



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 15 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Diane Kappas
Vice President, Environment, Health & Safety
PPG Industries, Inc.
One PPG Place
Pittsburgh, Pennsylvania 15272

Dear Ms. Kappas:

I have enclosed a file-stamped Consent Agreement and Final Order ("CAFO") which resolves case docket number CAA-05-2013-0011 with PPG Industries, Inc. (PPG). As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on

MAR 15 2013

Pursuant to paragraph 29 of the CAFO, PPG must pay the civil penalty within 45 days of the date the CAFO is filed. PPG's payment must include the docket number CAA-05-2013-0011.

If you have any questions regarding this case, please contact Jan Carlson, Associate Regional Counsel, at (312) 886-6059 or carlson.janet@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section Minnesota/Ohio

cc: Honorable Susan Biro, U.S. Environmental Protection Agency
Robert Hodanbosi, Ohio Environmental Protection Agency
Kelly Toth, Ohio Environmental Protection Agency
Steven F. Faeth, PPG Industries, Inc.

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MAR 05 2013

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
USEPA
REGION 5

IN THE MATTER OF:) Docket No. CAA-05-2013-0011
)
PPG Industries Ohio, Inc.) Proceeding to Assess a Civil Penalty under Section
Circleville, Ohio) 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)
)
Respondent.)
_____)

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Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is PPG Industries Ohio, Inc., a corporation doing business in the State of Ohio.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), and its right to appeal this CAFO. Respondent waives any right to contest the allegations in this CAFO for the purposes of this proceeding or any proceeding to enforce this CAFO.

Statutory and Regulatory Background

9. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors (the HWC MACT) at 40 C.F.R. Part 63, Subpart EEE, §§ 63.1200 through 63.1221.

10. The HWC MACT applies to all HWCs, including hazardous waste incinerators.

11. Pursuant to 40 C.F.R. § 63.1219(a)(1)(i)(A), the owner or operator of an existing hazardous waste incinerator equipped with a waste heat boiler or dry air pollution control system must not discharge or cause combustion gases to be emitted into the atmosphere that contain dioxins and furans in excess of 0.20 nanogram toxic equivalent 2,3,7,8-tetrachlorodibenzo-pa-dioxin per dry standard cubic meter corrected to 7 percent oxygen (ng TEQ/dscm at 7% O₂).

12. Pursuant to 40 C.F.R. § 63.1206(a)(1)(ii)(A), the owner or operator of an existing hazardous waste incinerator must comply with the emission standards under 40 C.F.R. § 63.1219 and the other requirements of this subpart no later than the compliance date, October 14, 2008, unless the Administrator of EPA (Administrator) grants you an extension of time under § 63.6(i) or § 63.1213.

13. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a), authorizes the Administrator to initiate an enforcement action whenever the Administrator finds, among other things, that any person has violated or is in violation of a requirement or prohibition of Subchapter I of the Act, or any rule promulgated, issued or approved under Subchapter I of the Act.

14. The Administrator may assess a civil penalty of up to \$37,500 per day of violation, up to a total of \$295,000, for violations that have occurred after January 12, 2009, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

15. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

Factual Allegations and Alleged Violations

16. Respondent owns and operates a hazardous waste incinerator located at 559 Pittsburgh Road, Circleville, Ohio (the Facility).

17. The hazardous waste incinerator at the Facility is subject to 40 C.F.R. Part 63, Subpart EEE.

18. Neither EPA nor the Ohio Environmental Protection Agency (Ohio EPA) granted to PPG an extension of time under 40 C.F.R. § 63.6(i) or § 63.1213.

19. On March 6 and 7, 2012, Air Compliance Group, LLC (ACG), on behalf of PPG conducted a confirmatory performance test (CfPT) on the hazardous waste incinerator at the Facility as required by 40 C.F.R. § 63.1207 using EPA Publication SW-846 Method 0023A

(Method 0023A). The average dioxin/furan emission concentration during the test was 0.53 ng TEQ/dscm at 7% O₂.

20. PPG discontinued burning hazardous waste in its hazardous waste incinerator at the Facility between approximately March 20 and May 1, 2012.

21. On May 2 and 3, 2012, ACG on behalf of PPG conducted a CfPT on the hazardous waste incinerator at the Facility as required by 40 C.F.R. § 63.1207 using Method 0023A. The average dioxin/furan emission concentration during the test was 0.99 ng TEQ/dscm at 7% O₂.

22. On June 8, 2012, PPG stated that the hazardous waste incinerator “has not burned waste and has either been down or has been operating on natural gas only for steam generation” except during the CfPTs.

23. On August 1, 2012, PPG submitted a report with the final results of the March 6 and 7 and May 2 and 3, 2012, CfPTs to EPA and the Ohio EPA.

