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

JAN - 6 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Christopher Miller
Ottawa Plant Manager
Pilkington North America, Inc.
300 20th Street
Ottawa, Illinois 61350

Dear Mr. Miller:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves the violations alleged against Pilkington North America, Inc., docket no. **CAA-05-2016-0012**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on January 6, 2016.

Pursuant to paragraph 48 of the CAFO, Pilkington North America, Inc. must pay the civil penalty within 30 days of February 5, 2016. Your check must display the case name and case, docket number **CAA-05-2016-0012**.

Please direct any questions regarding this case to James Morris, Associate Regional Counsel, at 312-886-6632.

Sincerely,

Nathan A. Frank
Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
James Morris/C-14J
Eric Jones/IEPA

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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2016-0012**
	)	
Pilkington North America, Inc.	)	**Proceeding to Assess a Civil Penalty**
Ottawa, Illinois,	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	
	)	

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 CAA), 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 Pilkington North America, Inc. ("Pilkington"), a corporation doing business in Illinois.

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 neither admits nor denies the factual allegations and findings in this CAFO but, in the interests of settling EPA's allegations, Respondent agrees not to contest the jurisdictional allegations in this CAFO and agrees to the settlement terms of this CAFO.

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

Statutory and Regulatory Background

Title V Requirements

9. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, established an operating permit program for major sources of air pollution. Section 502(d) of the CAA, 42 U.S.C. § 7661a(d), provides that each state must submit to EPA a permit program meeting the requirements of Title V.

10. In accordance with Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), EPA promulgated regulations implementing Title V of the CAA. See 57 Fed. Reg. 32295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

11. Section 503 of the CAA, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assume compliance with applicable requirements, including those contained in a state implementation plan.

12. EPA gave interim approval of the Illinois Title V program on March 7, 1995. 60 Fed. Reg. 12478. EPA fully approved the Illinois Title V program on December 4, 2001. 66 Fed. Reg. 62946. The approved Illinois Title V program is known as the Illinois Clean Air Act Permit Program (CAAPP).

13. The Illinois Environmental Protection Agency (IEPA) issued a Title V permit ("Permit")(application number: 95090029) to the facility on September 5, 2003.

14. Condition 5.2.2(b) of the Permit limits opacity to 30 percent as averaged over a six-minute period.

15. Condition 7.1.6 of the Permit limits PM emissions at Process Emission Unit #1 (batch hall storage, batch mixer, furnace fill system, and four cullet return system areas) to:

Unit	Particulate Matter	
	(pounds per hour)	(tons per year)
Batch Hall (DC-1)	0.29	1.26
Cullet System #2 (DC-5)	0.51	2.24
Cullet System #3 (DC-6)	0.31	1.37
Cullet System #4 (DC-8)	0.24	1.06

16. The PM limitations in Condition 7.1.6 of the Permit were established pursuant to Title I of the CAA, specifically Title 35 of the Illinois Administrative Code (35 IAC) Part 203, Major Stationary Sources Construction and Modification, and 40 C.F.R. § 52.21, Prevention of Significant Deterioration. These limits ensure that the construction and/or modification addressed in construction permit number 72120139 does not constitute a new major source or major modification.

17. Condition 7.4.6(a) of the Permit limits chloride emissions at the Low-E Vapor Deposition Coating Process ("Coating Process") to 1,390 pounds per month.

18. The chloride emission limits in Condition 7.4.6 of the Permit were established pursuant to Title I of the CAA, specifically 35 IAC Part 203, Major Stationary Sources Construction and Modification, and 40 C.F.R. § 52.21, Prevention of Significant Deterioration. These limits ensure that the construction and/or modification addressed in construction permit number 88110041 does not constitute a new major source or major modification.

19. 40 C.F.R. § 70.6(b) provides that Title V permits are federally enforceable.

20. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

21. Conditions 5.7.1, 7.1.10, and 7.4.10 of the Permit require that Respondent promptly notify IEPA of Permit deviations at the facility, pursuant to Section 39.5(7)(f)(ii) of the Illinois Environmental Protection Act.

SIP Requirements

22. On December 29, 1992, EPA approved 35 IAC § 212.123, governing visible emissions, as part of the federally-enforceable State Implementation Plan (SIP) for Illinois. 57 Fed. Reg. 61834, 61837.

23. Pursuant to 35 IAC § 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to the requirements of 35 IAC § 212.122, except as allowed by 35 IAC § 212.123(b) and § 212.124.

24. 35 IAC § 212.122 is incorporated into the facility's Permit in Condition 5.2.2(b).

Penalty

25. The Administrator of EPA (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 occurred from January 12, 2009 through December 6, 2013, and up to $37,500 per day of violation, up to a total of $320,000 for violations that occurred on or after December 6, 2013, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

26. 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.

27. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

EPA's Factual Allegations and Alleged Violations

28. Respondent owns and operates a flat-glass manufacturing plant located at 300 20th Street in Ottawa, Illinois.

29. Emissions from Process Emission Unit #1 are controlled by dust collectors, pursuant to Condition 7.1.2 of the Permit.

30. Emissions from the furnace are controlled by a proprietary 3R System, which primarily reduces nitrogen oxide emissions, pursuant to Condition 7.2.2 of the Permit.

31. Emissions from the Coating Process are controlled by an afterburner, heat exchanger, lime neutralization system, and a baghouse, pursuant to Condition 7.4.2 of the Permit.

