

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ARDAGH GLASS INC.

AI # 3227

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

* **Settlement Tracking No.**
* **SA-AE-25-0006**
*
* **Enforcement Tracking No.**
* **AE-PP-23-00073**
*
*
*
*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Ardagh Glass Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owned and/or operated a glass product manufacturing facility located in Simsboro, Lincoln Parish, Louisiana (“the Facility”).

II

On October 24, 2023, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-23-00073 (Exhibit 1).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THIRTY-THREE THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$33,200.00), of which Two Thousand Three Hundred Ninety-Two and 69/100 Dollars (\$2,392.69) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1). This Settlement Agreement does not include Paragraph C.1 of the NOPP, Enforcement Tracking No. AE-PP-23-00073, attached hereto as Exhibit 1.

V

Respondent further agrees that the Department may consider the permit record(s), the Notice of Potential Penalty and this Settlement Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This Settlement Agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement is being made in the interest of settling the state's claims and

avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and Settlement Agreement, the Department considered the factors for issuing civil penalties set forth in La. R.S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lincoln Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form attached

hereto.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement Agreement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

ARDAGH GLASS INC.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

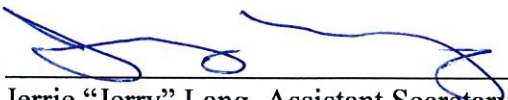
**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Courtney J. Burdette, Secretary

BY: _____
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 
Jerrie "Jerry" Lang, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR

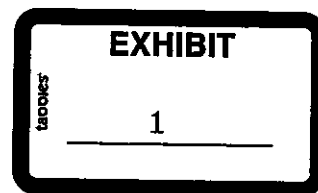


ROGER W. GINGLES
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

OCT 24 2023

CERTIFIED MAIL (7022 2410 0000 7120 0758)
RETURN RECEIPT REQUESTED



ARDAGH GLASS INC.
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Dr.
Baton Rouge, LA 70816

RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-23-00073
AGENCY INTEREST NO. 3227

Dear Sir/Madam:

On or about July 19, 2023, a file review of the **RUSTON PLANT**, a glass product manufacturing facility, owned and/or operated by **ARDAGH GLASS INC. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 4241 Louisiana Highway 563 in Simsboro, Lincoln Parish, Louisiana, and operates or has operated under the authority of the following Air Quality Permits:

Permit	Issue Date	Expiration Date
1720-00002-V6	November 15, 2018	November 15, 2023
1720-00002-V5	October 15, 2015	December 11, 2018
1720-00002-V4	June 3, 2015	December 11, 2018
1720-00002-V3	December 11, 2013	December 11, 2018
1720-00002-V2	May 9, 2013	January 20, 2014
1720-00002-V1	November 22, 2011	January 20, 2014
1720-00002-V0	January 20, 2009	January 20, 2014

The Respondent is also party to and/or entered into Consent Decree, Civil Action Number 2:10-cv-00121-TSZ with the United States Department of Justice, the United States Environmental Protection Agency, and the Louisiana Department of Environmental Quality (the Department) on or about May 7, 2010.

While the investigation by the Department is not yet complete, the following violations were noted during the course of the file review:

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 2

A. The Respondent reported the following violations of permitted operating parameters:

	Report (Date)	Permit Number	Emission Point	Incident Date (Duration)	Operating Parameter	Reported Cause	Regulatory or Permit Requirements
1.	2022 Title V First Half Semiannual Monitoring Report (09/27/2022)	1720- 00002-V6	EQT 0030	05/23/2022, 05/30/2022, 06/06/2022, 06/22/2023 (8.5 hours total)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	During readiness testing period, significant visible emissions were observed.	Specific Requirement 86, LAC 33:III.1311.C
2.	2021 Title V Second Half Semiannual Monitoring Report (03/25/2022)	1720- 00002-V6	EQT 0030	07/05/2021, 07/12/2021 (0.4 hours total)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	During readiness testing period, significant visible emissions were observed.	Specific Requirement 86, LAC 33:III.1311.C
3.	2021 Title V Second Half Semiannual Monitoring Report (03/25/2022)	1720- 00002-V6	EQT 0001	07/04/2021 (24 minutes)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	Opacity returned to normal range once restart was completed and air/gas ratio was adjusted. Opacity exceeded 20 percent for four (4) six (6) minute averages above the one (1) allowable six (6) minute period in one (1) consecutive hour.	Specific Requirement 28, LAC 33:III.1311.C
4.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720- 00002-V6	EQT 0030	01/15/2021, 01/29/2021, 02/10/2021, 02/25/2021, 03/12/2021, 03/26/2021, 04/12/2021, 04/29/2021, 05/14/2021, 05/27/2021, 06/15/2021, 07/05/2021, 07/12/2021 (3 hours total)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	During readiness testing period, significant visible emissions were observed.	Specific Requirement 86, LAC 33:III.1311.C

