IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, Plaintiff, and COMMONWEALTH OF MASSACHUSETTS, ET AL. Plaintiff-Intervenors, v. SAINT-GOBAIN CONTAINERS, INC. Defendant.	))))))))	Civil Action No. [_____] CONSENT DECREE BETWEEN PLAINTIFF UNITED STATES OF AMERICA AND DEFENDANT SAINT-GOBAIN CONTAINERS, INC.

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

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700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

1 WHEREAS, Plaintiff United States of America, on behalf of the United
2 States Environmental Protection Agency (EPA) and Plaintiff-Intervenors,
3 Commonwealth of Massachusetts; Commonwealth of Pennsylvania, Department of
4 Environmental Protection; State of North Carolina; State of Illinois; State of
5 Indiana and its Department of Environmental Management; State of Wisconsin;
6 Oklahoma Department of Environmental Quality; the State of Louisiana, on behalf
7 of the Louisiana Department of Environmental Quality; State of Missouri,
8 Department of Natural Resources; Washington State Department of Ecology;
9 Puget Sound Clean Air Agency, and San Joaquin Valley Unified Air Pollution
10 Control District have filed Complaints concurrently with this Consent Decree,
11 alleging that Saint-Gobain Containers, Inc. (SGCI), violated and/or continues to
12 violate Section 165, 42 U.S.C. § 7475, of the Clean Air Act (CAA or Act), 42
13 U.S.C. § 7401 et seq., with respect to emissions of nitrogen oxides, sulfur dioxide,
14 and particulate matter;
15 WHEREAS, the Complaints against SGCI sought injunctive relief and the
16 assessment of civil penalties for alleged violations of the Prevention of Significant
17 Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions
18 in Part C and D of Subchapter I of the Act, 42 U.S.C. §§ 7470-7492, 7501-7515,
19 and federally-enforceable state implementation plans developed by Massachusetts,

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

1 New Jersey, Pennsylvania, North Carolina, Illinois, Indiana, Wisconsin, Texas,
2 Oklahoma, Louisiana, Missouri, Washington and California;
3 WHEREAS, Commonwealth of Massachusetts; Commonwealth of
4 Pennsylvania, Department of Environmental Protection; State of North Carolina;
5 State of Illinois; State of Indiana and its Department of Environmental
6 Management; State of Wisconsin; Oklahoma Department of Environmental
7 Quality; the State of Louisiana, on behalf of the Louisiana Department of
8 Environmental Quality; State of Missouri, Department of Natural Resources;
9 Washington State Department of Ecology; Puget Sound Clean Air Agency, and
10 San Joaquin Valley Unified Air Pollution Control District have joined in this
11 matter alleging violations of their respective applicable implementation provisions
12 and/or other state and/or local rules and regulations incorporating and
13 implementing the foregoing federal requirements;
14 WHEREAS, EPA issued a notice of violation (NOV) to SGCI with respect
15 to such allegations on January 13, 2009;
16 WHEREAS, EPA provided SGCI and Commonwealth of Massachusetts;
17 New Jersey Department of Environmental Protection; Commonwealth of
18 Pennsylvania, Department of Environmental Protection; State of North Carolina;
19 State of Illinois; State of Indiana and its Department of Environmental
20 Management; State of Wisconsin; Oklahoma Department of Environmental

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700 STEWART STREET
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(206) 553-7970

Quality; the State of Louisiana, on behalf of the Louisiana Department of Environmental Quality; Texas Commission on Environmental Quality; State of Missouri, Department of Natural Resources; Washington State Department of Ecology; Puget Sound Clean Air Agency, and San Joaquin Valley Unified Air Pollution Control District with actual notice of the alleged violations, in accordance with Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1);

WHEREAS, the Complaints against SGCI allege that it made major modifications to certain major emitting facilities, without complying with the Non-attainment New Source Review (NNSR) and/or PSD requirements of the Act, by failing to obtain required permits, install required control technology, meet emission limits, and comply with requirements for monitoring, record-keeping and reporting, as specified in the Act;

WHEREAS, the Complaints state claims upon which relief can be granted against SGCI under Sections 113, 165, and 167 of the Act, 42 U.S.C. §§ 7413, 7475, and 7477, and 28 U.S.C. § 1355;

WHEREAS, SGCI has denied and continues to deny the violations alleged in the Complaints and NOV, and maintains that it has been and remains in compliance with the Act and is not liable for civil penalties or injunctive relief, and states that it is agreeing to the obligations imposed by this Consent Decree solely to avoid the costs and uncertainties of litigation and to improve the environment;

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

WHEREAS, EPA has selected glass manufacturing facilities (including container glass) as a national enforcement priority under the Clean Air Act's New Source Review Program;

WHEREAS, the United States and SGCI anticipate that this Consent Decree, including the installation and operation of pollution control technology and other measures adopted pursuant to this Consent Decree, will achieve significant reductions of emissions from the SGCI Facilities and thereby significantly improve air quality;

WHEREAS, all parties recognize that each Furnace is designed and Operated differently and may necessitate different limits for Sulfur Dioxide for each Furnace and each glass type;

WHEREAS, all parties recognize that glass Furnaces are Operated continuously for periods of five (5) to ten (10) years, and attempts to shut them down more frequently may result in significant problems including, but not limited to, damage to the refractory and safety concerns;

WHEREAS, SGCI has waived any applicable federal or state requirements of statutory notice of the alleged violations;

WHEREAS, the United States, Commonwealth of Massachusetts; Commonwealth of Pennsylvania, Department of Environmental Protection; State of North Carolina; State of Illinois; State of Indiana and its Department of

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

Environmental Management; State of Wisconsin; Oklahoma Department of Environmental Quality; the State of Louisiana, on behalf of the Louisiana Department of Environmental Quality; State of Missouri, Department of Natural Resources; Washington State Department of Ecology; Puget Sound Clean Air Agency, and San Joaquin Valley Unified Air Pollution Control District, and SGCI, have agreed, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated in good faith and at arm's length; that this settlement is fair, reasonable, and in the public interest, and consistent with the goals of the Act; and that entry of this Consent Decree without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, without any admission by SGCI, and without adjudication of the violations alleged in the Complaints or the NOV, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 113(b) of the Act, 42 U.S.C. § 7413(b), and over the Parties. Venue lies in this District pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because some of the violations alleged in the Complaints are alleged to have occurred in, and SGCI conducts business in, this judicial district. SGCI

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

consents to this Court's jurisdiction over this Consent Decree and any action to enforce this Consent Decree, and to venue in this judicial district. For purposes of this Consent Decree and any action to enforce this Consent Decree, SGCI consents to this Court's jurisdiction over SGCI. Solely for the purposes of this Consent Decree and the underlying Complaints, and for no other purpose, SGCI waives all objections and defenses that it may have to the Court's jurisdiction over this action, to the Court's jurisdiction over SGCI, and to venue in this District. SGCI shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree. Except as expressly provided for herein, this Consent Decree shall not create any rights in or obligations of any party other than the Plaintiff, Plaintiff-Intervenors, and SGCI. Except as provided in Section XXIV (Public Comment) of this Consent Decree, the Parties consent to entry of this Consent Decree without further notice.

2. For purposes of this Consent Decree, SGCI agrees that the Complaints and the States' Complaints in Intervention state claims upon which relief may be granted pursuant to Sections 111 and 165 of the Act, 42 U.S.C. §§ 7411, 7475 and/or pursuant to state law.

3. Notice of the commencement of this action has been given to Massachusetts Department of Environmental Protection, New Jersey Department of Environmental Protection, Pennsylvania Department of Environmental Protection,

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

North Carolina Department of Environment and Natural Resources, Illinois Environmental Protection Agency, State of Indiana and its Department of Environmental Management, Wisconsin Department of Natural Resources, Texas Commission on Environmental Quality, Oklahoma Department of Environmental Quality, Louisiana Department of Environmental Quality, Missouri Department of Natural Resources, California Air Resources Board, Washington State Department of Ecology, Puget Sound Clean Air Agency, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District as required by Section 113(b) of the Act, 42 U.S.C. § 7413(b).

II. APPLICABILITY

4. The obligations of this Consent Decree apply to and are binding upon the Plaintiff, Plaintiff-Intervenors and upon SGCI and its officers, employees, agents, subsidiaries, successors, assigns, or other entities or persons otherwise bound by law.

5. SGCI shall be responsible for providing a copy of this Consent Decree to all vendors, suppliers, consultants, contractors, agents, and any other company or organization retained to perform any of the work required by this Consent Decree. Notwithstanding any retention of contractors, subcontractors, or agents to perform any work required under this Consent Decree, SGCI shall be responsible for ensuring that all work is performed in accordance with the requirements of this

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

Consent Decree. For this reason, in any action to enforce this Consent Decree, SGCI shall not assert as a defense the failure of its officers, directors, employees, servants, agents, or contractors to take actions necessary to comply with this Consent Decree, unless SGCI establishes that such failure resulted from a Force Majeure event, as defined in Paragraph 62 of this Consent Decree.

III. DEFINITIONS

6. Terms used in this Consent Decree that are defined in the Act or in federal regulations promulgated pursuant to the Act shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. "24-hour Block Average" shall be calculated by averaging the twenty-four (24) one-hour relevant data outputs (concentration or pounds) for a given Day and using the daily glass production rates (tons) on that Operating Day where applicable.

b. "Affected State(s)" shall mean any local agency Plaintiff-Intervenor or State Plaintiff-Intervenor and its agencies and political subdivisions having jurisdiction over a Facility addressed in this Consent Decree.

c. "Abnormally Low Production Rate" shall mean a glass production rate at or below the production rate set forth in Paragraph 10.

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
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(206) 553-7970

d. "Abnormally Low Production Rate Day" shall mean any Operating Day where production falls into the range of Abnormally Low Production Rate, for at least one continuous hour.

e. "Calendar Year" shall mean the period commencing on January 1 and ending on December 31 of the same year.

f. "CEMS" means Continuous Emission Monitoring System.

g. "CEMS Certification" means the certification of the CEMS required by 40 C.F.R. § 60.13, 40 C.F.R. Part 60 Appendix B (Performance Specification 2) and 40 C.F.R. Part 60 Appendix F (Quality Assurance Procedures).

h. "CEMS Certification Event" shall mean an event that triggers the requirement to complete a first or subsequent CEMS Certification. The first CEMS Certification shall not be required until the dates set forth in Table 8. Events that will trigger subsequent CEMS Certification include a Furnace Startup or a First Control Device Startup. SGCI shall commence such recertification no later than thirty (30) days after the Furnace Startup period concludes (but no later than seventy (70) Days after Furnace Startup commences) or First Control Device Startup period concludes. If a Furnace Startup and a First Control Device Startup happen at the same time, then the

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
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(206) 553-7970

recertification shall not be conducted until the first Operating Day after the conclusion of the later startup event.

i. "Cloud Chamber Scrubber System" and "CCSS" shall mean a pollution control device that works by passing the Furnace exhaust gas stream through a chamber that contains a "scrubbing cloud" of high-density, charged water droplets. The droplets collect particles and sulfur oxides as they interact with the process gas stream. The droplets are then collected at the bottom of the system.

j. "Color Transition" shall mean the period of not more than seven Days from the time when a glass color of an oxidation state different from that previously melted in the Furnace, is introduced to the Furnace, to the time when saleable glass bottles are being produced in the new color.

k. "Complaints" shall mean the Complaints filed by the United States, and the Complaints filed by the Plaintiff-Intervenors in this action.

l. "COMS" shall mean a Continuous Opacity Monitoring System.

m. "Consent Decree" or "Decree" shall mean this Consent Decree and all appendices attached hereto, but in the event of any conflict between the text of this Consent Decree and any Appendix, the text of this Consent Decree shall control.

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
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(206) 553-7970

n. "Continuous Operating Year" shall mean a Calendar Year during which, on every day of the year, at least one of the Furnaces connected to a control system is Operating.

o. "Control Device Startup" shall mean the period of time from commencement of operation of an SCR, Scrubber System, ESP, CCSS, or similar add-on control device until the operation of the device has been stabilized and the device has achieved normal operating conditions. Such period shall not exceed thirty (30) Days.

p. "Date of Entry" means the date this Consent Decree is approved or signed by the United States District Court Judge.

q. "Date of Lodging" means the date this Consent Decree is filed for lodging with the Clerk of the Court for the United States District Court for the Western District of Washington.

r. "Day" shall mean a calendar day unless expressly stated to be a working day or unless a State rule requires that CEMs data be reported on Standard time (with no change for Daylight Savings Time). In computing any period of time for determining reporting deadlines under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal or State holiday, in the State where the Facility is located, the period shall run until the close of business of the next working day.

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

s. "EPA" or "the Agency" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.

t. "Emission Rate 30-day Rolling Average" shall be expressed as pounds of pollutant per ton of glass produced calculated at the Furnace in question in accordance with the following formula and Subparagraphs i. and ii below:

$$30-day\ average\ \frac{lb\ E}{ton} = \frac{COD_E\ (lbs) + P29D_E(lbs)}{COD_{Prod}\ (tons) + P29D_{Prod}(tons)}$$

Where: 30-day average (lb E/ton) = The Emission Rate 30-day Rolling Average

E = Emissions of the pollutant in question (NO_X or SO_2)

COD = Current Operating Day where the relevant Emission Rate 30-day Rolling Average is the applicable limit.

COD_E = The daily Emissions as measured by a CEMS on the COD, in pounds.

COD_{Prod} = Daily glass production on the COD, in tons of glass.

P29D = The Previous 29 Operating Days where the relevant Emission Rate 30-day Rolling Average is the applicable limit.

$P29D_E$ = The sum of the daily NO_X or SO_2 Emissions as measured by a CEMS during the P29D, in pounds.

$P29D_{Prod}$ = The sum of the daily glass production during the P29D, in tons of glass.

