



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

NOV 23 2005

REPLY TO THE ATTENTION OF

(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Charles Baumgartner, Jr.  
Pilkington North America, Inc.  
140 Dixie Highway  
Rossford, Ohio 43460

Re: Finding of Violation  
Pilkington NA, Inc.  
Rossford, Ohio

Dear Mr. Baumgartner:

The United States Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Pilkington North America, Inc. (Pilkington). The FOV is being issued under Section 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3). We find that you have violated Section 111 of the Act, 42 U.S.C. § 7411 at your Rossford, Ohio facility.

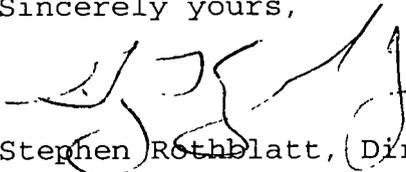
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the FOV.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The U.S. EPA contact in this matter is Brian Dickens. You may call him at (312) 886-6073 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "S. Rothblatt". To the right of the signature, the word "AETHING" is written in a similar cursive style.

AETHING

Stephen Rothblatt, (Director  
Air and Radiation Division

cc: Robert Hodanbosi  
Pamela Barnhart

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:** )  
 ) **FINDING OF VIOLATION**  
Pilkington North America, )  
Inc. ) **EPA-5-06-OH-01**  
Rossford, Ohio )  
 )  
 )  
Proceedings Pursuant to )  
Section 113(a)(3) of the )  
Clean Air Act, 42 U.S.C. )  
§ 7413(a)(3) )

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**FINDING OF VIOLATION**

The United States Environmental Protection Agency (U.S. EPA) is issuing this Finding of Violation (FOV) under Section 113(a)(3) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3). U.S. EPA finds that Pilkington North America, Inc. (Pilkington) is violating Section 111 of the Act, 42 U.S.C. § 7411. Specifically, Pilkington is violating the New Source Performance Standards (NSPS) for Glass Manufacturing Plants at 40 C.F.R. Part 60, Subparts A and CC, as follows:

**Statutory and Regulatory Background**

1. Section 111(e) of the Act, 42 U.S.C. § 7411(e), provides that after the effective date of a standard it is unlawful for any owner or operator of any new source to operate such source in violation of that standard.
2. Section 111(a)(2) of the Act, 42 U.S.C. § 7411(a)(2), defines the term "new source" as any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance applicable to such source.
3. Construction or modification is "commenced" when an owner or operator undertakes "a continuous program of construction or modification," or enters into a "contractual obligation" for the same. 40 C.F.R. § 60.2.

4. Section 111(a)(4) of the Act, 42 U.S.C. § 7411(a)(4), defines "modification," in pertinent part, as "any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source..." "Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere." C.F.R. § 60.14(a). Certain exemptions to modification are set forth at 40 C.F.R. § 60.14(e), which include, among others, an exemption for an increase in the production rate of an existing facility where that increase can be accomplished without a capital expenditure. 40 C.F.R. § 60.14(e)(2).
5. For purposes of determining whether certain physical or operational changes to an existing facility constitute a modification, "capital expenditure" is defined at 40 C.F.R. § 60.2 as an expenditure for a physical or operational change which exceeds the product of the applicable "annual asset guideline repair allowance percentage" (AAGRAP) specified in IRS Publication 534 and the existing facility's basis. Publication 534 indicates that the AAGRAP for Manufacture of Glass Products is 12%. The existing facility's basis is determined by using the original cost of the facility, adjusted by capital improvements, casualty losses, defunct equipment, but not depreciation.
6. On February 15, 1989, U.S. EPA issued a determination regarding, in part, the applicability of New Source Performance Standards to Wisconsin Electric Power Company (WEPCO). In the WEPCO determination, U.S. EPA states, "that it is more appropriate to utilize the original basis of each affected facility ... expressed in nominal dollars, rather than the updated basis, expressed in current dollars, in determining NSPS applicability."
7. On October 7, 1977, U.S. EPA issued a determination regarding, in part, the applicability of New Source Performance Standards. In this determination, U.S. EPA states, "The applicability of the NSPS is based on the maximum design capacity of an affected facility..." It also states that a derating of a source to avoid NSPS must be accomplished "through a permanent physical change to the

