resolves this violation. Because the standard is based on a 12-month rolling basis, the ACHD recognizes any additional HAP emission from the No. 2 Packaging Center Drain Kettles occurring from September 1, 2021 through August 31, 2022 could be considered a further exceedance and violation of the long-term HAP emission limitations. As such, HAP emissions in excess of the long-term HAP emission limitation as stated in Condition V.E.1.f of TVOP-0060d will not constitute a new violation until after August 31, 2022.

12. The ACHD reserves the right to require additional measures to achieve compliance with this Consent Agreement. Neville reserves the right to challenge any action that the ACHD may take to require those measures.

13. In the event that Neville fails to comply with any provision of this Consent Agreement, the ACHD may, in addition to any remedies prescribed herein, pursue any remedy available under law, including an action to enforce this Consent Agreement.

14. The paragraphs of this Consent Agreement are severable, and should any part hereof be declared invalid or unenforceable, the remainder shall remain in full force and effect between the Parties.

15. This Consent Agreement shall constitute the entire integrated agreement of the Parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for the purposes of determining the meaning or intent of any provisions herein in any litigation or other proceeding.

16. The Parties shall bear their respective attorneys' fees, expenses, and other costs with regard to the prosecution or defense of this matter or any related matters arising prior to the execution of this Consent Agreement.

17. This Consent Agreement may be modified only by written agreement of the Parties hereto.

18. Signatures sent via facsimile or electronic mail shall constitute original signatures for purposes of this Consent Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Consent Agreement to be executed by their duly authorized representatives. Each of the undersigned representatives of Neville and ACHD certify under penalty of law, as provided by 18 Pa.C.S. § 4904, that he or she is authorized to execute this Consent Agreement on behalf of his or her respective Party; that Neville consents to the entry of this Consent Agreement as a final ORDER of the ACHD; and that, except as otherwise provided herein, Neville hereby knowingly waives its right to appeal

this Consent Agreement and to challenge its content or validity, which rights may be available under Article XI of the ACHD Rules and Regulations for Hearings and Appeals, and Pennsylvania Administrative Agency Law, 2 Pa.C.S. §103(a), or any other applicable provision of law. Signature by Neville's attorney certifies only that this Consent Agreement has been signed after consulting with counsel.

DATED this 23rd day of February, 2022

For:

ALLEGHENY COUNTY HEALTH DEPARTMENT

Dean DeLuca
Dean DeLuca
Air Quality Program Manager

2/23/2022
Date

Vijyalakshmi Patel
Vijyalakshmi Patel, Esq.
ACHD Assistant Solicitor

2/23/2022
Date

For:

NEVILLE CHEMICAL COMPANY

Denise G Butler

2/24/2022
Date

Robert E. Pili

2-24-22
Date