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
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(206) 553-7970

i. A new Emission Rate 30-day Rolling Average shall be calculated for each new Operating Day where the Emission Rate 30-day Rolling Average is the applicable standard. Any Operating Day where the newly calculated Emission Rate 30-day Rolling Average exceeds the limit is a separate one Day violation; and

ii. As specified in this Consent Decree, some Operating Days will be excluded from the Emission Rate 30-day Rolling Average as set forth in Paragraphs 7-9 of this Consent Decree.

u. "Emissions Credit(s)" means an authorization or credit to emit a specified amount of the pollutants NO_X, SO_2, PM, PM_{10} and $PM_{2.5}$ that is allocated or issued under an emissions trading or marketable permit program of any kind established under the Act or a State Implementation Plan.

v. "Facility" or "Facilities" shall mean SGCI's plants further described below at Burlington, Wisconsin; Carteret, New Jersey; Dolton, Illinois; Dunkirk, Indiana; Henderson, North Carolina; Lincoln, Illinois; Madera, California; Milford, Massachusetts; Pevely, Missouri; Port Allegany, Pennsylvania; Ruston, Louisiana; Sapulpa, Oklahoma; Seattle, Washington;

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

Waxahachie, Texas; and Wilson, North Carolina. Each of these plants may be referred to as a "Facility."

i. "Burlington" shall mean SGCI's Facility located at 815 S. McHenry St, Burlington, Wisconsin;

ii. "Carteret" shall mean SGCI's former Facility located at 50 Bryla St, Carteret, New Jersey;

iii. "Dolton" shall mean SGCI's Facility located at 13850 Cottage Grove Avenue, Dolton, Illinois;

iv. "Dunkirk" shall mean SGCI's Facility located at 524 E. Center Street, Dunkirk, Indiana;

v. "Henderson" shall mean SGCI's Facility located at 620 Facet Road, Henderson, North Carolina;

vi. "Lincoln" shall mean SGCI's Facility located at 1200 North Logan St., Lincoln, Illinois;

vii. "Madera" shall mean SGCI's Facility located at 24441 Avenue 12 & Road 24 1/2, Madera, California;

viii. "Milford" shall mean SGCI's Facility located at 1 National St., Milford, Massachusetts;

ix. "Pevely" shall mean SGCI's Facility located at 1500 Saint-Gobain Drive Hwy 61, Pevely, Missouri;

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(206) 553-7970

x. "Port Allegany" shall mean SGCI's Facility located at 1 Glass Place, Port Allegany, Pennsylvania;

xi. "Ruston" shall mean SGCI's Facility located at 4241 Hwy 563, Ruston, Louisiana;

xii. "Sapulpa" shall mean SGCI's Facility located at 1000 N. Mission, Sapulpa, Oklahoma;

xiii. "Seattle" shall mean SGCI's Facility located at 5801 E. Marginal Way S., Seattle, Washington;

xiv. "Waxahachie" shall mean SGCI's Facility located at 2400 I.H. 35 E., Waxahachie, Texas; and

xv. "Wilson" shall mean SGCI's Facility located at 2200 Firestone Boulevard, Wilson, North Carolina.

w. "First Control Device Startup" shall only refer to the first startup of the relevant add-on control device (an SCR, Scrubber System, ESP, CCSS, or similar add-on control). First Control Device Startup shall represent the period of time from commencement of operation of the device until the operation of the device has been stabilized and the device has achieved normal operating conditions, but shall not exceed thirty (30) Days.

x. "Furnace" means for the purposes of NSPS only, a refractory vessel in which raw materials are charged, melted at high temperature, refined, and

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(206) 553-7970

conditioned to produce molten glass which includes foundations, superstructure and retaining walls, raw material charger systems, heat exchangers, melter cooling system, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming apparatuses. For all other purposes, "Furnace" means a unit comprised of a refractory-lined vessel in which raw materials are charged and melted at high temperature to produce molten glass.

y. "Furnace Startup" means the period of time while a Furnace's refractory is being heated up from ambient temperature and includes the Initial Heating Phase, Refractory Soak and Seal Phase, and Furnace Stabilization Phase.

i. "Initial Heating Phase" means the slow heating of the Furnace refractory using portable natural-gas burners placed in the openings in the Furnace. This phase typically lasts no longer than four (4) Days and ends when the main Furnace burners commence operation.

ii. "Refractory Soak and Seal Phase" means the phase of the Furnace Startup following the Initial Heating Phase when the Furnace is filled with molten glass, the temperature of

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(206) 553-7970

the Furnace reaches operating conditions, and the refractory components reach thermal equilibrium. This phase typically lasts no longer than twenty-one (21) Days and ends when the joints between the refractory components are sealed and the Furnace is closed to the atmosphere.

iii. "Furnace Stabilization Phase" means the phase of Furnace Startup following the Refractory Soak and Seal Phase when the Furnace Operation is being stabilized. This phase will end no later than seventy (70) Days after the beginning of the Initial Heating Phase. However, notwithstanding the previous sentence, EPA or an Affected State may seek stipulated penalties if SGCI has unduly delayed completion of the Furnace Stabilization Phase. SGCI must track the status of the Startup as required in Exhibit A. Exhibit A includes conditions that may be used to indicate whether the Furnace Stabilization Phase should have been completed earlier than 70 days after the beginning of the Initial Heating Phase.

z. "Hot Spot Temperature" shall mean the highest temperature of the Furnace breastwall refractory. Breastwall refractory is the refractory

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(206) 553-7970

sidewall between the tuck stone (about 18" above glass line) and the crown skew (where the Furnace crown meets the Furnace sidewall).

aa. "Inlet" shall be the emission concentration (in parts per million by volume dry) measured prior to the control device.

bb. "Installation of Controls" shall, solely for the purpose of Paragraph 29 of this Consent Decree, include:

i. The installation of an OEAS, SCR, Semi-dry Scrubber System, Dry Scrubber System, ESP, or CCSS;

ii. The installation of any alternative controls approved under Paragraph 103;

iii. The conversion of a Furnace to Oxyfuel; and

iv. The receipt of a limit for a Furnace listed in Table 4 in compliance with Paragraph 8.g., 9.f., 9.g., and 9.h.

cc. "Maintenance" shall mean activities necessary to keep the system or equipment working in its normal operating condition as set forth in Paragraph 13.

dd. "Major Rebuild" shall refer to the process of stopping glass production, stopping the flow of fuel, fully cooling down a Furnace, replacing some or all of the refractory in the Furnace, the crown and/or the regenerators (if applicable), and beginning a new campaign by starting up

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(206) 553-7970

the Furnace again by firing fuel again and starting the production of glass. A Major Rebuild, for the purposes of this Consent Decree, does not include any refractory repairs conducted when the Furnace is still hot, emergency cold repairs, repairs solely required for restart of a Furnace which has temporarily ceased Operation due to economic reasons, or the planned minor cold repairs currently scheduled on the following Furnaces:

i. Waxahachie;

ii. Dolton Furnace #2;

iii. Henderson Furnace #1;

iv. Lincoln;

v. Madera Furnace #1; and

vi. Sapulpa Furnaces #50, #51, and #52.

ee. "Malfunction" shall mean, consistent with 40 C.F.R. § 60.2, any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner, but shall not include failures that are caused in part by poor Maintenance or careless operation.

ff. "Month" shall mean calendar month.

gg. "NO_X" shall mean the sum of oxides of nitrogen in the flue gas, collectively expressed as NO_2.

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(206) 553-7970

hh. "NSPS" shall mean the standards of performance for new stationary sources codified at 40 C.F.R. Part 60. General NSPS requirements are codified at 40 C.F.R. Part 60, Subpart A. NSPS requirements specifically for glass manufacturing plants are codified at 40 C.F.R. Part 60, Subpart CC.

ii. "New Source Review" or "NSR" shall mean Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions in Part C and D of Subchapter I of the Act, 42 U.S.C. §§ 7470-7492, 7501-7515, and federally-enforceable state implementation plans.

jj. "Operate," "Operation," "Operating" and "Operated" shall mean when fuel is fired in the Furnace.

kk. "Operating Day" shall mean any Day where any fuel is fired into the Furnace. The Day starts at 12:00 am and ends at 11:59 pm.

ll. "Outlet" shall mean the emission concentration (in parts per million by volume dry) measured after a control device.

mm. "Outlet 30-day Rolling Average" is a term which applies only to SO_2 and shall be calculated by determining the Outlet 24-hour Block Average concentration from each Furnace (or combined stack, if applicable) during an Operating Day and previous twenty-nine (29) Operating Days when Outlet 30-day Rolling Average was the applicable standard. A new Outlet 30-day Rolling Average shall be calculated for each Operating Day. Any

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Operating Day where the newly calculated Outlet 30-day Rolling Average exceeds the limit is a separate one Day violation. As specified in this Consent Decree, the following Operating Days are exempt from this average: Control Device Startup, Malfunction of the control device (Scrubber System, CCSS, or ESP) and Maintenance on the control device (Scrubber System, CCSS, or ESP).

nn. "Oxyfuel Furnace" shall mean a Furnace in which the gas that provides the oxidant for combustion of the fuel is composed of greater than or equal to 90 percent oxygen.

oo. "Oxygen Enriched Air Staging" and "OEAS" shall mean the method of combustion air staging to control NO_X formation by reducing the amount of combustion air delivered to the firing ports, thereby decreasing the oxygen available in the flame's high temperature zone in the first combustion stage, and injecting oxygen-enriched air into the Furnace near the exit port(s) to complete combustion in the second stage within the Furnace.

pp. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral.

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
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(206) 553-7970

qq. "Particulate Matter" and "PM" shall mean any finely divided solid or liquid material, other than uncombined water, as measured by the reference methods specified below:

i. Filterable Particulate is the particulate measured using EPA Method 5 (40 C.F.R. Part 60 Appendix A).

ii. Total particulate is the combination of filterable plus condensable PM and is measured using Method 5 (40 C.F.R. Part 60 Appendix A) and EPA Method 202: (40 C.F.R. Part 51 Appendix M).

rr. "Parties" shall mean the United States, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, State of North Carolina, State of Illinois, State of Indiana, State of Wisconsin, State of Washington, Oklahoma Department of Environmental Quality, State of Louisiana, State of Missouri, San Joaquin Valley Air Pollution Control District, Puget Sound Clean Air Agency and SGCI.

ss. "Permit" shall include any and all final authorizations necessary (1) to construct, modify, or Operate a Furnace; (2) to construct, install, and operate a control device or monitoring device issued pursuant to federal, state, or local law; or (3) to construct, install, and operate a control device or monitoring device required by this Consent Decree.

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tt. "Prevention of Significant Deterioration," and "PSD" shall mean the attainment area New Source Review program within the meaning of Part C of Subchapter I of the Act, 42 U.S.C. §§ 7470-7492.

uu. "Regenerative Furnace" shall mean a Furnace in which ambient air provides the primary oxidant for combustion of the fuel and the air is preheated using a system of regenerators to recover heat from the exhaust gas.

vv. "Removal Efficiency" for SO_2 means the percent reduction in concentration of that pollutant achieved by a Furnace's pollution control device. This percent reduction shall be calculated by subtracting the Outlet from the Inlet, dividing by the Inlet and then multiplying by 100.

ww. "Removal Efficiency 30-day Rolling Average" is a term which applies to SO_2 emissions and shall be calculated by summing the Removal Efficiency 24-hour Block Averages from each Furnace (or combined stack, if applicable) for each Operating Day and previous twenty-nine (29) Operating Days when Removal Efficiency 30-day Rolling Average was the applicable standard and then dividing by 30. A new Removal Efficiency 30-day Rolling Average shall be calculated for each new Operating Day. Any Operating Day where the newly calculated Removal Efficiency 30-day Rolling Average is less than the Removal Efficiency limit is a separate one-

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day violation. As specified in this Consent Decree, the following Operating Days are exempt from this average: Control Device Startup of the Scrubber System, CCSS, or ESP; Malfunction of the Scrubber System, CCSS, or ESP; and Maintenance on the Scrubber System, CCSS, or ESP.

xx. "Scrubber System" shall mean a type of system known sometimes as a sorbent injection system which involves the addition of an alkaline material into the gas stream to react with the acid gases. The acid gases react with the alkaline sorbents to form solid salts.

i. Semi-dry Scrubber System – The system described above with the sorbent in an aqueous phase which improves collection efficiency.

ii. Dry Scrubber System – The system described above with no moisture added in the reaction chamber or reaction area.

yy. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

zz. "Selective Catalytic Reduction" and "SCR" means a pollution control device that reacts ammonia (NH_3) with the NO_X to form nitrogen (N_2) and water (H_2O) using a catalyst to speed the reaction.

aaa. "SGCI" shall mean Saint-Gobain Containers, Inc.

bbb. "SO_2" shall mean the pollutant sulfur dioxide.

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ccc. "State" or "States" shall mean those States or Commonwealths and local authorities that have jurisdiction over a Facility covered by this action.

ddd. "Supplemental Environmental Project" and "SEP" shall mean an environmentally beneficial project that SGCI agrees to undertake pursuant to this Consent Decree and SGCI is not otherwise legally required to perform.

eee. "System-wide Weighted Annual Average Actual Emissions" is a term applicable to SO_2 emissions, expressed in pounds of SO_2 per ton of glass produced (lbs/ton) and shall mean the total pounds of emissions of SO_2 as measured by the continuous emissions monitoring systems (CEMS) emitted in a Calendar Year from all Furnaces included in the average divided by the total actual annual tons of glass production for all Furnaces included in the average for that Calendar Year.

fff. "System-wide Weighted Average of Permit Limits" is a term applicable to SO_2 emissions and shall be calculated by:

i. For each Furnace listed in Table 4, multiplying the applicable permitted emission rate of SO_2 (in pounds per ton of glass produced) by the maximum annual glass production rate for each Furnace during Calendar Years 2009 through 2013. The permitted emission rate is the federally-enforceable limit SGCI has requested and

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obtained from the State for flint or colored glass as the case may be, in order to meet the requirements for the Furnaces listed in Table 4 identified in Paragraph 8.g.iii,

ii. Summing the result of the equation in Subparagraph i. above for each Furnace listed in Table 4, and

iii. Dividing the total of Subparagraph ii. above by the sum of all the maximum annual glass production rates for all Furnaces Listed in Table 4 from Subparagraph i. above.

ggg. "Title V Permit" shall mean a permit required by or issued pursuant to the requirements of 42 U.S.C. § 7661 - 7661f.

hhh. "Ton" or "tons" shall mean short ton or short tons (equal to 2000 pounds).

iii. "TSP" shall mean total suspended particulate.

jjj. "United States" shall mean the United States of America, acting on behalf of EPA.

IV. INJUNCTIVE RELIEF

7. **NO_X Emission Controls, Limits, and Compliance Schedule**

a. Interim NO_X Emission Limits:

i. For those Furnaces listed in Table 1, the NO_X emission limits in Table 1, expressed in tons of NO_X per Calendar

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Year, shall apply and shall remain in place until installation of controls pursuant to Table 2 and issuance of a new Permit including the emission limits outlined in Paragraphs 7.c. through 7.e.

ii. For the Calendar Year 2009, and for each Calendar Year thereafter until Paragraph 7.b. applies, SGCI shall comply with the following annual interim NO_X emission limits:

Table 1 – Interim NO_X Emission Limits

Facility and Furnace #	Interim NO_X Emission Limit (tons per year)	Interim NO_X Emission Factor (lb/ton)
Dolton #2	316.8 tpy	6.2
Dolton #3	305.5 tpy	6.2
Henderson #2	457.7 tpy	7.6
Sapulpa #50	407.3 tpy	6.2
Seattle #3	176.8 tpy	3.8
Seattle #4	529 tpy	14.4
Dunkirk #1	146 tpy	1.6
Dunkirk #2	160.6 tpy	1.6
Lincoln	468.4 tpy	n/a

iii. Except for the Dolton Facility, prior to NO_X CEMS installation and certification, compliance with the interim NO_X emission limits in Table 1 shall be demonstrated by conducting an EPA Method 7E (40 C.F.R. Part 60

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Appendix A) source test. Testing shall be conducted initially no later than twelve (12) months after the Date of Entry and once each Calendar Year thereafter until NO_X CEMS are installed and certified. A source test is not required the year that a NO_X CEMS is installed. Compliance with the annual ton per year interim limit in Table 1 shall be calculated by using the following equation:

$$NO_X = \left[\frac{PastTest \times 1stProd}{2000}\right] + \left[\frac{NewTest \times 2ndProd}{2000}\right]$$

Where: NO_X = NO_X Emissions (tpy)

PastTest = Last source test result (lb/ton). If no source test has been conducted pursuant to this Consent Decree, the Interim Emission Factor listed in Table 1 shall be used (lb/ton).