8. affected facility which would preclude it from operating at a capacity greater than the derated value."
9. On September 7, 1996, U.S. EPA issued a determination regarding, in part, the modification of sources under New Source Performance Standards. In this determination, U.S. EPA states, "Applicability should instead be evaluated at the time the physical or operational change is proposed, based on hourly potential emissions."
10. Any owner or operator subject to the provisions of NSPS Subpart A is required to submit to the administrator a notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 C.F.R. § 60.14(e). 40 C.F.R. § 60.7(a)(4).
11. An affected facility must perform performance tests within 60 days after achieving the maximum production rate at which the facility will be operated, but not later than 180 days after the startup of such facility. The affected source shall furnish the Administrator a written report of the results of such performance test(s). 40 C.F.R. § 60.8(a).
12. A modified stationary source must comply with all applicable standards within 180 days from the completion of any physical or operational change. 40 C.F.R. § 60.14(g).
13. U.S. EPA promulgated the NSPS for Glass Manufacturing Plants, Subpart CC, on October 7, 1980. 45 Fed. Reg. 66751. Subpart CC is codified at 40 C.F.R. § 60.290.
14. 40 C.F.R. § 60.290 provides that the provisions of Subpart CC are applicable to glass melting furnaces that commence construction or modification after June 15, 1979.
15. The Glass Manufacturing NSPS, at 40 C.F.R. § 60.292(a)(1), provides that no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from a glass melting furnace burning gaseous fuel particulate emissions at a rate of 0.225 grams per kilogram of flat glass produced (0.45 lb/ton). Those glass furnaces with a modified process shall not discharge to the atmosphere 0.5 grams per kilogram of flat glass produced.

16. The Glass Manufacturing NSPS, at 40 C.F.R. § 60.293(c), provides that the owner or operator subject to the provisions of this subpart for furnaces with modified process shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of opacity.

#### General Allegations

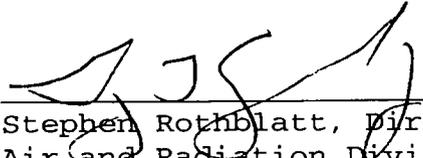
17. Pilkington owns and operates two glass melting furnaces, named Furnace 1 and Furnace 3, at its plant located at 140 Dixie Highway, Rossford, Ohio.
18. In or around April 1998, Pilkington changed the combustion system associated with Furnace 1 in order to combust fuel in the presence of oxygen rather than air. This combustion method is termed "oxyfuel". Because of higher temperatures generated by this change, Pilkington is able to produce more glass than it had prior to the change.
19. In or around June 2000, Pilkington changed the combustion system associated with Furnace 3 in order to combust fuel in the presence of a combination of pure oxygen and air. This combustion method is termed "oxygen boost". Pilkington claimed the improved thermal efficiency resulting from the change increases the maximum production rate of the furnace.
20. The cost of each combustion project was greater than the AAGRAP (12% of original cost, not adjusting for the change in value of money). Thus, the expenditure for each change constitutes a "capital expenditure" as defined at 40 C.F.R. §60.2.
21. The changes made to the combustion systems on Furnace 1 in or around April 1998 and Furnace 3 in or around June 2000 were capital expenditures made for physical changes to existing sources that increased the maximum production rate. These increases in maximum production rate multiplied by the emission factors derived from performance tests conducted on the furnaces result in an increase in the hourly emission rate. These changes are therefore modifications that subject Furnaces 1 and 3 to NSPS Subpart CC.

22. Pilkington performed stack tests on Furnace 1 in August 2005 in response to a U.S. EPA information request. The results show that Furnace 1 emits approximately 1.26 pounds of particulate per ton of glass draw.
23. Pilkington performed stack tests on Furnace 3 in August 2005 in response to a U.S. EPA information request. The results show that Furnace 3 emits approximately 1.24 pounds of particulate per ton of glass draw.

#### Violations

24. Pilkington is in violation of 40 C.F.R. § 60.7(a)(4) for failing to submit the required notification.
25. Pilkington is in violation of 40 C.F.R. § 60.8(a) for failing to conduct an emission test on Furnace 3 within 180 days of the start-up, and 40 C.F.R. § 60.8(d) for failing to notify U.S. EPA of a performance test conducted on Furnaces 1 and 3 within 180 days of startup.
26. Pilkington is in violation of 40 C.F.R. § 60.292(a)(1) and 60.293(b), for discharging particulate emissions into the atmosphere from a glass melting furnace burning gaseous fuel at a rate in excess of 0.225 g/kg for furnaces without modified process, and 0.5 g/kg for furnaces with modified process for both Furnaces 1 and 3.

11/23/05  
Date

  
ALTING  
Stephen Rothblatt, Director  
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-06-OH-01, by Certified Mail, Return Receipt Requested, to:

Charles Baumgartner, Jr.  
Pilkington North America, Inc.  
140 Dixie Highway  
Rossford, Ohio 43460

I also certify that I sent copies of the Finding of Violation by first class mail to:

Pamela Barnhart, Engineer  
Toledo Department of Public Utilities  
Division of Environmental Services  
348 South Erie Street  
Toledo, Ohio 43602

and:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

on the 23<sup>rd</sup> day of November, 2005.

  
Loretta Shaffer, Secretary  
AECAS MN/OH

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 9025 6435