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 3

	Report (Date)	Permit Number	Emission Point	Incident Date (Duration)	Operating Parameter	Reported Cause	Regulatory or Permit Requirements
5.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	EQT 0030	07/03/2020, 07/16/2020, 08/26/2020, 08/27/2020, 09/08/2020, 10/01/2020, 10/15/2020, 11/01/2020, 11/15/2020, 12/01/2020, 12/15/2020 (37.1 hours total)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	During readiness testing period, significant visible emissions were observed.	Specific Requirement 86, LAC 33:III.1311.C
6.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	EQT 0030	01/10/2020, 04/02/2020, 04/18/2020, 05/01/2020, 05/16/2020, 06/01/2020, 06/15/2020 (3.6 hours total)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	During readiness testing period, significant visible emissions were observed.	Specific Requirement 86, LAC 33:III.1311.C
7.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	EQT 0001	05/25/2020 (66 minutes)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	Improper air/fuel ratio due to Abnormally Low Production Rate operations; adjusted ratio and opacity readings returned to normal. The Respondent reported that eleven (11) six (6) minute averages constituted violations of LAC 33:III.1311.C	Specific Requirement 28, LAC 33:III.1311.C

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 4

	Report (Date)	Permit Number	Emission Point	Incident Date (Duration)	Operating Parameter	Reported Cause	Regulatory or Permit Requirements
8.	2019 Title V Second Half Semiannual Monitoring Report (03/18/2020)	1720- 00002-V6	EQT 0030	01/22/2019, 02/18/2019, 03/12/2019, 03/26/2019, 04/11/2019, 04/29/2019, 05/13/2019, 05/28/2019, 06/13/2019, 06/27/2019, 07/11/2019, 08/02/2019, 08/19/2019, 09/09/2019, 09/23/2019, 10/07/2019, 10/21/2019, 11/04/2019 (9.5 hours total)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	During readiness testing period, significant visible emissions were observed.	Specific Requirement 86, LAC 33:III.1311.C
9.	2018 Title V Second Half Semiannual Monitoring Report (03/25/2019)	1720- 00002-V5	EQT 0002	07/17/2018 (60 minutes)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	Unit taken out of maintenance mode prior to completion of all maintenance activities; after maintenance was completed, opacity returned to normal range. Opacity exceeded 20 percent for ten (10) six (6) minute averages above the one (1) allowable six (6) minute period in one (1) consecutive hour.	Specific Requirement 28, LAC 33:III.1311.C
10.	2018 Title V First Half Semiannual Monitoring Report (09/30/2018)	1720- 00002-V5	EQT 0001	04/14/2018 (12 minutes)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	Combustion issues due to power failure; Restored power and brought equipment back online. Opacity exceeded 20 percent for two (2) six (6) minute averages above the one (1) allowable six (6) minute period in one (1) consecutive hour.	Specific Requirement 28, LAC 33:III.1311.C

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 5

	Report (Date)	Permit Number	Emission Point	Incident Date (Duration)	Operating Parameter	Reported Cause	Regulatory or Permit Requirements
11.	2018 Title V First Half Semiannual Monitoring Report (09/30/2018)	1720-00002-V5	EQT 0002	01/17/2018 (6 minutes)	Opacity <= 20%; except emissions may have an average opacity in excess of 20% for not more than one (1) six (6) minute period in any consecutive 60 minutes	Operations returned to normal following an Abnormally Low Production Rate. A surge of gas resulted in improper air/fuel ratio. Ratio was adjusted to return opacity to normal operating levels. Opacity exceeded 20 percent for one (1) six (6) minute average above the one (1) allowable six (6) minute period in one (1) consecutive hour.	Specific Requirement 28, LAC 33:III.1311.C