NewTest = New test from the year for which emissions are being calculated (lb/ton).

1stprod = Production from January 1st through the Day prior to the Day the new source test is commenced (tons of glass).

2ndprod = Production from the Day of the new source test through the end of that same Calendar Year (tons of glass).

Note: If SGCI elects to do more than one test in a year, emissions calculated on the Days following the second test, will be based on that second test.

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iv. For the Dolton Facility, emissions shall be calculated in the same way as above in Paragraph 7.a.iii, but testing shall be conducted initially no later than December 31, 2009, and then once again after December 31, 2010, but no later than December 31, 2011, for Furnaces #2 and #3. For the period of time in the Calendar Year 2009 before SGCI conducts the first source test under this Consent Decree, emissions shall be calculated based on the Interim Emission Factor listed in Table 1.

v. Upon NO_X CEMS installation and certification as required by this Consent Decree, compliance with the interim NO_X emission limit in Table 1 shall be demonstrated using emissions data generated by the NO_X CEMS in order to calculate all subsequent daily emission rates that are used to calculate the annual emission rate for the Calendar Year. For the first Calendar Year during which CEMS are installed and certified, the annual emissions calculated will be the sum of the tons of NO_X emitted on the Days when the emissions were determined from source test data (as calculated above in Paragraph 7.a.iii.) and the tons of NO_X

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emitted on the Days when emissions were determined by CEMS data.

b. NO_X Emission Controls and Compliance Schedule

i. For each Furnace in Table 2, SGCI shall operate the NO_X emission control device specified for that Furnace in Table 2.

Table 2 – NO_X Emission Controls and Compliance Schedule

Facility and Furnace Number	Controls	Deadline
Pevely #21	Oxyfuel Furnace	December 31, 2009
Ruston #2	OEAS	December 31, 2009
Wilson #29	Oxyfuel Furnace	December 31, 2009
Port Allegany #1	OEAS	December 31, 2010
Ruston #1	OEAS	December 31, 2010
Milford #15	Oxyfuel Furnace	December 31, 2010
Milford #16	Oxyfuel Furnace	December 31, 2015
Wilson #28	Oxyfuel Furnace	December 31, 2011
Dunkirk #2	Oxyfuel Furnace	December 31, 2012
Seattle #4	OEAS	December 31, 2012
Waxahachie	Oxyfuel Furnace	December 31, 2013
Henderson #2	OEAS	December 31, 2013
Madera #1	Oxyfuel Furnace	December 31, 2014
Pevely #20	Oxyfuel Furnace	December 31, 2013
Dunkirk # 1	Oxyfuel Furnace	December 31, 2013
Port Allegany #3	OEAS	December 31, 2013
Dolton #1	SCR	December 31, 2014
Dolton #2	SCR	December 31, 2014
Dolton #3	SCR	December 31, 2014
Burlington #6	Oxyfuel Furnace	December 31, 2015
Burlington #7	Oxyfuel Furnace	December 31, 2015
Seattle #5	Oxyfuel Furnace	December 31, 2015
Seattle #3	Oxyfuel Furnace	December 31, 2016
Henderson #1	Oxyfuel Furnace	December 31, 2016

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Seattle #2	Oxyfuel Furnace	December 31, 2017
Sapulpa #51	OEAS	December 31, 2018
Sapulpa #52	OEAS	December 31, 2018
Lincoln	Oxyfuel Furnace	December 31, 2018
Sapulpa #50	OEAS	December 31, 2018

c. For Furnaces with Oxyfuel Technology:

i. After the next Major Rebuild, but no later than the dates specified in Table 2, SGCI shall only Operate the Furnace using Oxyfuel technology.

ii. SGCI shall install, maintain and Operate the Oxyfuel Furnace such that the gas that provides the oxidant for combustion of the fuel is at least 90 percent oxygen.

iii. SGCI shall comply with the following applicable limits for Oxyfuel Furnaces:

1. Emission Rate 30-day Rolling Average Limit – Commencing on the first Operating Day after completion of the Furnace Startup period and CEMS Certification (where the CEMS has been installed), but no later than the date specified in Table 2, an Oxyfuel Furnace shall not exceed the Emission Rate 30-day Rolling Average of 1.3 pounds of NO_X per ton of glass produced, as

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measured using a NO_X CEMS (where available), except during the following periods (as set forth in this Subparagraph): Abnormally Low Production Rate Days; Furnace Startup; Malfunction of the Furnace; and Maintenance of the Furnace.

2. NO_X Limit during Abnormally Low Production Rate Days –For any Abnormally Low Production Rate Day SGCI may elect to exclude the emissions generated during that Day from the Emission Rate 30-day Rolling Average. During these Days, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$NO_{X\ Oxy\ Abn} = 1.3\,\frac{lb\ NO_X}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $NO_{X\ Oxy\ Abn}$ = NO_X emission limit for an Oxyfuel Furnace during an Abnormally Low Production Rate Day, in pounds per day.
P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day.

3. Limits during Furnace Startup –

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a. Initial Heating Phase Operational Limit: SGCI shall burn no more than 5.0 million standard cubic feet of natural gas in that Furnace during the Initial Heating Phase of the Furnace Startup.

b. Refractory Soak and Seal Phase Operational Limits: SGCI shall comply with the following operational limits to limit NO_X emissions during the Refractory Soak and Seal Phase of the Furnace Startup:

i. Burn no more than sixty million standard cubic feet natural gas in that Furnace;

ii. Limit excess oxygen below 5 percent at the Furnace exhaust flue, as determined by handheld monitor, once per shift;

iii. Limit Hot Spot Temperature to 2900 degrees F; and

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iv. Use thermal blankets or similar techniques to minimize air infiltration until expansion joints are sufficiently closed.

c. Furnace Stabilization Phase Operational Limits: SGCI shall comply with the following operational limits to limit NO_X emissions during the Furnace Stabilization Phase of the Furnace Startup:

i. Burn no more than ninety million standard cubic feet natural gas in that Furnace;

ii. Limit excess oxygen below 5 percent at the Furnace exhaust flue as determined by handheld monitor, once per shift; and

iii. Limit Hot Spot Temperature to 2900 degrees F.

4. NO_X limit during Malfunction of the Furnace – For any Operating Day where a Malfunction of the

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Furnace occurs for any period of time, SGCI may elect to exclude the emissions generated during that Operating Day (Operating Days if the event covers more than one Operating Day) from the Emission Rate 30-day Rolling Average. During the Malfunction Days excluded from the Emission Rate 30-day Rolling Average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$NO_{X\ Oxy\ Malf} = 4 \times NO_{X\ Oxy\ Abn}$$

Where: $NO_{X\ Oxy\ Malf}$ = NO_X emission limit for an Oxyfuel Furnace during a Malfunction Day, in pounds per day.
$NO_{X\ Oxy\ Abn}$ = As defined in Paragraph 7.c.iii.2, NO_X emission limit for an Oxyfuel Furnace during an Abnormally Low Production Rate Day, in pounds per day.

5. NO_X limit during Maintenance of the Furnace – For any Operating Day where Maintenance activities on the Furnace are performed, SGCI may elect to exclude the Maintenance Day from the Emission Rate 30-day Rolling Average. For any Maintenance Day which is excluded from the 30-

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day rolling average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$NO_{X\ Oxy\ Maint} = \frac{MH \times [4 \times NO_{X\ Oxy\ Abn}]}{24} + \frac{NH \times [NO_{X\ Oxy\ Abn}]}{24}$$

Where: $NO_{X\ Oxy\ Maint}$ = NO_X emission limit for an Oxyfuel Furnace during a Maintenance Day, in pounds per day.
$NO_{X\ Oxy\ Abn}$ = As defined in Paragraph 7.c.iii.2, NO_X emission limit for an Oxyfuel Furnace during an Abnormally Low Production Rate Day, in pounds per day.
MH = Hours of Maintenance
NH = Normal Hours = 24 - MH

d. For Furnaces with Selective Catalytic Reduction (SCR):

i. For the Dolton Facility, no later than the first Operating Day after the date specified in Table 2, SGCI must commence operation of SCR to control emissions from all three Furnaces. For all other Furnaces, no later than the first Operating Day after the conclusion of the Control Device Startup period, SGCI shall Operate the Furnace(s) passing all stack gases (except during up to the first seven (7) days of the Furnace Startup; during Malfunction of the SCR or Scrubber System/ESP; or during Maintenance of the SCR or Scrubber System/ESP) through a Selective

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Catalytic Reduction device in compliance with the following:

1. This SCR must be designed for a removal efficiency of at least 90 percent; and
2. When the SCR is operating, SGCI shall continuously operate the SCR according to the vendor recommendations in order to minimize emissions to the extent practicable taking into consideration ammonia slip.

ii. SGCI shall comply with the following applicable NO_X limits for all Furnaces to be equipped with SCR:

1. Emission Rate 30-day Rolling Average Limit – Commencing on the first Operating Day after completion of the Control Device Startup and CEMS Certification, but no later than the date specified in Table 2, SGCI shall not emit more than 1.3 pounds of NO_X per ton of glass produced on a 30-day rolling average, as measured using a NO_X CEMS (where available), except during the following periods (as set forth in this

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Subparagraph): Abnormally Low Production Rate Days for any of the Furnaces; Control Device Startup; up to the first seven (7) days of the Furnace Startup; Malfunction of the SCR or Scrubber System/ESP; and Maintenance of the SCR or Scrubber System/ESP;

2. NO_X Limit during Abnormally Low Production Rate Days – When any of the Furnace(s) ducted through an SCR is Operating at an Abnormally Low Production Rate, SGCI may elect to exclude emissions from all Furnaces connected to the SCR from the Emission Rate 30-day Rolling Average. During these Days, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$NO_{X\,SCR\,Abn} = 1.3\,\frac{lb\,NO_X}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $NO_{X\,SCR\,Abn}$ = NO_X emission limit for SCR during an Abnormally Low Production Rate Day on any of the Furnaces ducted through the SCR, in pounds per day
P = Sum of the Furnace-specific production thresholds as defined in Paragraph 10, in

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tons of glass produced per day for all of the Furnaces ducted through the SCR.

3. The first seven (7) days of the Furnace Startup – For no more than the first seven (7) Days of the Furnace Startup, the Furnace exhaust may bypass the SCR to avoid having the operating inlet temperature of the SCR fall below its operational range. During these bypass Days SGCI shall burn no more than 15.0 million standard cubic feet of natural gas in that Furnace;

4. NO_X limit during Startup of the SCR and Malfunction of the SCR or Scrubber System/ESP – For any Operating Day during the Startup of SCR or where a Malfunction of the SCR or Scrubber System/ESP occurs for any period of time, SGCI may elect to exclude the emissions generated during that Operating Day (or Operating Days if the event covers more than one Operating Day) from the Emission Rate 30-day Rolling Average. During the Malfunction Days excluded from the Emission

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Rate 30-day Rolling Average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$NO_{X\ SCR\ Malf,SCR\ Startup} = 5 \times NO_{X\ SCR\ Abn}$$

Where: $NO_{X\ SCR\ Malf,\ SCR\ Startup}$ = NO_X emission limit for a Furnace using SCR during a Malfunction Day and during SCR Startup, in pounds per day.
$NO_{X\ SCR\ Abn}$ = As defined in 7.d.ii.2, NO_X emission limit for SCR during an Abnormally Low Production Rate Day, in pounds per day.

5. NO_X limit during Maintenance of the SCR or Scrubber System/ESP – For any Operating Day where Maintenance activities on the SCR or Scrubber System/ESP are performed, SGCI may elect to exclude the Maintenance Day from the Emission Rate 30-day Rolling Average. For any Day which is excluded from the 30-day rolling average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$NO_{X\ SCR\ Maint} = \frac{MH \times [5 \times NO_{X\ SCR\ Abn}]}{24} + \frac{NH \times [NO_{X\ SCR\ Abn}]}{24}$$

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Where: $NO_{X\ SCR\ Maint}$ = NO_X emission limit for a Furnace using SCR during a Maintenance Day, in pounds per day
$NO_{X\ SCR\ Abn}$ = As defined in 7.d.ii.2, NO_X emission limit for a Furnace using SCR during an Abnormally Low Production Rate Day, in pounds per day
MH = Hours of Maintenance
NH = Normal Hours = 24 – MH

e. For Furnaces with OEAS as identified in Table 2

i. Except for the Sapulpa Furnaces, at the end of the Furnace Startup period following the next Major Rebuild, but no later than the first Operating Day after the dates specified in Table 2, SGCI shall only Operate the designated Furnace using OEAS technology.

ii. For the Sapulpa Furnaces, no later than the first Operating Day after the date specified in Table 2, SGCI shall only Operate the Furnaces using OEAS technology.

iii. SGCI shall comply with the following applicable NO_X limits for OEAS-equipped Furnaces:

1. Emission Rate 30-day Rolling Average Limit – Commencing on the first Operating Day after completion of the Furnace Startup and CEMS Certification (where a CEMS is available), but no

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later than the date specified in Table 2, SGCI shall not emit more than 3.8 pounds of NO_X per ton of glass produced on a 30-day Rolling Average (except for the Seattle Furnace #4 and Henderson Furnace #2, which shall achieve an Emission Rate 30-day Rolling Average equal to 0.6 multiplied by the result of the last stack test (in pounds per ton) prior to installing OEAS), as measured using a NO_X CEMS (where available), except during the following periods (as set forth in this Subparagraph): Abnormally Low Production Rate Days; Furnace Startup; Malfunction of the Furnace; and Maintenance of the Furnace.