32. Pursuant to its Permit and Section 39.5(7)(f)(ii) of the Illinois Environmental Protection Act, Respondent reported that furnace opacity exceeded 30 percent, averaged over a six-minute period, on at least one occasion between May 12 and May 14, 2012.

33. Respondent's exceedance of 30 percent opacity at its furnace constitutes a violation of Condition 5.2.2(b) of the Permit and 35 IAC § 212.123(a) of the Illinois SIP.

34. Pursuant to its Permit and Section 39.5(7)(f)(ii) of the Illinois Environmental Protection Act, Respondent reported that Dust Collector #32, located in Batch Hall (DC-1) of Process Emission Unit #1, exceeded the 0.29 pounds per hour PM limit on several occasions between May 17 and May 25, 2011, January 11 and January 12, 2012, May 9 and May 10, 2013, and September 16 and September 19, 2013.

35. Respondent's exceedances of its 0.29 pounds per hour PM limit at Dust Collector #32 constitute violations of Condition 7.1.6 of the Permit.

36. Pursuant to its Permit and Section 39.5(7)(f)(ii) of the Illinois Environmental Protection Act, Respondent reported that Dust Collector #6 (DC-6), located in Cullet System #3 of Process Emission Unit #1, exceeded its 0.31 pounds per hour PM limit on several occasions between May 16 and July 19, 2013.

37. Respondent's exceedances of its 0.31 pounds per hour PM limit at DC-6 during the time period May 16 through July 19, 2013, constitute violations of Condition 7.1.6 of the Permit.

38. On March 11, 2013, EPA sent an information request to Respondent under Section 114(a) of the CAA, 42 U.S.C. § 7414(a).

39. In response to the information request, Respondent conducted emission testing on the facility's furnace stack on July 30, 2013, and on the facility's Coating Process stack ou July 31 and August 1 of 2013.

40. These Coating Process stack emission test results for hydrogen chloride were measured at 6.66 pounds per hour.

41. Pursuant to its Permit and Section 39.5(7)(f)(ii) of the Illinois Environmental Protection Act, Respondent reported that, based on the emission testing results from the

August 1, 2013 testing event as well as a May 15, 2014 testing event, Respondent's Coating Process stack emissions exceeded the 1,390 pounds per month chloride limit during August 2013, February 2014, March 2014, May 2014, and June 2014.

42. Respondent's exceedances of its 1,390 pounds per month chloride limit at its Coating Process during August 2013, February 2014, March 2014, May 2014, and June 2014 constitute violations of Condition 7.4.6 of the Permit.

43. On September 19, 2014, EPA issued to Respondent a Notice of Violation/Finding of Violation (NOV/FOV) for the facility's alleged violations.

44. After the issuance of the NOV/FOV, pursuant to its Permit and Section 39.5(7)(f)(ii) of the Illinois Environmental Protection Act, Respondent reported that, based on the emission testing results from the August 1, 2013, testing event, as well as a May 15, 2014, testing event, Respondent's Coating Process stack exceeded the 8.29 tons per year chloride limit in the 12-month rolling average periods ending in June and July of 2014.

45. Respondent's exceedances of its 8.29 tons per year chloride limit at its Coating Process during the 12-month rolling average periods ending in June and July of 2014 constitute violations of Condition 7.4.6 of the Permit.

46. On January 27, 2015, EPA and Respondent held a conference to discuss the September 19, 2014, NOV/FOV and the additional alleged violations.

Civil Penalty

47. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and the Respondent's level of cooperation, Complainant has determined that an appropriate civil penalty to settle this action is $93,073.

48. Within 30 days after the effective date of this CAFO, Respondent must pay the $93,073 civil penalty. Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

For checks sent by express mail (that is, a non-U.S. Postal Service, which will not deliver mail to P.O. Boxes), send a casher's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name and docket number of this CAFO.

49. Respondent must send a notice of payment that states its name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

James Morris (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

50. This civil penalty is not deductible for federal tax purposes.

51. If Respondent does not timely pay the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

52. 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 attorney 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

53. This CAFO resolves Respondent's liability for only federal civil penalties for the violations alleged in this CAFO or the NOV/FOV (referenced above in paragraph 43).

54. This 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.

55. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state, and local laws. Except as provided in paragraph 53, above,

compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

56. Respondent certifies, upon information and belief after reasonable inquiry, that it is maintaining compliance with its Permit or its applicable CAAPP/Title V operating permit.

57. 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 CAA, 42 U.S.C. § 7413(e).

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

59. 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.

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

61. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: morris.james@epa.gov (for Complainant), and kisslink@pepperlaw.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

62. This CAFO constitutes the entire agreement between the parties to settle the civil penalties associated with the violations alleged in the CAFO or the NOV/FOV (referenced above in paragraph 43).

Pilkington North America, Inc., Respondent

12/18/15
Date

Christopher Miller
Ottawa Plant Manager
Pilkington North America, Inc.

United States Environmental Protection Agency, Complainant

12/28/15
Date

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

Consent Agreement and Final Order
In the Matter of: Pilkington North America, Inc.
Docket No. CAA-05-2016-0012

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

1/4/16
Date

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

In the matter of: **Pilkington North America, Inc.**
Docket Number: **CAA-05-2016-0012**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on January 5, 2016, this day in the following manner to the addressees:

Copy by certified mail return-receipt requested:

Christopher Miller
Ottawa Plant Manager
Pilkington North America, Inc.
300 20th Street
Ottawa, Illinois 61350

Copy by e-mail to Complainant:

James Morris
morris.james@epa.gov

Copy by e-mail to Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: January 6, 2016

L Whitehead

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 6479