Each failure to operate according to permitted requirements is a violation of any applicable permit and associated requirements listed above, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

B. The Respondent reported the following violations of maintenance requirements:

	Report (Date)	Permit Number	Emission Point	Incident Date (duration)	Requirement	Reported Cause	Regulatory or Permit Requirements
1.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720-00002-V6	EQT 0011, EQT 0026, EQT 0027, EQT 0033, FUG 0001, FUG 0002, FUG 0003, FUG 0004	02/15/2021, 02/22/2021, 03/01/2021 (n/a)	A preventative maintenance check shall be performed weekly.	Inspections were not completed for the weeks listed.	Specific Requirements 58, 63, 67, 88, 131, 136, 141, and 149
2.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720-00002-V6	FUG 0002	03/11/2021 (32 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The March 8, 2021, inspection revealed differential pressure (dP) was out of range for the #8 dust collector. It was not until the April 12, 2021, inspection when dP was back in range, indicating maintenance was not performed in a timely manner.	Specific Requirement 136

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 6

	Report (Date)	Permit Number	Emission Point	Incident Date (duration)	Requirement	Reported Cause	Regulatory or Permit Requirements
3.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720- 00002-V6	FUG 0002	03/25/2021 (7 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The March 22, 2021, inspection indicated dP was out of range for the #5 dust collector, and maintenance was not completed until April 1, 2021.	Specific Requirement 136
4.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720- 00002-V6	FUG 0002	04/22/2021 (74 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The April 19, 2021, inspection indicated dP was out of range for the #4 dust collector, and maintenance was not completed in a timely manner. It was not until the July 5, 2021, inspection when dP was back in range, indicating maintenance was not performed in a timely manner.	Specific Requirement 136
5.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720- 00002-V6	FUG 0002	05/13/2021 (53 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The May 10, 2021, inspection indicated dP was out of range for the #5 dust collector, and maintenance was not completed in a timely manner. It was not until the July 5, 2021, inspection when dP was back in range, indicating maintenance was not performed in a timely manner.	Specific Requirement 136
6.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720- 00002-V6	FUG 0002	06/24/2021 (11 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The June 21, 2021, inspection indicated dP was out of range for the #6 dust collector, and maintenance was not completed in a timely manner. It was not until the July 5, 2021, inspection when dP was back in range, indicating maintenance was not performed in a timely manner.	Specific Requirement 136

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 7

	Report (Date)	Permit Number	Emission Point	Incident Date (duration)	Requirement	Reported Cause	Regulatory or Permit Requirements
7.	2021 Title V First Half Semiannual Monitoring Report (09/28/2021)	1720- 00002-V6	FUG 0004	04/01/2021 (11 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The March 29, 2021, inspection indicated dP was out of range for the #19 dust collector, and maintenance was not completed until April 12, 2021.	Specific Requirement 149
8.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	EQT 0011, EQT 0026, EQT 0027, EQT 0033, FUG 0001, FUG 0002, FUG 0003, FUG 0004	08/24/2020, 12/28/2020 (n/a)	A preventative maintenance check shall be performed weekly.	The inspection checklist for preventative maintenance was incomplete for the week of August 24, 2020. The inspections were not conducted the week of December 28, 2020.	Specific Requirements 58, 63, 67, 88, 131, 136, 141, and 149
9.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	FUG 0002	07/04/2020 (94 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The July 1, 2020 inspection revealed the dP was above optimal ranges for dust collectors #4 and #5. Subsequent inspections indicated elevated dP until the dP returned to normal range as noted in the October 6, 2020, inspection, indicating maintenance was not performed in three (3) working days by July 4, 2020.	Specific Requirement 136
10.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	FUG 0002	10/16/2020 (7 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	dP readings were above normal range during the October 13, 2020, inspection. dP returned to normal as noted in the October 23, 2020, inspection, indicating maintenance was not performed in three (3) working days by October 16, 2020.	Specific Requirement 136