2. NO_X Limit during Abnormally Low Production Rate Days – For any Abnormally Low Production Rate Day SGCI may elect to exclude the emissions generated during that Day from the Emission Rate 30-day Rolling Average. During these Days, a CEMS shall be used to demonstrate compliance on

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a 24-hour Block Average with the following pound per day limit:

$$NO_{X\ OEAS\ Abn} = 3.8\frac{lb\ NO_X}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $NO_{X\ OEAS\ Abn}$= NO_X emission limit for an OEAS-Equipped Furnace during an Abnormally Low Production Rate Day, in pounds per day.
P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day.

3. Limits during Furnace Startup –

a. Initial Heating Phase Operational Limit: SGCI shall burn no more than 5.0 million standard cubic feet of natural gas in that Furnace during the Initial Heating Phase of the Furnace Startup.

b. Refractory Soak and Seal Phase Operational Limits: SGCI shall comply with the following operational limits to limit NO_X emissions during the Refractory Soak and Seal Phase of the Furnace Startup:

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i. Burn no more than sixty million standard cubic feet natural gas in that Furnace;

ii. Limit excess oxygen below 5 percent at the Furnace exhaust flue, as determined by handheld monitor, once per shift;

iii. Limit Hot Spot Temperature to 2900 degrees F; and

iv. Use thermal blankets or similar techniques to minimize air infiltration until expansion joints are sufficiently closed.

c. Furnace Stabilization Phase Operational Limits: SGCI shall comply with the following operational limits to limit NO_X emissions during the Furnace Stabilization Phase of the Furnace Startup:

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i. Burn no more than ninety million standard cubic feet natural gas in that Furnace;

ii. Limit excess oxygen below 5 percent at the Furnace exhaust flue as determined by handheld monitor, once per shift; and

iii. Limit Hot Spot Temperature to 2900 degrees F.

4. NO_X limit during Malfunction – For any Operating Day where a Malfunction of the Furnace occurs for any period of time, SGCI may elect to exclude the emissions generated during those Operating Day (Operating Days if the event covers more than one Operating Day) from the Emission Rate 30-day Rolling Average. During the Malfunction Days excluded from the Emission Rate 30-day Rolling Average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

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$$NO_{X\ OEAS\ Malf} = 3 \times NO_{X\ OEAS\ Abn}$$

Where: $NO_{X\ OEAS\ Malf}$ = NO_X emission limit for an OEAS-Equipped Furnace during a Malfunction Day, in pounds per day
$NO_{X\ OEAS\ Abn}$ = As defined under Paragraph 7.e.iii.2, NO_X emission limit for an OEAS-Equipped Furnace during an Abnormally Low Production Rate Day, in pounds per day.

5. NO_X limit during Maintenance – For any Operating Day where Maintenance activities on the Furnace are performed, SGCI may elect to exclude the Maintenance Day from the Emission Rate 30-day Rolling Average. For any Maintenance Day which is excluded from the 30-day Rolling Average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$NO_{X\ OEAS\ Maint} = \frac{MH \times [3 \times NO_{X\ OEAS\ Abn}]}{24} + \frac{NH \times [NO_{X\ OEAS\ Abn}]}{24}$$

Where: $NO_{X\ OEAS\ Maint}$ = NO_X emission limit for an OEAS-Equipped Furnace during a Maintenance Day, in pounds per day
$NO_{X\ OEAS\ Abn}$ = As defined in 7.e.iii.2., NO_X emission limit for an OEAS-Equipped Furnace during an Abnormally Low Production Rate Day, in pounds per day

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MH = Hours of Maintenance
NH = Normal Hours = 24 – MH

f. Monitoring: A CEMS, if available, shall be used to demonstrate compliance with the NO_X limits in Paragraph 7.c. through 7.e.. If the Facility does not have a CEMS when it is required to meet the limit in Paragraphs 7.c. through 7.e. above, compliance shall be demonstrated using data generated from annual stack tests complying with 40 C.F.R. Part 60 Appendix A Method 7E. If a CEMS Certification Event occurs, then the requirement to demonstrate compliance continuously with the limit for that Furnace will be suspended until Certification is completed (provided the seven-day test required for Certification is commenced the first Operating Day following the conclusion of the CEMS Certification Event).

g. Existing State/Local Limits: The limits in Paragraph 7 do not replace any current State/local limits and do not relieve SGCI of its obligation to comply with those limits.

h. Recordkeeping: For any Operating Day that SGCI is excluding emissions from the relevant Emission Rate 30-day Rolling Average, it shall record the date, the exception (Abnormally Low Production Rate Day, Furnace Startup, Control Device Startup, Malfunction, or Maintenance) under which it is excluded, a calculation of the applicable limit (pounds per

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day) according to the equations above, and the recorded emissions according to the CEMS (pounds per day). For any Operating Day excluded for Maintenance, SGCI shall record the total number of hours during which Maintenance occurred.

i. Recordkeeping and Reporting during Furnace Startup: In addition to the record keeping in Subparagraph h. above, during the applicable Furnace Startup period phases SGCI must also keep the following records:

i. For the Initial Heating Phase –

1. Total natural gas usage in that Furnace (in million standard cubic feet)

ii. For the Refractory Soak and Seal Phase –

1. Total natural gas usage in that Furnace (in million standard cubic feet);
2. Excess oxygen percentage at the Furnace exhaust flue (as determined by handheld monitor once per shift);
3. Hot Spot Temperature (measured once per shift); and

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4. A certified statement asserting whether thermal blankets or similar techniques were used during this period.

iii. For the Furnace Stabilization Phase –

1. Total natural gas usage in that Furnace (in million standard cubic feet);
2. Excess oxygen percentage at the Furnace exhaust flue (as determined by handheld monitor once per shift); and
3. Average Hot Spot Temperature (measured once per shift).

j. Where a Facility has more than one Furnace subject to the same emission limit (e.g., 1.3 lb/ton for Oxyfuel or 3.8 lb/ton for OEAS) compliance with the 30-day rolling limits set forth herein may be determined by averaging the emissions from all Furnaces subject to the same emission limit at a given facility.

k. Where a Facility has more than one Furnace routed through the same stack, but the Furnaces are not subject to the same emission limit, compliance shall be demonstrated using CEMS measuring each Furnace exhaust prior to the combination of the Furnace exhaust. However, if the

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exhaust system configuration prevents SGCI from installing a CEMS in each Furnace individually, compliance may be demonstrated by measuring the exhaust from one Furnace prior to the combined exhaust and measuring the total emissions after the stacks are combined (which will be used to determine emissions from the 2nd Furnace by subtracting the first Furnace's emission rate from the common exhaust emission rate).

l. No later than one year after the installation of Oxyfuel technology on Furnace #16 at Milford, SGCI shall install a Heat Recovery System at the Milford Facility. The System shall be designed to reduce or eliminate the energy demand of the Facility from external sources. SGCI must apply for a plan approval under 310 C.M.R. 7.02, if required by law, for this system twelve (12) months prior to the installation and comply with any monitoring, record keeping, and/or reporting required by law. This system must be constructed and operated in compliance with all applicable Federal and State laws.

8. **SO_2 Emission Controls, Limits, and Compliance Schedule**

a. Interim SO_2 Emission Limit:

i. On and after the first stack test following the Date of Entry (and on and after thirty (30) Days after the Date of Entry for a Furnace which has a certified SO_2 CEMS on the Date of

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Entry), all SGCI Furnaces listed in Table 3 below shall meet an interim limit of 2.5 pounds of SO_2 per ton of glass produced except during periods of Abnormally Low Production Rate Days, Furnace Startup, Malfunction, Maintenance, and Color Transition. This interim limit shall remain in effect until the Furnace is required to comply with an SO_2 emission limit specified in Paragraph 8 Subsections 8.c. through e. and g.

ii. Except for the Dolton Facility, prior to SO_2 CEMS installation and Certification, compliance with the interim SO_2 emission limit shall be demonstrated by conducting an EPA Method 6C (40 C.F.R. Part 60 Appendix A) source test. Testing shall be conducted initially no later than twelve (12) months after the Date of Entry and once each Calendar Year thereafter until SO_2 CEMS are installed and certified. A source test is not required the year that a SO_2 CEMS is installed.

iii. Emission Rate 30-day Rolling Average Limit – Upon SO_2 CEMS installation and Certification, SGCI shall not emit more than 2.5 pounds of SO_2 per ton of glass produced on a

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30-day Rolling Average, as measured using an SO_2 CEMS, except during the following periods (as set forth in this Subparagraph): Abnormally Low Production Rate Days; Furnace Startup; Malfunction of the Furnace; Color Transition; and Maintenance of the Furnace.

1. SO_2 Limit during Abnormally Low Production Rate Days – For any Abnormally Low Production Rate Day SGCI may elect to exclude the emissions generated during that Day from the Emission Rate 30-day Rolling Average when any Furnace, or any one of the Furnaces that is ducted through the same exhaust stack, is Operating at an Abnormally Low Production Rate. During these Days, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit for the Furnace(s) operating at Abnormally Low Production Rate.

$$SO_{2\ Interim\ Abn} = 2.5 \frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $SO_{2\ \text{Interim Abn}}$ = SO_2 interim emission limit for a Furnace during an Abnormally Low Production Rate Day, in pounds per day.

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P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day.

2. SO_2 limit during Furnace Startup –SGCI shall comply with the following operational limit to limit SO_2 emissions during all phases of Furnace Startup:

   a. During the startup period, SGCI will limit the amount of sulfur added to the batch materials to 2.6 pounds per ton of total batch material (including cullet) or less.

3. SO_2 limit during Malfunction – For any Operating Day where a Malfunction of the Furnace occurs for any period of time, SGCI may elect to exclude the emissions generated during that Operating Day (or Operating Days if the event covers more than one Operating Day) from the Emission Rate 30-day Rolling Average when any Furnace, or any one of the Furnaces that is ducted through the same exhaust stack, has a Malfunction. During the Malfunction Days excluded from the Emission Rate 30-day Rolling Average, a CEMS shall be used to

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demonstrate compliance on a 24-hour Block Average with the following pound per day limit for the Malfunctioning Furnace(s):

$$SO_{2\ Interim\ Malf} = 3 \times SO_{2\ Interim\ Abn}$$

Where: $SO_{2\ Interim\ Malf}$ = SO_2 interim emission limit for a Furnace during a Malfunction Day, in pounds per day.
$SO_{2\ Interim\ Abn}$ = As defined in Paragraph 8.a.iii.1, SO_2 interim emission limit for a Furnace during an Abnormally Low Production Rate Day, in pounds per day.

4. SO_2 limit during Maintenance – For any Operating Day where Maintenance activities on the Furnace are performed, SGCI may elect to exclude the Maintenance Day from the Emission Rate 30-day Rolling Average when any Furnace, or any one of the Furnaces that is ducted through the same exhaust stack, undergoes Maintenance. For any Day which is excluded from the 30-day rolling average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit for the Furnace(s) undergoing Maintenance:

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$$SO_{2\ Interim\ Maint} = \frac{MH \times [3 \times SO_{2\ Interim\ Abn}]}{24} + \frac{NH \times [SO_{2\ Interim\ Abn}]}{24}$$

Where: $SO_{2\ Interim\ Maint}$ = SO_2 interim emission limit for a Furnace during a Maintenance Day, in pounds per day.
$SO_{2\ Interim\ Abn}$ = As defined in Paragraph 8.a.iii.1, SO_2 interim emission limit for a Furnace during an Abnormally Low Production Rate Day, in pounds per day.
MH = Hours of Maintenance
NH = Normal Hours = 24 – MH

5. SO_2 limit during Color Transition – For any Operating Days during which a Color Transition is occurring SGCI may elect to exclude the emissions on such Days from the Emission Rate 30-day Rolling Average when any Furnace, or any one of the Furnaces that is ducted through the same exhaust stack, has a Color Transition. During these Days, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit for the Furnace(s) having a Color Transition:

$$SO_{2\ Interim\ Col\ Tran} = 2 \times SO_{2\ Interim\ Abn}$$

Where: $SO_{2\ Interim\ Col\ Tran}$ = SO_2 interim emission limit for a Furnace during a Color Transition, in pounds per day.

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$SO_{2\ Interim\ Abn}$ = As defined in Paragraph 8.a.iii.1, SO_2 interim emission limit for a Furnace during an Abnormally Low Production Rate Day, in pounds per day.

iv. At Facilities with more than one Furnace subject to an interim limit, compliance may be determined by averaging the emissions from all such Furnaces at a given Facility.

v. When one or more Furnace(s) Operating under normal conditions are ducted through the same exhaust stack as one or more Furnace(s) that are Operating at an Abnormally Low Production Rate, has a Malfunction, undergoes Maintenance, or has a Color Transition, the combined daily emission limit for the Furnaces shall be the sum of the following SO_2 Normal Lb/day limit for the normally Operating Furnace(s) and the relevant limit set forth in Paragraph 8(a)(iii)(1), (3), (4), or (5) for the remaining Furnace(s).

$$SO_{2\ Normal\ lb/day} = 2.5 \frac{lb\ SO_2}{ton} \times ADP$$

Where: $SO_{2\ Normal\ lb/day}$ = SO_2 interim emission limit for a normally Operating Furnace during a day where a commonly ducted furnace is experiencing an event a set forth in Paragraph 8(a)(iii)(1), (3), (4), or (5).

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ADP = Actual Daily Production for the normally Operating Furnace.

vi. For the Dolton Facility, prior to SO_2 CEMS installation and Certification, compliance with the interim SO_2 emission limit shall be demonstrated by conducting an EPA Method 6C (40 C.F.R. Part 60 Appendix A) source test. Testing shall be conducted initially no later than December 31, 2009, and then once again after December 31, 2010, but no later than December 31, 2011, for all three Furnaces.

b. SO_2 Emission Controls and Compliance Schedule

i. SGCI shall operate one of the SO_2 emission control devices specified for that Furnace in Table 3.

Table 3 – SO_2 Emission Controls and Compliance Schedule

Facility	Controls	Deadline
Seattle #5	CCSS – See Section 8.f.	See Section 8.f.
Milford #15 & #16	Semi-dry Scrubber or CCSS – See Section 8.c. or 8.e.	December 31, 2015
Dunkirk #1 & #2	Semi-dry Scrubber or CCSS – See Section 8.c. or 8.e.	December 31, 2012
Waxahachie	Semi-dry Scrubber or CCSS – See Section 8.c. or 8.e.	December 31, 2013
Pevely #20 & #21	Semi-dry Scrubber or CCSS – See Section 8.c. or 8.e.	December 31, 2013
Dolton #1, #2, & #3	Dry Scrubber – See Section 8.d.	December 31, 2014
Port Allegany #1 & #3	Process controls – See Section 8.g.	See Section 8.g.
Henderson #1	Process controls – See Section 8.g.	See Section 8.g.
Henderson #2	Process controls – See Section 8.g.	See Section 8.g.

