



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAY 19 2015

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Christopher J. DeCerbo  
Plant Manager  
Pilkington North America, Inc.  
13121 South Rocky Ford Road  
Laurinburg, North Carolina 28352

Re: Pilkington North America, Inc.  
Consent Agreement and Final Order  
Docket Number: EPCRA-04-2015-2017(b)

Dear Mr. DeCerbo:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Emergency Planning and Community Right-to-Know Act of 1986 matter (Docket No. EPCRA-04-2015-2017(b)) involving Pilkington North America, Inc. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on the date of filing.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the U.S. Environmental Protection Agency. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC notice.

If you have any questions, please call Ms. Valerie Nowell at (404) 562-9555.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Chief

Chemical Safety and Enforcement Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: )  
 )  
 Pilkington North America, Inc. ) Docket Number: EPCRA-04-2015-2017(b)  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECEIVED  
EPA REGION IV  
2015 MAY 19 PM 2:52  
RECORDS CLERK

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045 and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Pilkington North America, Inc.

2. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated to the Director, Air, Pesticides and Toxics Management Division, the authority under EPCRA by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to these delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18(b) and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

**II. Preliminary Statements**

4. Respondent, Pilkington North America, Inc., is a corporation doing business in the State of North Carolina.

5. Respondent is a "person" as those terms are defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7) and by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), respectively.

6. Respondent's facility is located at 13121 South Rocky Ford Road, Laurinburg, North Carolina 28352.

### III. EPA's Allegations of Violations

#### Violations of Section 304(a) EPCRA

7. Section 304(a) of EPCRA, 42 U.S.C. §11004(a) and the regulations found at 40 C.F.R. § 355, Subpart C, require the owner or operator of a facility at which hazardous chemicals are produced, used or stored, to immediately notify the State Emergency Response Commission (SERC) and Local Emergency Planning Committee (LEPC) when there has been a release of a Comprehensive Environmental Response Compensation and Liability Act (CERCLA) hazardous substance or an EPCRA extremely hazardous substance in an amount equal to or greater than the reportable quantity (RQ). Section 304(a) does not apply to any release which results in exposure to persons solely within the site or sites on which a facility is located.

8. Respondent was the owner or operator of the facility on June 17, 2014.

9. At all times relevant to this matter, the facility produced, used, or stored an "hazardous chemical" as defined under EPCRA Section 311(e) and 329(5), 42 U.S.C. §§ 11021(e) and 11049(5).

10. Sulfur Dioxide is an EPCRA "extremely hazardous substance" as that term is defined by Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), with an RQ of 500 pound, as specified in 40 C.F.R. Part 355, Appendices A & B.

11. On June 19, 2014, a release of sulfur dioxide above the RQ occurred at the facility. EPA alleges that the release resulted in the potential for exposure to persons beyond the site or sites on which the facility is located.

12. EPA alleges that Respondent violated the notification requirements of Section 304(a) of EPCRA, 42 U.S.C. §11004(a), and the applicable EPCRA regulations of 40 C.F.R. § 355, Subpart C, by failing to immediately notify the SERC and LEPC as soon as Respondent had knowledge of the release of sulfur dioxide in an amount equal to or greater than the RQ at Respondent's facility, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. §11045.

13. Pursuant to Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$37,500 for each violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), that occurred after December 6, 2013. Civil penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), may be assessed by Administrative Order.

#### IV. Consent Agreement

14. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

15. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

16. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

17. Respondent agrees to complete the Supplemental Environmental Project (SEP) as set forth in this CAFO.

18. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA.

19. Compliance with this CAFO shall resolve the allegations of violations contained herein. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of EPCRA, or other applicable laws and regulations.

20. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of EPCRA.

#### V. Final Order

21. Respondent shall pay a civil penalty of TWO THOUSAND EIGHT HUNDRED SEVENTY SIX DOLLARS (\$2,876) for the EPCRA violations in Section III. Payment shall be made within thirty (30) days of the effective date of this CAFO.

22. Respondent shall pay the EPCRA civil penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to one of the following addresses:

**BY MAIL**

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO. 63187-9000

**BY OVERNIGHT**

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
(314) 425-1818

The check shall reference on its face the name and the Docket Number of the CAFO.

**VI. Supplemental Environmental Project**

23. Respondent shall undertake and complete the following Emergency Planning and Preparedness SEP within 45 days of the effective date of this CAFO. Respondent shall expend no less than TWELVE THOUSAND FIVE HUNDRED THIRTY NINE DOLLARS (\$12,539) for the purchase of the following equipment for donation to Scotland County Emergency Management:

<u>Quantity</u>	<u>Description</u>
3	GETAC B300-13.3 Inch Display – 700 NITS Non-Touch Screen Display, Intel I5-4300M 2.6GH
3	GETAC – B300 Integrated LTE Mobile Broadband WIR
3	GETAC – Dual RF Pass through (WWAN, WLAN)
3	GETAC B300 MAG Vehicle Docking Station – Dual RF 3.0 USB
1	Complete mounting kit for Ford F-250 (consisting of 1999-2010 Ford F-250 to F-750 Super Duty Vehicle base; 9” lower pole assembly; 7” Center Upper; Mongoose 9” locking slide arm with 360 degree clevis; Adjustable Support Brace – short)
1	Complete mounting kit for Ford Expedition, 2007-2014
1	Complete mounting kit for Chevrolet Silverado 2000-2013/Tahoe 2000

This Consent Agreement and Final Order shall not be construed to constitute EPA’s endorsement of the equipment or technology to be purchased by Respondent in connection with the SEP undertaken pursuant to this Agreement.