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 8

	Report (Date)	Permit Number	Emission Point	Incident Date (duration)	Requirement	Reported Cause	Regulatory or Permit Requirements
11.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	FUG 0002	11/13/2020 (31 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The November 10, 2020, inspection showed dP was out of the optimal range. dP returned to normal ranges as noted on December 14, 2020, inspection, indicating maintenance was not performed in three (3) working days by November 13, 2020.	Specific Requirement 136
12.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	FUG 0002	12/24/2020 (7 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The December 21, 2020, inspection showed dP was out of range. No inspection was documented to follow up until the 2021 calendar year. It is conservatively assumed that maintenance was not completed until 2021, indicating maintenance was not performed within three (3) working days.	Specific Requirement 136
13.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	FUG 0003	09/05/2020 (10 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	The September 2, 2020, inspection revealed dP was out of range and the filters should be replaced. Filters were not replaced within three (3) working days, but were replaced on or about September 15, 2020.	Specific Requirement 141
14.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	EQT 0026, EQT 0027, EQT 0033	06/21/2020 (n/a)	A preventative maintenance check shall be performed weekly.	The inspection checklist was incomplete and did not document checks for the aforementioned emission sources for the week of June 21, 2020, indicating that a preventative maintenance check was not performed for the week listed.	Specific Requirements 63, 67, and 88

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 9

	Report (Date)	Permit Number	Emission Point	Incident Date (duration)	Requirement	Reported Cause	Regulatory or Permit Requirements
15.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	FUG 0001	01/10/2020 (17 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	Maintenance was due to be completed on January 10, 2020, three (3) days after the January 7, 2020, inspection revealed the dP was above the normal range on the #1 dust collector. Maintenance was completed 17 days later on January 27, 2020.	Specific Requirement 131
16.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	FUG 0001	02/16/2020 (11 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	Maintenance was due to be completed on February 16, 2020, three (3) days after the February 13, 2020, inspection revealed the dP was above the normal range on the #1 and #2 dust collectors. Maintenance was completed 11 days later on February 27, 2020.	Specific Requirement 131
17.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	FUG 0001	03/08/2020 (105 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	Maintenance was due to be completed on March 8, 2020, three (3) days after the March 5, 2020, inspection revealed the dP was above the normal range on the #1 dust collector; however, maintenance was not completed within three days. The dP was documented to be within normal range 105 days later on or about June 21, 2020.	Specific Requirement 131

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 10

	Report (Date)	Permit Number	Emission Point	Incident Date (duration)	Requirement	Reported Cause	Regulatory or Permit Requirements
18.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	FUG 0001	04/23/2020 (61 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	Maintenance was due to be completed on April 23, 2020, three (3) days after the April 20, 2020, inspection revealed the dP was above the normal range on the #2 dust collector; however, maintenance was not completed within three days. The #2 dust collector was intermittently in and out of normal range until June 23, 2020, when the dP returned to normal operation.	Specific Requirement 131
19.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	FUG 0002	01/10/2020 (14 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	Maintenance was due to be completed on January 10, 2020, three (3) days after the January 7, 2020, inspection revealed the dP was above the normal range on the #4, #6, and #7 dust collectors. Maintenance was completed 14 days later on January 24, 2020.	Specific Requirement 136
20.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	FUG 0002	02/23/2020 (11 days)	If a maintenance check reveals that maintenance is necessary, the filter must be restored to its normal or usual manner of operation as expeditiously as practicable, but at a minimum within three (3) working days.	Maintenance was due to be completed on February 23, 2020, three (3) days after the February 20, 2020, inspection revealed the dP was above the normal range on the #5 dust collector. Maintenance was completed 11 days later on March 5, 2020.	Specific Requirement 136
21.	2019 Title V Second Half Semiannual Monitoring Report (03/18/2020)	1720- 00002-V6	EQT 0011, EQT 0026, EQT 0027, EQT 0033, FUG 0001, FUG 0002, FUG 0003, FUG 0004	07/08/2019, 07/15/2019, 07/29/2019, 12/16/2019, 12/23/2019 (n/a)	A preventative maintenance check shall be performed weekly.	The inspection checks for preventative maintenance were marked incomplete for the weeks listed, indicating that a preventative maintenance check was not performed for the weeks listed.	Specific Requirements 58, 63, 67, 88, 131, 136, 141, and 149