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Lincoln	Process controls – See Section 8.g.	See Section 8.g.
Burlington #6	Process controls – See Section 8.g.	See Section 8.g.
Burlington #7	Process controls – See Section 8.g.	See Section 8.g.
Sapulpa #50	Process controls – See Section 8.g.	See Section 8.g.
Sapulpa #51	Process controls – See Section 8.g.	See Section 8.g.
Sapulpa #52	Process controls – See Section 8.g.	See Section 8.g.
Ruston #1	Process controls – See Section 8.g.	See Section 8.g.
Ruston #2	Process controls – See Section 8.g.	See Section 8.g.
Seattle #2	Process controls – See Section 8.g.	See Section 8.g.
Seattle #3	Process controls – See Section 8.g.	See Section 8.g.
Seattle #4	Process controls – See Section 8.g.	See Section 8.g.
Wilson #28	Process controls – See Section 8.g.	See Section 8.g.
Wilson #29	Process controls – See Section 8.g.	See Section 8.g.

c. For Furnaces with Semi-dry Scrubbers

i. After the next Major Rebuild (except Milford Furnace #15 and Pevely Furnace #21), but no later than the first Operating Day after the dates specified in Table 3, SGCI shall Operate the Furnace passing all stack gases through a Semi-dry Scrubber except during periods of Control Device Startup, up to the first seven (7) days of the Furnace Startup, and during Malfunction of the Scrubber System or ESP and Maintenance on the Scrubber System or ESP.

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ii. SGCI shall comply with the following applicable SO_2 limits for Furnaces with Semi-dry Scrubbers:

1. SO_2 30-day rolling average limit – Commencing on the first Operating Day after completion of the Control Device Startup and CEMS Certification, but no later than the date specified in Table 3, a Furnace equipped with a Semi-dry Scrubber shall comply with the following limits as measured using an SO_2 CEMS, except during the following periods (as set forth in this Subparagraph): Control Device Startup, Furnace Startup, Malfunction of the Scrubber System or ESP, and Maintenance of the Scrubber System or ESP.

    a. No dilution air will be intentionally added to the stack gases between the Scrubber System and the CEMS. When determining compliance with all Scrubber System limits, there shall be no oxygen correction, as per vendor guarantee.

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b. SGCI shall determine a daily Inlet 24-hour Block Average. The 30-day rolling average compliance limit for each Operating Day will depend on the daily Inlet 24-hour Block Average and will either be as defined in 8.c.ii.1.c. or 8.c.ii.1.d., but not both.

c. If the average daily Inlet calculated in 8.c.ii.1.b. is equal to or greater than 300 parts per million by volume dry (ppmvd) then the Removal Efficiency on a 24-hour Block Average for that Day and a Removal Efficiency 30-day Rolling Average shall be calculated. SGCI must operate the Semi-dry Scrubber such that the Removal Efficiency 30-day Rolling Average is greater than or equal to 85 percent.

d. If the average daily Inlet calculated in 8.c.ii.1.b. is less than 300 ppmvd, then the Scrubber Outlet 24-hour Block Average concentration for that Day and Scrubber

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Outlet 30-day Rolling Average shall be calculated. SGCI must operate the Semi-dry Scrubber such that the Scrubber Outlet 30-day Rolling Average is less than or equal to 45 ppmvd.

2. SO_2 limit during Control Device Startup or up to the first Seven (7) Days of Furnace Startup –SGCI shall comply with the following operational limit to limit SO_2 emissions during all phases of Control Device Startup or Furnace Startup:

   a. During the startup period, SGCI will limit the amount of sulfur added to the batch materials to 2.6 pounds per ton of total batch material (including cullet) or less.

   b. During no more than the first seven (7) Days of Furnace Startup, the Furnace exhaust may bypass the Scrubber System to avoid having the operating inlet temperature of the Scrubber System fall below its operational range. During these bypass Days, SGCI shall

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burn no more than 15.0 million standard cubic feet of natural gas in that Furnace.

3. SO_2 limit during Malfunction of the Scrubber System or ESP – For any Operating Day where a Malfunction of the Scrubber System or ESP occurs for any period of time, SGCI may elect to exclude the emissions generated during that Operating Day (or Operating Days if the event covers more than one Operating Day) from the Removal Efficiency 30-day Rolling Average and Scrubber Outlet 30-day Rolling Average emission rates . During the Malfunction Days excluded from the Removal Efficiency 30-day Rolling Average and Scrubber Outlet 30-day Rolling Average emission rates , a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$SO_{2\ Scrub\ Malf} = 2.5\frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $SO_{2\ \text{Scrub Malf}}$ = SO_2 emission limit for a Furnace with a Semi-dry Scrubber during a Malfunction Day, in pounds per day.

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P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day.

4. SO_2 limit during Maintenance of the Scrubber System– For any Operating Day where Maintenance activities on the Scrubber System or ESP are performed, SGCI may elect to exclude the Maintenance Day from the Removal Efficiency 30-day Rolling Average and Scrubber Outlet 30-day Rolling Average emission rates. For any Day which is excluded from the 30-day Rolling Average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day:

$$SO_{2\ Scrub\ Maint} = \frac{MH \times [2.5 \frac{lb\ SO_2}{ton} \times [\frac{P}{0.35}]]}{24} + \frac{NH \times [\frac{1}{2} \times 2.5 \frac{lb\ SO_2}{ton} \times [\frac{P}{0.35}]]}{24}$$

Where: $SO_{2\ Scrub\ Maint}$ = SO_2 emission limit for a Furnace with a Semi-Dry Scrubber during a Maintenance Day, in pounds per day.
P = Furnace-specific production threshold as defined in Paragraph 10 in tons of glass produced per day.
MH = Hours of Maintenance
NH = Normal Hours = 24 – MH

d. For the Furnaces Equipped with Dry Scrubbers

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i. No later than the first Operating Day after the dates specified in Table 3, SGCI shall Operate the Furnace passing all stack gases through a Dry Scrubber except during periods of Control Device Startup, up to the first seven (7) days of the Furnace Startup, and during Malfunction of the Scrubber System or ESP and Maintenance on the Scrubber System or ESP.

ii. SGCI shall comply with the following applicable SO_2 limits for Furnaces with Dry Scrubbers:

1. SO_2 30-day Rolling Average Limit – Commencing on the first Operating Day after completion of the Control Device Startup and CEMS Certification, but no later than the date specified in Table 3, a Furnace equipped with a Dry Scrubber shall comply with the following limits as measured using an SO_2 CEMS, except during the following periods (as set forth in this Subparagraph): Control Device Startup, up to the first seven (7) days of Furnace Startup, Malfunction of the Scrubber System or

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ESP, and Maintenance of the Scrubber System or ESP.

a. No dilution air will be intentionally added to the stack gases between the Scrubber System and the CEMS. When determining compliance with all Scrubber limits, there shall be no oxygen correction, as per vendor guarantee.

b. SGCI shall determine a daily Inlet 24-Hour Block Average. The compliance limit for each Operating Day will depend on the daily Inlet 24-hour Block Average and will either be as defined in 8.d.ii.1.c. or 8.d.ii.1.d., but not both.

c. If the average daily Inlet calculated in Subparagraph 8.d.ii.1.b is equal to or greater than 167 parts per million by volume dry (ppmvd) then the Removal Efficiency on a 24-hour Block Average for that Day and a Removal Efficiency 30-day Rolling Average

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shall be calculated. SGCI must operate the Dry Scrubber such that the Removal Efficiency 30-day Rolling Average is greater than or equal to 70 percent.

d. If the average daily Inlet calculated in Subparagraph 8.d.ii.1.b. is less than 167 ppmvd, then the Outlet 24-hour Block Average for that Day and Outlet 30-day Rolling Average shall be calculated. SGCI must operate the Dry Scrubber such that the Outlet 30-day Rolling Average is less than or equal to 50 ppmvd.

2. SO_2 limit during Control Device Startup or up to the first seven (7) days of Furnace Startup –SGCI shall comply with the following operational limit to limit SO_2 emissions during all phases of Control Device Startup or up to the first seven (7) days of Furnace Startup:

a. During the startup period, SGCI will limit the amount of sulfur added to the batch materials

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to 2.6 pounds per ton of total batch material (including cullet) or less.

b. For no more than the first seven (7) Days of Furnace Startup, the Furnace exhaust may bypass the Scrubber System to avoid having the operating inlet temperature of the Scrubber System fall below its operational range. During these bypass Days, SGCI shall burn no more than 15.0 million standard cubic feet of natural gas in that furnace.

3. SO_2 limit during Malfunction of the Scrubber System or ESP – For any Operating Day where a Malfunction of the Scrubber System or ESP occurs for any period of time, SGCI may elect to exclude the emissions generated during that Operating Day (or Operating Days if the event covers more than one Operating Day) from the Removal Efficiency 30-day Rolling Average and Scrubber Outlet 30-day Rolling Average emission rates. During the Malfunction Days excluded from the Removal

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Efficiency 30-day Rolling Average and Scrubber Outlet 30-day Rolling Average emission rates, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$SO_{2\ Scrub\ Malf} = 2.5\frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $SO_{2\ \text{Scrub Malf}}$ = SO_2 emission limit for a Furnace with a Dry Scrubber during a Malfunction Day, in pounds per day.
P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day.

4. SO_2 limit during Maintenance of the Scrubber System or ESP– For any Operating Day where Maintenance activities on the Scrubber System or ESP are performed, SGCI may elect to exclude the Maintenance Day from the Removal Efficiency 30-day Rolling Average and Scrubber Outlet 30-day Rolling Average emission rates. For any Maintenance Day which is excluded from the 30-day Rolling Average, a CEMS shall be used to

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demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$SO_{2\ Scrub\ Maint} = \frac{MH \times [2.5 \frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]]}{24} + \frac{NH \times [\frac{2}{3} \times 2.5 \frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]]}{24}$$

Where: $SO_{2\ Scrub\ Maint}$ = SO_2 emission limit for a Furnace with a Dry Scrubber during a Maintenance Day, in pounds per day
P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day
MH = Hours of Maintenance
NH = Normal Hours = 24 – MH

e. For Furnaces with Cloud Chamber Scrubber Systems

i. SGCI may install a CCSS instead of a Semi-dry Scrubber under Paragraph 8.c. For any Furnace which SGCI elects to use a CCSS, after up to the first seven (7) days of the Furnace Startup after the next Major Rebuild, but no later than the first Operating Day after the dates specified in Table 3, SGCI shall Operate the Furnace passing all stack gases through the CCSS except during periods of Control Device Startup, Malfunction of the CCSS and Maintenance on the CCSS. If SGCI uses a CCSS in lieu of a Semi-dry Scrubber, it must notify the United States and the State.

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ii. SO_2 30-day Rolling Average Limit – Commencing on the first Operating Day after completion of the Control Device Startup and CEMS Certification, but no later than the date specified in Table 3, SGCI shall comply with all requirements in 8.c.ii.

iii. Compliance with the above emissions limitations shall be measured using an SO_2 CEMS.

f. Seattle #5 Cloud Chamber Scrubber System – SGCI installed a CCSS on the Seattle Furnace #5 in 2007. If SGCI removes or discontinues operation of the CCSS, it shall, within 9 months of permanently ceasing to operate the CCSS, construct and operate a Semi-dry Scrubber in order to pass all stack gases through a Semi-dry Scrubber that meets the emissions standards in 8.c.ii.

g. For Furnaces listed in Table 4

i. Process controls may include technologies and methods that are currently undertaken or will be undertaken to reduce SO_2 emissions.

ii. Process controls shall be implemented at the following Furnaces and will be referred to as "Furnaces listed in Table 4."

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Table 4 – Process-Controlled Furnaces

Port Allegany Furnace #1
Port Allegany Furnace #3
Henderson Furnace #1
Henderson Furnace #2
Wilson Furnace #28
Wilson Furnace #29
Burlington Furnace #6
Burlington Furnace #7
Sapulpa Furnace #50
Sapulpa Furnace #51
Sapulpa Furnace #52
Lincoln Furnace
Ruston Furnace #1
Ruston Furnace #2
Seattle Furnace #2
Seattle Furnace #3
Seattle Furnace #4

iii. By no later than June 30, 2015, SGCI shall submit a complete application to the State/local permitting authority for two federally-enforceable SO_2 emission limits measured on a 30-day Rolling Average Emission Rate for each of the Furnaces listed in Table 4. One limit applies during times when the Furnace is producing flint (clear) glass and the other applies when the Furnace is producing colored (any other) glass. Both limits must be expressed in the form of

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pounds of SO_2 per ton of glass produced. No proposed SO_2 limit can be higher than 2.5 pounds per ton of glass produced, determined as a 30-day rolling average. The limit shall apply during all Operating Days except during Furnace Startup, Maintenance of the Furnace, Malfunction of the Furnace, Color Transition, and Abnormally Low Production Rate Days. For these exception periods, SGCI shall obtain federally-enforceable SO_2 emission limits as follows:

1. SO_2 Limit during Abnormally Low Production Rate Days – For any Abnormally Low Production Rate Day SGCI may elect to exclude the emissions generated during that Day from the Emission Rate 30-day Rolling Average. During these Days, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$SO_{2\ 2nd\ Abn} = [Applicable\ Permit\ Limit]\frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $SO_{2\ 2nd\ Abn}$ = SO_2 emission limit for a Furnace listed in Table 4 during an

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Abnormally Low Production Rate Day, in pounds per day.
Applicable Permit Limit = This is the permit limit that SGCI receives for each Furnace listed in Table 4 under Paragraph 8.g.iii for Color or Flint, whichever is currently being melted, in lb SO_2 per ton of glass.
P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day.

2. SO_2 limit during Furnace Startup –SGCI shall comply with the following operational limit to limit SO_2 emissions during all phases of Furnace Startup:

   a. During the startup period, SGCI will limit the amount of sulfur added to the batch materials to 2.6 pounds per ton of total batch material (including cullet) or less.

3. SO_2 limit during Malfunction of the Furnace – For any Operating Day where a Malfunction of the Furnace system occurs for any period of time, SGCI may elect to exclude the emissions generated during that Operating Day (or Operating Days if the event covers more than one Operating Day) from the Emission Rate 30-day Rolling Average. During

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the Malfunction Days excluded from the Emission Rate 30-day Rolling Average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$SO_{2\ 2nd\ Malf} = 3 \times 2.5 \frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $SO_{2\ 2nd\ Malf}$ = SO_2 emission limit for a Furnace listed in Table 4 during a Malfunction Day, in pounds per day.
P = Furnace-specific production threshold as defined in Paragraph 10 in tons of glass produced per day.