24. On August 30 and 31, 2012, ACG on behalf of PPG conducted a CfPT on the hazardous waste incinerator at the Facility as required by 40 C.F.R. § 63.1207 using Method 0023A. The average dioxin/furan emission concentration during the test was 0.34 ng TEQ/dscm at 7% O₂.

25. On December 4, 2012, PPG submitted a report with the final results of the August 30 and 31, 2012, CfPT to EPA and the Ohio EPA.

26. PPG certifies that it ceased feeding hazardous waste to the incinerator at the Facility on August 31, 2012 and that PPG has been operating on natural gas only for steam generation since August 31, 2012.

Violations

27. PPG violated 40 C.F.R. § 63.1219(a)(1)(i) on each day of operation between March 6 and 20, 2012, on May 6 and 7, 2012, and on August 30 and 31, 2012, by discharging combustion gases into the atmosphere that contained dioxins and furans in excess of 0.20 ng TEQ/dscm at 7% O₂ from its hazardous waste incinerator at the Facility.

Civil Penalty

28. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case and Respondent's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$ 155,793.

29. Within 45 days after the effective date of this CAFO, Respondent must pay the \$ 155,793 civil penalty by ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

In the comment area of the electronic funds transfer, refer to the case title, and the docket number of this CAFO.

30. Respondent must send a notice of payment that states the case title, Respondent's name, complete address, and the case docket number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and the EPA attorney at the following addresses:

Attn: Compliance Tracker, AE-17J
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.

Chicago, Illinois 60604-3511

Janet Carlson, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

31. This civil penalty is not deductible for federal tax purposes.
32. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest at rates established pursuant to 26 U.S.C. § 6621(a)(2), nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
33. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

34. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.
35. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

36. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws. Except as provided in paragraph 34, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

37. Respondent certifies that it is complying fully with the HWC MACT at 40 C.F.R. Part 63, Subpart EEE.

38. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

39. The terms of this CAFO bind Respondent, its successors and assigns.

40. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.


41. Each party agrees to bear its own costs and attorneys fees in this action.

42. This CAFO constitutes the entire agreement between the parties.

**CONSENT AGREEMENT AND FINAL ORDER
PPG Industries Ohio, Inc.**

PPG Industries Ohio, Inc., Respondent

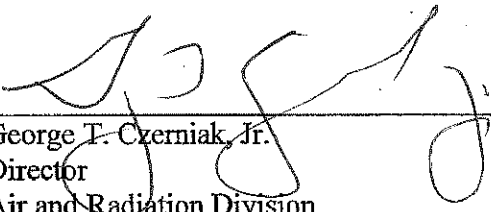
2/28/13
Date


Diane Kappas
Vice President
Environment, Health & Safety
PPG Industries, Inc.

**CONSENT AGREEMENT AND FINAL ORDER
PPG Industries Ohio, Inc.**

U.S. Environmental Protection Agency, Complainant

3/1/13
Date


George T. Czerniak, Jr.
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

CONSENT AGREEMENT AND FINAL ORDER
PPG Industries Ohio, Inc.
Docket No. CAA-05-2013-0011

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Final Order

43. It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

3-4-13

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency, Region 5

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Consent Agreement and Final Order
In the Matter of: PPG Industries Ohio, Inc
Docket No. CAA-05-2013-0011

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Certificate of Service

I, Loretta Shaffer, certify that I hand delivered to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, the original and one copy of the Consent Agreement and Final Order, docket number CAA-05-2013-0011⁰². Further, I certify that I mailed correct copies of the Consent Agreement and Final Order, by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent by placing them in the custody of the United States Postal Service addressed as follows:

Diane Kappas
Vice President, Environment, Health & Safety
PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272

Steven F. Faeth
Senior Counsel Environmental, Health, and Safety Law Department
PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272-0001

I certify that I mailed copies of the CAFO by first-class mail, addressed as follows:

Honorable Susan Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
Ariel Rios Building/Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

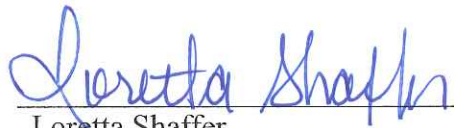
Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
50 West Town Street, Suite 700
Columbus, Ohio 43215

Kelly Toth
Air Pollution Control Supervisor
Central District Office
Ohio Environmental Protection Agency
50 W. Town Street, Suite 700
Columbus, Ohio 43215

I also certify that I delivered a copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard/Mail Code C-14J
Chicago, Illinois 60604

on the 5th day of March 2013



Loretta Shaffer
Administrative Program Assistant
PAS

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Certified Mail Receipt Number: Kappas 70010320000601920904

Certified Mail Receipt Number: Faeth 70011680000076741149