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 11

	Report (Date)	Permit Number	Emission Point	Incident Date (duration)	Requirement	Reported Cause	Regulatory or Permit Requirements
22.	2019 Title V First Half Semiannual Monitoring Report (09/30/2019)	1720- 00002-V6	EQT 0011, EQT 0026, EQT 0027, EQT 0033, FUG 0001, FUG 0002, FUG 0003, FUG 0004	05/20/2019, 06/24/2019 (n/a)	A preventative maintenance check shall be performed weekly.	The inspection checks for preventative maintenance were marked incomplete for the weeks listed, indicating that a preventative maintenance check was not performed for the weeks listed.	Specific Requirements 58, 63, 67, 88, 131, 136, 141, and 149
23.	2018 Title V Second Half Semiannual Monitoring Report (03/25/2019)	1720- 00002-V5	EQT 0011, EQT 0026, EQT 0027, EQT 0033, FUG 0001, FUG 0002, FUG 0003, FUG 0004	07/02/2018, 07/09/2018, 07/16/2018, 07/23/2018, 07/30/2018, 08/27/2018, 09/03/2018, 12/24/2018 (n/a)	A preventative maintenance check shall be performed weekly.	The inspection checks for preventative maintenance were marked incomplete for the weeks listed, indicating that a preventative maintenance check was not performed for the weeks listed.	Specific Requirements 58, 63, 67, 88, 131, 136, 141, and 149
24.	2018 Title V First Half Semiannual Monitoring Report (09/30/2018)	1720- 00002-V5	EQT 0011, EQT 0026, EQT 0027, EQT 0033, FUG 0001, FUG 0002, FUG 0003, FUG 0004	04/09/2018, 05/07/2018, 05/21/2018, 06/04/2018 (n/a)	A preventative maintenance check shall be performed weekly.	The inspection checks for preventative maintenance were marked incomplete for the weeks listed, indicating that a preventative maintenance check was not performed for the weeks listed.	Specific Requirements 58, 63, 67, 88, 111, 116, 121, and 129

Each failure to perform a weekly preventative maintenance check and/or perform necessary maintenance within at least three (3) days is a violation of the Specific Requirements listed in the table above, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

C. The Respondent reported the following emission exceedances:

	Report (Date)	Permit Number	Emission Source	Incident Date (duration)	Pollutant Released (permit limit)	Quantity Reported (Units)	Reported Cause	Regulatory or Permit Requirements
1.	2022 2nd Semiannual Flow, SO ₂ , Opacity, NO _x Summary and Exceedance Reports (01/27/2023)	1720- 00002-V6	EQT 0001	09/13/2022- 09/14/2022 (48 hours)	NO _x (3.8 lbs./ton of glass produced)	3.9 (lbs./ton of glass produced)	An exceedance occurred while adjusting furnace parameters to control for high SO ₂ emissions caused by a shortage of cullet in the batch.	Specific Requirement 31, Consent Decree 2:10- cv-00121-TSZ

Ardagh Glass Inc.
 AE-PP-23-00073
 Page 12

	Report (Date)	Permit Number	Emission Source	Incident Date (duration)	Pollutant Released (permit limit)	Quantity Reported (Units)	Reported Cause	Regulatory or Permit Requirements
2.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	FUG 0001	09/16/2020- 09/18/2020 (8.5 hours)	PM ₁₀ (0.01 lb/hr)	0.047 (lb/hr)	During two (2) day dust collector outage and unloading operations, fugitive emissions exceeded permitted limits for a total of 8.5 hours over the course of the two (2) days.	Criteria Pollutant Rates
3.	2020 Title V Second Half Semiannual Monitoring Report (03/25/2021)	1720- 00002-V6	FUG 0001	09/16/2020- 09/18/2020 (8.5 hours)	PM _{2.5} (0.002 lb/hr)	0.007 (lb/hr)	During two (2) day dust collector outage and unloading operations, fugitive emissions exceeded permitted limits for a total of 8.5 hours over the course of the two (2) days.	Criteria Pollutant Rates
4.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	EQT 0011	03/09/2020- 03/12/2020 (15 hours)	PM _{2.5} (0.002 lb/hr)	0.005 (lb/hr)	During three (3) day dust collector outage and cullet crusher operations, fugitive emissions exceeded permitted limits for a total of 15 hours over the course of the three (3) days.	Criteria Pollutant Rates
5.	2020 Title V First Half Semiannual Monitoring Report (09/28/2020)	1720- 00002-V6	EQT 0011	03/09/2020- 03/12/2020 (15 hours)	PM ₁₀ (0.03 lb/hr)	0.09 (lb/hr)	During three (3) day dust collector outage and cullet crusher operations, fugitive emissions exceeded permitted limits for a total of 15 hours over the course of the three (3) days.	Criteria Pollutant Rates