4. SO2 limit during Maintenance – For any Operating Day where Maintenance activities on the Furnace are performed, SGCI may elect to exclude the Maintenance Day from the Emission Rate 30-day Rolling Average. For any Day which is excluded from the 30-day Rolling Average, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$SO_{2\ 2nd\ Maint} = \frac{MH \times \left[3 \times 2.5 \frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]\right]}{24} + \frac{NH \times \left[\frac{P}{0.35}\right] \times [App\ Limit] \frac{lb\ SO_2}{ton}}{24}$$

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Where: $SO_{2\ 2nd\ Maint}$ = SO_2 emission limit for a Furnace listed in Table 4 during a Maintenance Day, in pounds per day.
P = Furnace-specific production threshold as defined in Paragraph 10 in tons of glass produced per day.
MH = Hours of Maintenance
NH = Normal Hours = 24 – MH
App Limit = This is the permit limit that SGCI receives for each Furnace listed in Table 4 under Paragraph 8.g.iii for Color or Flint, whichever is currently being melted, in lb SO_2 per ton of glass.

5. SO_2 limit during Color Transition – For any Operating Day on which a Color Transition occurs SGCI may elect to exclude the emissions generated during that Day from the Emission Rate 30-day Rolling Average. During these Days, a CEMS shall be used to demonstrate compliance on a 24-hour Block Average with the following pound per day limit:

$$SO_{2\ 2nd\ Col\ Tran} = 2 \times 2.5 \frac{lb\ SO_2}{ton} \times \left[\frac{P}{0.35}\right]$$

Where: $SO_{2\ 2nd\ Col\ Tran}$ = SO_2 emission limit for a Furnace listed in Table 4 during a Color Transition Day, in pounds per day.
P = Furnace-specific production threshold as defined in Paragraph 10, in tons of glass produced per day.

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iv. Following the submission of a complete permit application, SGCI shall cooperate with the applicable State/local permitting authority by promptly submitting all information requested by the State/local permitting authority.

v. At the Wilson Facility, by December 31, 2011, SGCI shall apply for SO_2 limits of 400 tons of SO_2 per Calendar Year for Furnaces #28 and #29 combined, as measured by SO_2 CEMS.

vi. By no later than June 30, 2015, SGCI shall apply for permanent SO_2 emission limits in compliance with 8.g.iii-xii. for all Furnaces listed in Table 4 through Permits issued by the State/local agency.

vii. SGCI shall continuously comply with each proposed SO_2 emission limit starting on the date of the Permit application and throughout the duration of the Consent Decree except during periods of Abnormally Low Production Rate Days, Furnace Startup, Malfunction of the Furnace, Maintenance of the Furnace, and Color Transition.

viii. An SO_2 CEMS shall be used to demonstrate compliance with the SO_2 limits for Furnaces listed in Table 4.

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ix. Once all Furnaces listed in Table 4 have received a Permit with 30-day Rolling Average limits for flint glass, the SO_2 System-wide Weighted Average of 30-day Rolling Average Emission Rate Permit Limits of all Furnaces listed in Table 4 obtained for flint glass shall not be greater than 1.95 pounds of SO_2 per ton of glass produced.

x. Once all Furnaces listed in Table 4 have received a Permit with 30-day Rolling Average limits for colored glass, the SO_2 System-wide Weighted Average of 30-day Rolling Average Emission Rate Permit Limits of all Furnaces listed in Table 4 obtained for colored glass shall not be greater than 2.25 pounds of SO_2 per ton of glass produced.

xi. Beginning in the 2011 Calendar Year and ending on December 31, 2015, SGCI shall achieve System-wide Weighted Annual Average Actual Emissions of no greater than 1.95 pounds of SO_2 per ton of glass produced. Each year the weighted average will include all Furnaces listed in Table 4 equipped with CEMS and will include emissions and production from any color of glass. This limit shall include emissions from all times the Furnaces are firing fuel

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except Abnormally Low Production Rate Days, Furnace Startup, Malfunction, Maintenance of the Furnace, and Color Transition.

xii. By no later than 6 months after all Furnaces listed in Table 4 have received Permits with 30-day Rolling Average limits for flint and colored glass, SGCI shall submit a report that demonstrates compliance with Paragraph 8.g.ii. to 8.g.xi. including, but not limited to, all applicable Permits containing the SO_2 emission limits for the Furnaces listed in Table 4 and a calculation of the SO_2 System-wide Weighted Average Permit Limit for flint under Paragraph 8.g.ix. and colored glass under Paragraph 8.g.x.

h. Monitoring: A CEMS, if available, shall be used to demonstrate compliance with the SO_2 limits in Paragraphs 8.c. through 8.g. using data generated by the SO_2 CEMS. If the Facility does not have a CEMS when it is required to meet the limit in Paragraphs 8.c. through 8.g. above, compliance shall be demonstrated using data generated from annual stack tests complying with 40 C.F.R. Part 60 Appendix A. If a CEMS Certification Event occurs, then the requirement to demonstrate compliance continuously with the limit for that Furnace will be suspended until

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Certification is completed (provided the seven-day test required for Certification is commenced the first Operating Day following the conclusion of the CEMS Certification Event).

i. Existing State/Local Limits: The limits in Paragraph 8 do not replace any current State/local limits and do not relieve SGCI of its obligation to comply with those limits.

j. Recordkeeping: For any Operating Day that SGCI is excluding emissions from the relevant Emission Rate 30-day Rolling Average, it shall record the date, the exception (Abnormally Low Production Rate Day, Furnace Startup, Furnace Malfunction, Furnace Maintenance, or Color Transition) under which it is excluded, a calculation of the applicable limit (pounds per day) according to the equations above, and the recorded emissions according to the CEMS, if a certified CEMS is available (in pounds per day).

k. Recordkeeping and Reporting during Furnace Startup: In addition to the record keeping in Subparagraph j. above, during all Furnace Startup phases SGCI must also keep the following records:

i. During the startup period, SGCI will record the amount of sulfur added to the batch materials in pounds per ton of total batch material.

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l. Where a Facility has more than one Furnace subject to the same emission limit, compliance with the 30-day rolling average limits set forth herein may be determined by averaging the emissions from all Furnaces subject to the same emission limit at a given Facility.

m. For the Furnaces at Burlington, Wilson, and Seattle, the limits set forth in or determined in accordance with Paragraph 8 shall be increased by 2.0 pounds per ton when burning fuel oil. If additional Furnaces are allowed by a Permit to burn fuel oil, the required limit under this Consent Decree shall be increased by 2.0 pounds per ton for periods when burning fuel oil. No Furnace may combust fuel oil which has a sulfur content in excess of 0.5 percent, by weight.

n. Compliance with a Sulfuric Acid Mist emission limit of 1.0 pounds per ton of glass produced shall be demonstrated by a stack test performed using Conditional Test Method 13A or B on all Furnaces on or before December 31, 2011. Stack testing shall be required to be performed after this initial test only once during the life of each Title V permit renewal.

9. **PM Emission Controls, Limits, and Compliance Schedule**

a. Interim PM Emission Limit:

i. On and after the first stack test following the Date of Entry, SGCI shall comply with an interim PM emission limit of

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1.0 pound of filterable PM per ton of glass produced on all glass Furnaces listed in Table 5 (except for Milford #15 and #16, and Seattle #5).

ii. Except for the Dolton facility, compliance with this interim PM emission limit shall be demonstrated by conducting an EPA Method 5 (40 C.F.R. Part 60 Appendix A) source test. Testing shall be conducted initially no later than 12 months after the Date of Entry and once each Calendar Year thereafter.

iii. For the Dolton Facility, compliance with the interim PM emission limit shall be demonstrated by conducting an EPA Method 5 (40 C.F.R. Part 60 Appendix A) source test on each of the three Furnaces. Testing on each of the three Furnaces shall be conducted initially no later than December 31, 2009, and then once again between January 1, 2011, and December 31, 2011.

iv. The interim PM emission limit shall remain in effect until the Furnace is required to comply with a PM emission limit specified in Paragraph 9.c. through 9.h. below. Stack testing for demonstration of compliance with interim limits

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shall not be required in a Calendar Year during which compliance with limits determined under Paragraphs 9.c. or 9.d. is demonstrated.

b. PM Emission Controls and Compliance Schedule

i. For each Furnace in Table 5, SGCI shall operate one of the PM emission control devices or methods specified for that Furnace in Table 5.

Table 5 – Controls for Particulate Matter and Compliance Schedule

Facility and Furnace #	Controls	Deadline
Seattle #5	CCSS – See Section 9.e.	See Section 9.e.
Milford #15 & #16	Electrostatic Precipitator, or CCSS	December 31, 2015
Dunkirk #1 & #2	Electrostatic Precipitator, or CCSS	December 31, 2012
Waxahachie	Electrostatic Precipitator, or CCSS	December 31, 2013
Pevely #20 & #21	Electrostatic Precipitator, or CCSS	December 31, 2013
Dolton #1, #2, & #3	Electrostatic Precipitator	December 31, 2014
Port Allegany #1	Process controls – See Section 9.f.	December 31, 2009
Port Allegany #3	Process controls – See Section 9.f.	December 31, 2013
Henderson #1	Process controls – See Section 9.f.	December 31, 2014
Henderson #2	Process controls – See Section 9.f.	December 31, 2009
Lincoln	Process controls – See Section 9.f.	December 31, 2016
Burlington #6	Process controls – See Section 9.f.	December 31, 2012
Burlington #7	Process controls – See Section 9.f.	December 31, 2013
Sapulpa #50	Process controls – See Section 9.f.	December 31, 2015
Sapulpa #51	Process controls – See Section 9.f.	December 31, 2010
Sapulpa #52	Process controls – See Section 9.f.	December 31, 2011
Ruston #1	Process controls – See Section 9.f.	December 31, 2012
Ruston #2	Process controls – See Section 9.f. and 9.g.	December 31, 2012
Seattle #2	Process controls – See Section 9.f.	December 31, 2015
Seattle #3	Process controls – See Section 9.f.	December 31, 2015
Seattle #4	Process controls – See Section 9.f	December 31, 2012

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Wilson #28	Process controls – See Section 9.f. and 9.h.	December 31, 2012
Wilson #29	Process controls – See Section 9.f. and 9.h.	December 31, 2012

c. For Furnaces with Electrostatic Precipitator

i. After up to the first seven (7) days of the Furnace Startup period following the next Major Rebuild (except Milford Furnace #15 and Pevely Furnace #21), but no later than the first Operating Day after the dates specified in Table 5, SGCI shall Operate the Furnace passing all stack gases through an Electrostatic Precipitator (ESP), except during periods of Control Device Startup, Malfunction of the ESP, and Maintenance of the ESP.

ii. SGCI shall comply with the PM emission limit of 0.2 pounds of filterable PM per ton of glass produced (or 0.26 pounds of filterable PM per ton of glass produced when the Furnace is fired on fuel oil) and 0.45 pounds of total PM per ton of glass produced (or 0.51 pounds of total PM per ton of glass produced when the Furnace is fired on fuel oil) for those Furnaces equipped with an ESP but no SCR. Furnaces equipped with an ESP and an SCR shall comply with the PM emission limit of 0.2 pounds of filterable PM

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per ton of glass produced (or 0.26 pounds of filterable PM per ton of glass produced when the Furnace is fired on fuel oil); for such Furnaces there shall be no limit for total or condensable PM.

iii. Compliance with the PM limit shall be demonstrated through annual stack tests. SGCI shall conduct an initial stack test on each Furnace no later than twelve (12) months after the applicable compliance date listed in Table 5 and once each Calendar Year thereafter.

1. Filterable PM shall be determined using EPA Method 5 (40 C.F.R. Part 60 Appendix A).
2. Total PM shall be determined using Method 5 (40 C.F.R. Part 60 Appendix A) and EPA Method 202 (40 C.F.R. Part 51 Appendix M).

d. For Furnaces with Cloud Chamber Scrubber System

i. SGCI may install a CCSS instead of an ESP. For any Furnace where SGCI elects to use a CCSS instead of an ESP, after the first seven (7) days of the Furnace Startup period following next Major Rebuild, but no later than the first Operating Day after the dates specified in Table 5, SGCI shall Operate the

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Furnace passing all stack gases through a CCSS except during periods of Control Device Startup, Malfunction of the CCSS, and Maintenance of the CCSS.

ii. If SGCI uses a CCSS in lieu of an ESP, it must notify the United States and the State.

iii. Any CCSS installed in lieu of an ESP (excluding the experimental CCSS installed on Seattle Furnace #5) shall comply with all requirements in 9.c.ii. and 9.c.iii.

e. Seattle #5 Cloud Chamber Scrubber System – SGCI installed a CCSS on the Seattle Furnace #5 in 2007. If SGCI removes or discontinues operation of the CCSS, it shall, within nine (9) months of permanently ceasing to operate the CCSS, construct and operate an ESP in order to pass all stack gases through an ESP that meets the emissions standards in 9.c.

f. PM Emission Limits for Furnaces listed in Table 4

i. For each Furnace listed in Table 4, SGCI shall comply with the PM emission limit of 1.0 pound of total PM per ton of glass produced for each Furnace by the dates specified in Table 5.

ii. Compliance with the PM limits in Paragraph 9.f.i. shall be demonstrated by annual stack tests. Total PM shall be

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determined using Method 5 (40 C.F.R. Part 60 Appendix A) and EPA Method 202 (40 C.F.R. Part 51 Appendix M). Compliance with this limit shall be measured by a stack test which SGCI shall conduct no later than twelve (12) months after the date control is required in Table 5 and once per Calendar Year thereafter.

g. Ruston Furnace #2 PM Emission Limits – By no later than December 31, 2012, SGCI shall comply with a PM emission limit of 76.8 tons of total PM per year for Ruston Furnace #2, calculated on a Calendar Year basis. Compliance with the limit shall be demonstrated by conducting an annual stack test using EPA Method 5 and Method 202 (40 C.F.R. Part 60 Appendix A). Initial testing shall be conducted before December 31, 2012, and once each Calendar Year thereafter. Compliance with the annual ton per year limit shall be calculated by using the following equation:

$$PM = \left[\frac{PastTest \times 1stProd}{2000}\right] + \left[\frac{NewTest \times 2ndProd}{2000}\right]$$

Where: PM = PM Emissions (tpy)

PastTest = Last Source test result (lb/ton).

NewTest = New test from the year for which emissions are being calculated (lb/ton).

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1stprod = Production from January 1st through the Day prior to the Day the new source test is commenced (tons of glass).

2ndprod = Production from the Day of the new source test through the end of that same Calendar Year (tons of glass).

Note: If SGCI elects to do more than one test in a year, emissions calculated on the Days following the second test, will be based on that second test.

h. Wilson PM Emission Limits – By no later than December 31, 2012, SGCI shall comply with a PM emission limit of 172.5 tons of total PM per year for Wilson Furnaces #28 and #29 combined, calculated on a Calendar Year basis. Compliance with this limit shall be demonstrated with annual stack tests using EPA Method 5 and Method 202 (40 C.F.R. Part 60 Appendix A). Initial testing shall be conducted before December, 31, 2012, and once each Calendar Year thereafter. Compliance with the annual ton per year emission limit shall be calculated by summing the results of the following equation for each Furnace:

$$PM = \left[\frac{PastTest \times 1stProd}{2000}\right] + \left[\frac{NewTest \times 2ndProd}{2000}\right]$$

Where: PM = PM Emissions (tpy)

PastTest = Last Source test result (lb/ton).