24. Respondent certifies that neither it, nor, to the best of its knowledge, the recipient of the Emergency Planning and Preparedness SEP, Scotland County Emergency Management, is a party to any open federal financial assistance transaction that is funded or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funded or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term “open federal financial assistance transaction” refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose financial performance period has not yet expired.

25. Respondent has obtained and presented to EPA a separate written Certification from the recipient of the SEP, Scotland County Emergency Management, which certifies that it is not a party to any open federal financial assistance transaction as stated in Paragraph 24.

26. Respondent agrees that in order to receive credit for the SEP, it must fully and timely complete the SEP project in accordance with Paragraph 23. If Respondent does not fully and timely complete the SEP, it shall be required to pay stipulated penalties pursuant to Paragraph 27.

27. If Respondent fails to timely and fully complete any part of the SEP, including failure to spend the minimum amount of TWELVE THOUSAND FIVE HUNDRED THIRTY NINE DOLLARS (\$12,539), Respondent shall pay to the United States, a stipulated penalty of the difference between \$12,539 and the actual SEP expenditure.

28. For purposes of Paragraphs 26 and 27, the determination whether Respondent has fully and timely completed the SEP shall be in the sole discretion of EPA.

29. Respondent certifies that, as of the date this CAFO is signed, it is not required to perform any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, as of this date, it has not received and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind.

30. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action *In the Matter of Pilkington North America, Inc.*, taken on behalf of the U.S. Environmental Protection Agency to enforce federal laws.”

31. No later than sixty (60) calendar days after the effective date of this CAFO, Respondent shall submit to EPA a SEP Completion Report. The Report shall be sent to the EPCRA Enforcement Section, to the attention of Robert W. Bookman, Sr. at the address provided in Paragraph 33. The Report shall include the following:

(a) an affidavit from an authorized company official, attesting that the SEP has been completed or explaining in detail any failure to complete it; and

(b) copies of appropriate documentation, including invoice and receipts, showing a total expenditure of no less than \$12,539, was spent on the Emergency Planning and Preparedness SEP described in Paragraph 23.

Upon request, Respondent shall send EPA any additional documentation requested by EPA.

32. If Respondent fails to timely submit a SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day that the report is late.

33. At the time of payment, Respondent shall send a separate copy of each check, and

a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Robert W. Bookman, Sr.  
U.S.EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Saundi Wilson  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

34. For the purposes of state and federal income taxes, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

35. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

36. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

37. This CAFO shall be binding upon the Respondent, its successors and assigns.

38. The following individual is authorized to receive service for EPA in this proceeding:

Verne H. George  
U.S. EPA, Region 4  
Air, Pesticides & Toxic Management Division  
61 Forsyth Street, S.W.

Atlanta, GA 30303  
(404) 562-8988

39. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

VII. Effective Date

40. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Pilkington North America, Inc.

By:  (Signed) Date: Apr 23, 2015

Name: Christopher J. DeCerbo (Typed or Printed)

Title: Plant Manager (Typed or Printed)

**THIS SECTION INTENTIONALLY LEFT BLANK**



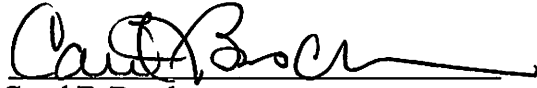
AGREED AND CONSENTED TO:

U.S. Environmental Protection Agency

By: Carol L. Kember for 5/6/15  
Date: 5/6/15  
Beverly H. Banister  
Director  
Air, Pesticides and Toxics Management Division

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APPROVED AND SO ORDERED this 19<sup>th</sup> day of May, 2015.

A handwritten signature in black ink, appearing to read "Carol F. Baschon", written over a horizontal line.

Carol F. Baschon  
Acting Regional Judicial Officer

CERTIFICATE OF SERVICE

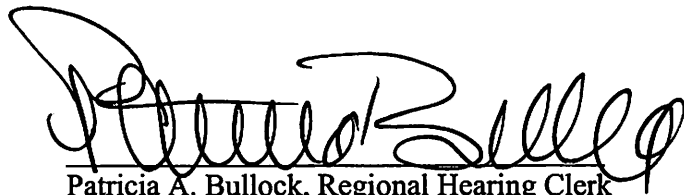
I hereby certify that I have this day served a true and correct copy of the foregoing  
Consent Agreement and Final Order, In the Matter of Pilkington North America, Inc., Docket  
Number: EPCRA-04-2015-2017(b), on the parties listed below in the manner indicated:

Robert W. Bookman, Sr. (Via EPA's internal mail)  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street  
Atlanta, GA 30303

Valerie Nowell (Via EPA's internal mail)  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, GA 30303

Chris DeCerbo (Certified Mail—Return Receipt Requested)  
Laurinburg Plant Manager  
Pilkington North America, Inc.  
13121 South Rocky Ford Road  
Laurinburg, North Carolina 28352

Date: 5-19-15



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511