Each emission exceedance is a violation of any applicable permit and associated requirement(s) listed above, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

Ardagh Glass Inc.
AE-PP-23-00073
Page 13

- D. The Respondent failed to record the time of, and reason for, operation for Emergency Fire Pump Engine #2 (EQT 0036). Specifically, in the 2021 Title V First Half Semiannual Monitoring Report, dated September 28, 2021, the Respondent reported that runtime records and reasons for operation were missing from January through July 2021. The Respondent reported the engine log sheet for documenting run times and reasons for operation was not maintained by personnel. The Respondent reported that personnel have been retrained to document the required engine operation information. The failure to record the time of, and reason for, operation for EQT 0036 is a violation of 40 CFR 60.4214(b), which language has been incorporated by reference in LAC 33:III.3003.A, Specific Requirement 125 of Title V Air Permit No. 1720-00002-V6, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. The Respondent failed to have equipment/operational data monitored continuously by a technically sound method. Specifically, in the 2019 Title V Second Half Semiannual Monitoring Report, dated March 18, 2020, the Respondent reported that the Continuous Emission Monitor (CEM) for EQT 0001 had 122 hours of downtime for August 2019. The Respondent reported that the CEM downtime was due to a solenoid valve leaking calibration gas into the system. The 122 hours of downtime resulted in 83 percent data availability. This is below the data availability threshold of 90 percent as required in 40 CFR Part 70 General Condition V. The failure to have equipment/operational data monitored by a technically sound method continuously is a violation of Specific Requirement 48 of Title V Air Permit No. 1720-00002-V6, LAC 33:III.507.H.1.a, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact James "Bailey" Macmurdo at (225) 219-2141 or Bailey.Macmurdo@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues

Ardagh Glass Inc.
AE-PP-23-00073
Page 14

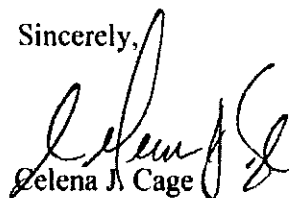
statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Delena J. Cage
Assistant Secretary
Office of Environmental Compliance

CJC/JBM/jbm
Alt ID No. 1720-00002

c: Ardagh Glass Inc.
Christopher DeCerbo, Plant Manager
4241 Hwy. 563
Ruston, LA 71273-0789

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

**NOTICE OF POTENTIAL PENALTY
 REQUEST TO SETTLE (OPTIONAL)**



Enforcement Tracking No.	AE-PP-23-00073	Contact Name	Bailey Macmurdo
Agency Interest (AI) No.	3227	Contact Phone No.	(225) 219-2141
Alternate ID No.	1720-00002		
Respondent:	Ardagh Glass Inc.	Facility Name:	Ruston Plant
	c/o C T Corporation System	Physical Location:	4241 Louisiana Highway 563
	Agent for Service of Process		
	3867 Plaza Tower Dr.	City, State, Zip:	Simsboro, LA 71275
	Baton Rouge, LA 70816	Parish:	Lincoln

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

☐	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.
☐	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-23-00073) , the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
☐	The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY (AE-PP-23-00073)
☐	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-23-00073), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-23-00073) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Bailey Macmurdo

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

		NATURE AND GRAVITY OF THE VIOLATION		
		MAJOR	MODERATE	MINOR
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions.

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



BEP REGULATIONS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times (\text{Penalty Event Maximum} - \text{Penalty Event Minimum}))$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement; Description: Settlement
Settlement Agreements	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method	<u>LAC 33:I Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:I Chapter 25</u> <u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>