NewTest = New test from the year for which emissions are being calculated (lb/ton).

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1stprod = Production from January 1st through the Day prior to the Day the new source test is commenced (tons of glass).

2ndprod = Production from the Day of the new source test through the end of that same Calendar Year (tons of glass).

Note: If SGCI elects to do more than one test in a year, emissions calculated on the Days following the second test, will be based on that second test.

i. Existing State/Local Limits – The limits in Paragraph 9 do not replace any current State/local limits and do not relieve SGCI of its obligation to comply with those limits.

j. Where a Facility has more than one Furnace routed to the same stack and subject to the same emission limits, compliance with the limits on each Furnace set forth herein shall be determined using the following equation:

$$PM\ Emission\ Rate = \frac{(lbs\ of\ PM\ from\ ST)}{Daily\ production\ (tons)} \times \frac{24\ hours}{source\ test\ length\ (hrs)}$$

Where: PM Emission Rate = PM Emissions rate (lb PM/ton glass)

Lbs of PM from ST = The pounds of PM measured during the entire length of the source test (including all runs).

Daily production = The amount of glass produced on all Furnaces during the Day of the source test.

Source test length = Length of the entire source test (including all runs), in hours.

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If the resulting number is below the limit set forth on each Furnace individually, then all included Furnaces are in compliance. If the resulting number is above the limits set forth on each Furnace individually, then all included Furnaces are in noncompliance.

k. Where a Facility has more than one Furnace subject to the same emission limit, but routed to different stacks, compliance with the pounds per ton stack test limits set forth herein may be determined by averaging the emissions from Furnaces subject to the same emission limit at a given Facility. The average of the stack test results would be calculated on a weighted average by taking the source test from each unit and multiplying by the actual production of that unit in that year and dividing by the total Facility-wide production for that year. Then the resulting weighted numbers would be calculated for each additional Furnace and added together to calculate the combined pounds of emissions per ton of glass for the Facility.

l. Compliance with the New Source Performance Standards (NSPS)

i. Some of SGCI's existing Furnaces are already subject to 40 C.F.R. Part 60, Subpart CC. On the dates specified in this Paragraph 9.l., SGCI's remaining Furnaces shall be "affected facilities" pursuant to 40 C.F.R. Part 60, Subpart CC.

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ii. Ruston Furnace #1, Port Allegany Furnaces #1 and #3, Henderson Furnace #2, Waxahachie, and Sapulpa Furnace #50, will be "affected facilities" under 40 C.F.R. Part 60, Subparts A and CC, 180 Days after installation and certification of the Continuous Opacity Monitoring System (COMS).

iii. Seattle Furnace #4, which already has a COMS, will become an "affected facility" under 40 C.F.R. Part 60, Subparts A and CC, within 180 Days of the Date of Entry.

iv. Dolton Furnaces #1, #2, and #3 shall become "affected facilities" under 40 C.F.R. Part 60, Subparts A and CC, 180 Days after installation of the Dry Scrubber/ESP and SCR, but no later than December 31, 2014.

v. Furnaces installing an ESP or CCSS shall become "affected facilities" under 40 C.F.R. Part 60, Subparts A and CC, 180 Days after the compliance dates specified in Table 5.

vi. SGCI must certify for any Furnace that became an "affected facility" in that year, whether the Furnace is in compliance with 40 C.F.R. Part 60, Subparts A and CC in the annual report for the year.

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10. **Abnormally Low Production Rate Days -** The following values shall be used to determine Abnormally Low Production Rate Days for each Furnace.

Table 6 – Abnormally Low Production Rate Day Thresholds	
Facility and Furnace	**Abnormally Low Production Rate Day Threshold * (tons/day)**
Milford, MA – Furnace #15	105
Milford, MA – Furnace #16	102
Port Allegany, PA – Furnace #1	73
Port Allegany, PA – Furnace #3	99
Henderson, NC – Furnace #1	112
Henderson, NC – Furnace #2	116
Wilson, NC – Furnace #28	193
Wilson, NC – Furnace #29	175
Lincoln, IL – Furnace #1	149
Dolton, IL – Furnace #1	102
Dolton, IL – Furnace #2	98
Dolton, IL – Furnace #3	95
Dunkirk, IN – Furnace #1	175
Dunkirk, IN – Furnace #2	193
Burlington, WI – Furnace #6	140
Burlington, WI – Furnace #7	140
Ruston, LA – Furnace #1	103
Ruston, LA – Furnace #2	170
Sapulpa, OK – Furnace #50	126
Sapulpa, OK – Furnace #51	114
Sapulpa, OK – Furnace #52	123
Waxahachie, TX – Furnace #1	114
Pevely, MO – Furnace #20	102
Pevely, MO – Furnace #21	161
Madera, CA – Furnace #1	158
Seattle, WA – Furnace #2	104
Seattle, WA – Furnace #3	90
Seattle, WA – Furnace #4	70
Seattle, WA – Furnace #5	99

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* Unless capacity subsequently increases as authorized by a revised permit limit. If production is increased by a Permit, the Abnormally Low Production Rate Day Threshold would be 35 percent of the new permitted production (or design production, where there is no permitted production) as determined on a daily basis (for the purpose of defining the Abnormally Low Production Rate Day Threshold).

11. **Shut down Units:** The following Furnaces have ceased operations and shall permanently remain closed:

Table 7 – Permanently Closed Furnaces

Carteret, New Jersey – Furnace #1 (only Furnace)
Port Allegany, Pennsylvania – Furnace #2

12. **Good Operation -** At all times, including periods of Abnormally Low Production Rate Days, Furnace Startup, Control Device Startup, Malfunction, Maintenance, and Color Transition, SGCI shall, to the extent practicable, maintain and operate all Furnaces and all control devices in a manner consistent with good air pollution control practice for minimizing emissions.

13. **Maintenance**

a. Scheduled or preventative Furnace Maintenance, including checker raking and burning, shall not exceed ninety-six (96) Operating hours annually and shall be conducted only when any downstream control devices required by this Consent Decree (SCR, Scrubber, CCSS, ESP, etc.), if applicable, are operating.

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b. Control system scheduled or preventative Maintenance – Scheduled or preventative Maintenance of the emission control system shall occur when the Furnace(s) connected to the control system are not Operating. However, for any Calendar Year which is a Continuous Operating Year, scheduled or preventative maintenance may be conducted while the Furnace(s) are Operating. During these Continuous Operating Years, Maintenance lasting greater than twenty-four consecutive hours, shall occur only during Abnormally Low Production Rate Days. Control system Maintenance must be done in compliance with the following:

i. Bypass for the purpose of preventative Maintenance of any SCR shall not exceed 144 hours annually in any Calendar Year.

ii. Bypass of the ESP shall not exceed 144 hours annually in any Calendar Year. Furthermore if the ESP is bypassed, the Scrubber System must be bypassed as well.

iii. Bypass of the Scrubber System shall not exceed 144 hours annually in any Calendar Year. Bypass of the Scrubber System required by the bypass of the ESP shall be included in the 144 hours.

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iv. Bypass of the CCSS shall not exceed 144 hours annually in any Calendar Year.

14. **Source Testing** – Each source test shall be conducted in accordance with the requirements of the specified test method and shall be performed under representative operating conditions and shall not be conducted during periods of Abnormally Low Production Rate Days, Furnace Startup, Control Device Startup, Malfunction of the Furnace or relevant control system, Maintenance of the Furnace or relevant control system, or Color Transition.

15. **Installation, Calibration, Certification, Maintenance, and Operation of CEMS and COMS**

a. In lieu of any parametric monitoring, by no later than the respective dates listed in Table 8 for each Furnace, SGCI shall install, calibrate, certify, maintain, and operate CEMS and/or COMS as specified in Subsection b. through e. of this Paragraph (where a CEMS or COMS is being installed at a Facility where more than one Furnace is routed through a single ESP/Scrubber or CCSS, only one CEMS/COMS unit is required). The CEMS or COMS certification cannot occur during periods of Abnormally Low Production Rate Days, Furnace Startup, Control Device Startup, Malfunction, Maintenance, or Color Transition. SGCI shall commence a

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new CEMS Certification on a particular Furnace on the first Operating Day after each CEMS Certification Event concludes on that Furnace.

Table 8 – Continuous Monitoring Systems

Facility	NO_X CEMs Deadline	SO_2 CEMs Deadline	COMs Deadline (subject to 15.b.)
Madera #1*	Date of Entry	Date of Entry	Date of Entry
Lincoln	Date of Entry	Date of Entry	Date of Entry
Ruston #1	December 31, 2010	December 31, 2010	December 31, 2010
Ruston #2	December 31, 2009	December 31, 2009	Date of Entry
Port Allegany #1	December 31, 2013	December 31, 2009	December 31, 2009
Port Allegany #3	December 31, 2013	December 31, 2009	December 31, 2009
Burlington #6	December 31, 2009	December 31, 2009	Date of Entry
Burlington #7	December 31, 2009	December 31, 2009	Date of Entry
Henderson #1	December 31, 2009	December 31, 2009	Date of Entry
Henderson #2	December 31, 2009	December 31, 2009	December 31, 2009
Wilson #28	December 31, 2010	December 31, 2010	Date of Entry
Wilson #29	December 31, 2010	December 31, 2010	Date of Entry
Milford #15*	December 31, 2010	December 31, 2010	Date of Entry
Milford #16*	December 31, 2015	December 31, 2010	Date of Entry
Dunkirk #1 & #2	December 31, 2012	December 31, 2012	Date of Entry
Waxahachie	December 31, 2013	December 31, 2013	December 31, 2013
Seattle #2	December 31, 2015	December 31, 2015	Date of Entry
Seattle #3	December 31, 2011	December 31, 2011	Date of Entry
Seattle #4	December 31, 2011	December 31, 2011	Date of Entry
Seattle #5	December 31, 2015	December 31, 2011	n/a
Sapulpa #50	December 31, 2011	December 31, 2011	December 31, 2011
Sapulpa #51	December 31, 2011	December 31, 2011	Date of Entry
Sapulpa #52	December 31, 2011	December 31, 2011	Date of Entry
Pevely #20	December 31, 2013	December 31, 2013	Date of Entry

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Pevely #21	December 31, 2013	December 31, 2013	Date of Entry
Dolton #1	December 31, 2014	December 31, 2014	n/a
Dolton #2	December 31, 2014	December 31, 2014	n/a
Dolton #3	December 31, 2014	December 31, 2014	n/a

1 * Furnaces that currently have a combined stack exhaust.

2 b. If SGCI chooses to install CCSS on any of the above facilities where
3 CCSS is an option, then it will not have to install COMs on that Furnace. If
4 SCGI installs an SCR on any of the above facilities, then it will not have to
5 install COMS on that Furnace.

6 c. SGCI shall install, calibrate, certify, maintain, and operate NO_X and
7 SO_2 CEMS as required by Paragraph 15.a. as follows:

8 i. Subject to Paragraph 15.c.ii., the NO_X and SO_2 CEMS shall
9 monitor continuously and record the hourly NO_X and SO_2
10 emission concentration (parts per million) during each
11 Operating Day from each Furnace (or Furnaces where more
12 than one Furnace subject to the same emission limit is
13 routed through a common exhaust stack). The CEMS shall
14 calculate and record in units of parts per million of NO_X
15 and SO_2 emitted.

16 ii. The CEMS shall be installed, calibrated, certified,
17 maintained, and operated in accordance with 40 C.F.R. §
18 60.13, 40 C.F.R. Part 60 Appendix B (Performance

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Specification 2) and 40 C.F.R. Part 60 Appendix F (Quality Assurance Procedures).

d. Where the Consent Decree requires the use of CEMS to determine an emission rate (pound per ton or ton per year), then SGCI is required to either:

i. Follow requirements set forth above in 15.c. for the CEMS and then use an EPA approved method for calculating flow. In conjunction with the EPA approved flow method calculation, the data acquisition and handling system for the CEMS shall convert the ppm values into pound per hour values where the limit is expressed in pounds of pollutant per ton of glass produced. At the end of each Operating Day, the data acquisition and handling system shall divide the total daily emissions in pounds per day for valid CEMS hourly data by the total tons of glass produced during the Operating Day (reduced proportionally based on the valid CEMS data hours) to describe the pound per ton emission rate for the Operating Day. This number shall be recorded in units of pounds of pollutant per ton of glass produced; or

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ii. Install, calibrate, certify, maintain, and operate NO_X and SO_2 Continuous Emission Rate Monitoring System (CERMS) as follows:

1. The CERMS shall be installed, calibrated, certified, maintained, and operated in accordance with 40 C.F.R. § 60.13, 40 C.F.R. Part 60 Appendix B (Performance Specification 6), and 40 C.F.R. Part 60 Appendix F (Quality Assurance Procedures);
2. SGCI must comply with all monitoring, record keeping and reporting requirements in 40 C.F.R. § 60.13 and 40 C.F.R. Part 60 Appendix B (Performance Specification 6); and
3. In conjunction with the flow rate monitoring device, the data acquisition and handling system for the CEMS shall convert the ppm values into pound per hour values where the limit is expressed in pounds of pollutant per ton of glass produced. At the end of each Operating Day, the data acquisition and handling system shall divide the total daily emissions in pounds per day for valid CEMS hourly

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data by the total tons of glass produced during the Operating Day (reduced proportionally based on the valid CEMS data hours) to describe the pound per ton emission rate for the Operating Day. This number shall be recorded in units of pounds of pollutant per ton of glass produced for the applicable Day.

e. SGCI shall install, calibrate, certify, maintain, and operate a COMS as required by Paragraph 15.a. as follows:

i. SGCI shall install, calibrate, certify, maintain, and operate continuously a COMS during each Operating Day as required by Paragraph 15.a. in accordance with Performance Specification 1 of 40 C.F.R. Part 60 Appendix B; and

ii. SGCI must comply with all monitoring, record keeping and reporting requirements in 40 C.F.R. § 60.13 and 40 C.F.R. Part 60 Appendix B (Performance Specification 1).

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V. CIVIL PENALTY

16. SGCI shall pay to the United States and the Affected States the sum of $2,250,000 as a civil penalty, together with interest accruing from the Date of Lodging at the rate specified in 28 U.S.C. § 1961.

17. The United States' portion of the civil penalty shall be paid as follows: (a) SGCI shall pay $575,000 plus interest within thirty (30) Days after the Date of Entry of this Consent Decree; and (b) SGCI shall pay $575,000 plus interest within twelve (12) months after the Date of Entry of this Consent Decree. The civil penalty amount set forth in this Paragraph shall be paid by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with written instructions to be provided to SGCI, following the Date of Lodging of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney's Office for the Western District of Washington, at 5220 United States Courthouse, 700 Stewart Street, Seattle, Washington 981010-1671, (206) 553-7970. At the time of payment, SGCI shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), and shall reference the civil action number and DOJ case number 90-5-2-1-06982/1, to the United States in

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accordance with Section XVII of this Decree (Notices); by email to acctsreceivable.CINWD@epa.gov; and by mail to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

18. SGCI shall not deduct any penalties paid under this Decree pursuant to this Section or Section XI (Stipulated Penalties) in calculating its federal or State or local income tax.

19. SGCI shall pay the Affected States' portion of the civil penalty to the Affected State listed in Table 9 plus interest per Paragraph 16, if applicable, within thirty (30) Days after the Date of Entry of this Consent Decree in accordance with the instructions in Table 9:

Table 9 – State and Local Penalty Amounts

State	Amount	Payment Instructions
Massachusetts	$ 100,000.00	Payment shall be made by certified or bank check made payable to the "Commonwealth of Massachusetts" and delivered to: Office of the Attorney General, Environmental Protection Division, 1 Ashburton Place, 18th Floor, Boston, MA 02108, Attention: Frederick D. Augenstern, Assistant Attorney General. SGCI shall clearly write on the face of the certified or bank check its federal employer identification number and the words "In the Matter of United States of America, et al. v. Saint-Gobain Containers, Inc. – General Fund.

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Pennsylvania	$100,000.00	Corporate check made payable to the "Commonwealth of Pennsylvania – Clean Air Fund" and mailed to: Air Quality Program Manager, PA Department of Environmental Protection, 230 Chestnut Street Meadville, PA 16335
North Carolina	$100,000.00	Payment should be made directly to the order of the North Carolina Department of Environment and Natural Resources (NCDENR). Enforcement Group Payment Department of Environment and Natural Resources Division of Air Quality 1641 Mail Service Center Raleigh, NC 27699-1641
Illinois	$100,000.00	Certified check or money order payable to "Illinois EPA for deposit into the EPTF" and mailed to: Illinois Environmental Protection Agency Fiscal Services 1021 North Grand Avenue East P. O. Box 19276 Springfield, IL 62794-9276
Indiana	$100,000.00	The check should be made out to the: "Environmental Management Special Fund" and shall be mailed to: Indiana Department of Environmental Management Cashier - Mail Code 50-10C 100 North Senate Avenue Indianapolis, IN 46204-2251
Wisconsin	$100,000.00	Certified check payable to: "State of Wisconsin Department of Justice" and mailed to: Wisconsin Department of Justice Attention: Thomas Dawson 17 West Main Street Madison, Wisconsin 53707-7857

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Oklahoma Department of Environmental Quality	$100,000.00	Check payable and mailed to: Oklahoma Department of Environmental Quality Finance and Human Resources Management P.O.Box 2036 Oklahoma City, OK 73101 Attention: Accounts Receivable
Louisiana	$100,000.00	Certified check payable to the "Louisiana Department of Environmental Quality" and mailed to: Darryl Serio Fiscal Director Office of Management and Finance LDEQ P.O. Box 4303 Baton Rouge, Louisiana 70821-4303
Missouri	$100,000.00	Certified check payable to the "State of Missouri (Jefferson County Treasurer)" and mailed to: Jo Ann Horvath Office of the Attorney General P. O. Box 899 Jefferson City, MO 65102-0899
Washington	$20,000.00	Make check payable to: Department of Ecology. The Memorandum on the check should reference NR0900800 and "Saint-Gobain Settlement." Mail the check to: Department of Ecology Cashiering Unit P.O. Box 47611, Olympia, WA 98504-7611
Puget Sound Clean Air Agency	$80,000.00	Check payable to "Puget Sound Clean Air Agency": Dennis McLerran Executive Director Puget Sound Clean Air Agency 1904 3rd Ave, Suite 105 Seattle WA USA 98101

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San Joaquin Valley Air Pollution Control District	$100,000.00	The description of the payment should be: St Gobain Consent Decree Payment. The settlement payment would be sent to: Phil Jay District Counsel San Joaquin Valley Air Pollution Control District 1990 East Gettysburg Avenue Fresno, CA 93720-0244

20. If any portion of the civil penalty due to the United States or the Affected State is not paid when due, SGCI shall pay interest on the amount past due, accruing from the Date of Lodging through the date of payment, at the rate specified in 28 U.S.C. § 1961. Interest payment under this Paragraph shall be in addition to any stipulated penalty due.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

21. State Supplemental Environmental Project (SEP) – Tulsa, Oklahoma SEP – In accordance with the requirements set forth in this Section, on or before 30 days after Entry of this Consent Decree, SGCI will pay $250,000 into the NO_X Emissions – Tulsa Air Shed Revolving Fund, to be established by the Oklahoma DEQ, for the purpose of funding the reduction of NO_X emissions in the Tulsa, Oklahoma air shed.

22. Millville, New Jersey SEP –

a. SGCI currently owns approximately 156.95 tpy SO_2 and 46.15 tpy TSP Creditable Emission Reduction (CERs) associated with the permanent

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shutdown of two glass Furnaces at its Millville facility, formerly located at 328 South Second Street, Millville, New Jersey. SGCI agrees that it will not transfer, sell, or use any SO_2, TSP, PM or $PM_{2.5}$ emission credits or allowances associated with its Millville facility. SGCI agrees to request that New Jersey Department of Environmental Protection (DEP) permanently remove and retire all remaining emission credits in the New Jersey Emission Credit Bank, Bank Log Numbers BK-99-0013 and BK-99-0014.

b. Not later than 30 days after Entry, SGCI shall mail and provide to EPA a copy of the letter (in the form attached hereto as Exhibit B) to New Jersey DEP surrendering the CERs and requesting that all credits associated with the former Millville facility in Banking Log Numbers BK-99-0013 and BK-99-0014 be permanently retired and removed from the New Jersey Emission Credit Bank. SGCI shall provide to EPA verification from New Jersey, which includes the number of credits, that the credits have been permanently retired and removed from the New Jersey Emission Credit Bank.

23. By signing this Consent Decree, SGCI certifies that it is not required, and has no liability under any federal, State, regional, or local law or regulation or pursuant to any agreements or orders of any court, to perform or develop the projects identified in Paragraph 21 and 22 above. SGCI further certifies that it has

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not applied for or received, and will not in the future apply for or receive: (i) credit as a Supplemental Environmental Project or other penalty offset in any other enforcement action for the projects set forth in Paragraph 21 and 22 above; (ii) credit for any emissions reductions resulting from the projects set forth in Paragraph 21 and 22 above in any federal, State, regional, or local emissions trading or early reduction program; (iii) a deduction from any federal, State, regional, or local tax based on its participation in, performance of, or incurrence of costs related to the projects set forth in Paragraph 21 and 22 above.

24. SGCI shall include in the first report required by Section IX a final report for the SEPs being performed pursuant to this Section. In addition, the report required by Section IX will contain the following information with respect to each of the projects:

a. A detailed description of the project as implemented; and

b. A certification that the project has been fully implemented pursuant to the provisions of this Consent Decree

25. SGCI agrees that in any public statements regarding the SEPs, it must clearly indicate that the projects are being undertaken as part of the settlement of an enforcement action for alleged violation of the Clean Air Act and corollary State statutes.

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26. For federal income tax purposes, SGCI agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEPs.

VII. EMISSION CREDIT GENERATION

27. Nothing in this Consent Decree shall preclude SGCI from using, selling or transferring surplus Emissions Credits that may arise as a result of:

a. Activities that reduce emissions from SGCI Facilities prior to the Date of Entry of this Consent Decree, except for the installation of controls and monitors at the Port Allegany and Ruston Facilities that are required by this Consent Decree. Also SGCI may not sell credits from the closure of the Carteret Facility or the Port Allegany #2 Furnace.

b. Achievement and Maintenance of emission rates (including through permanent closure of a Furnace) at SGCI Facilities below the emission limits required by this Consent Decree, so long as SGCI timely reports the generation of such surplus Emissions Credits in accordance with Section IX (Reporting Requirements) of this Consent Decree. For purposes of this Paragraph, surplus Emissions Credits equal the number of tons of PM_{10}, $PM_{2.5}$, NO_X or SO_2 that SGCI removed from its emissions that are in excess of the emissions reductions required by this Consent Decree.

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28. SGCI may not use, purchase, or otherwise obtain Emission Credits solely to comply with the requirements of this Consent Decree; however, notwithstanding the preceding clause, if SGCI modifies a Facility in a nonattainment area, nothing in this Consent Decree shall preclude SGCI from acquiring or utilizing any legally required Emission Credits, nor relieve SGCI of any obligation to obtain Emission Credits to use as offsets in permitting the Facility modification.

29. For any and all actions taken by SGCI to comply with the requirements of this Consent Decree, any emission reductions shall not be considered a creditable contemporaneous emission decrease for the purpose of obtaining netting reductions and offsets under the PSD and Clean Air Act's Nonattainment NSR programs respectively. This includes any decreases from the closure of the Carteret Facility and the Port Allegany Furnace #2.

Nothing in this Consent Decree is intended to prohibit SGCI from seeking to utilize emission reductions from the Installation of Controls required by this Consent Decree in determining whether a project on the same Furnace that includes both the Installation of Controls under this Consent Decree and other simultaneous construction that is permitted at the same time (either a single permit or multiple permits), triggers New Source Review.

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VIII. PERMITS

30. Whenever SGCI is required to obtain a Permit from EPA or an Affected State for the purpose of compliance with Section IV of this Consent Decree, EPA or the Affected State shall include in the Permit for the installation of control devices, monitoring devices and the contemporaneous Furnace rebuild project the emission controls, emission limits, averaging periods, monitoring requirements, compliance determination, and compliance schedule set forth in this Decree. In issuing such Permit neither EPA nor the Affected State may make material changes to the emission controls, emission limits, averaging periods, monitoring requirements, compliance determination, and compliance schedule specified in Section IV of this Decree. However, notwithstanding the preceding sentence, nothing in this Consent Decree shall prevent EPA or an Affected State from issuing, amending, or revising a Permit for emission controls, emission limits, averaging periods, monitoring requirements, compliance determination, or compliance schedules only if such requirements are mandated by an existing Consent Decree, SIP, rule, regulation, State law, or local law. Unless expressly stated otherwise in this Consent Decree, in any instance where otherwise applicable law or this Consent Decree requires SGCI to secure a permit to authorize construction or operation of any device, including all preconstruction, construction, and operating permits required under State law, SGCI shall make

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such application in a timely manner. EPA and/or the Affected States will use reasonable efforts to expeditiously review all permit applications submitted by SGCI in order to meet the requirements of this Consent Decree.

31. When Permits are required as described in Paragraph 30, SGCI shall complete and submit applications for such Permits to the appropriate permitting authorities at least six months in advance of the applicable date to allow sufficient time for all legally-required processing and review of the Permit request, including requests for additional information by the permitting authorities. Any failure by SGCI to submit a timely Permit application for any SGCI Facility or Furnace shall bar any use by SGCI of Section XII (Force Majeure) of this Consent Decree, where a Force Majeure claim is based on permitting delays.

32. Notwithstanding the reference to Title V or other federally-enforceable Permits in this Consent Decree, the enforcement of such Permits shall be in accordance with their own terms and the Act. The Title V or other federally-enforceable Permits shall not be enforceable under this Consent Decree, although any term or limit established by or under this Consent Decree shall be enforceable under this Consent Decree regardless of whether such term has or will become part of a Title V or other federally-enforceable Permit.

33. Within one year from commencing operation of each pollution control device to be installed, upgraded, or operated on a Furnace under this Consent

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Decree, SGCI shall apply to include the requirements and limitations enumerated in this Consent Decree in either a federally-enforceable Permit issued under the applicable State SIP or amendments to such State's SIP. The Permit or SIP amendment shall require compliance with the following:

a. Any applicable emission limits specified in Section IV of this Consent Decree using the method of calculation of emissions and averaging periods specified herein;

b. Any applicable annual stack tests or continuous monitoring requirements as specified herein; and

c. Reporting and record-keeping requirements associated with the control device as specified herein.

34. Nothing in this Consent Decree shall relieve SGCI from the obligation to comply with Permits, emission limits, or other requirements of the Clean Air Act.

IX. REPORTING REQUIREMENTS

35. SGCI shall submit the following reports:

a. Until the termination of this Consent Decree, SGCI shall submit to EPA and to the Affected States an annual progress report no later than March 1 of each year. Each annual progress report shall contain the following information with respect to the Calendar Year preceding its submission:

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i. Work performed and progress made toward implementing the requirements of Section IV;

ii. Except for Calendar Year 2009, actual annual emissions of SO_2, NO_X and PM from each Furnace measured using CEMS, or if no CEMS, the most recent source test(s);

iii. Any significant problems encountered or anticipated in complying with the requirements of Section IV, together with implemented or proposed solutions;

iv. Unless previously provided, final testing reports from tests conducted pursuant to this Consent Decree that reflect an accurate summary of emissions from a Furnace as compared to the Consent Decree requirement;

v. Status of permit applications and a summary of all permitting activity pertaining to compliance with this Consent Decree; and

vi. With respect to the first annual report, the SEP reports required by Paragraph 24.

b. A copy of any reports to Affected States pertaining to compliance with this Consent Decree shall be provided to EPA either at the time of submission to the Affected State or in the annual report.

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c. If SGCI violates, or has reason to believe that it may have violated, any requirement of this Consent Decree, SGCI shall notify the United States and the Affected State of such violation and its duration or anticipated likely duration, in writing and by telephone, email or facsimile, within ten (10) business days of the time SGCI first becomes aware of the violation or potential violation. The notice should explain the violation's likely cause and the remedial steps taken, or to be taken, to prevent future violations. If the cause of a violation cannot be fully explained at the time notice is given, SGCI shall so state in the notice. After notice is given, SGCI shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) Days of the Day SGCI becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves SGCI of its obligation to provide the notice required by Section XII of this Consent Decree (Force Majeure).

d. Whenever any violation of this Consent Decree or any other event affecting SGCI's performance under this Decree, or the performance of any of its glass manufacturing Facilities, may pose an immediate threat to the public health or welfare or the environment, SGCI shall notify EPA and the Affected State, orally or by electronic or facsimile transmission as soon as

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possible, but no later than twenty-four (24) hours after SGCI first knew of, or should have known of, the violation or event.

36. As part of its annual reports, SGCI shall provide EPA with a copy of any of the following which were produced in the preceding Calendar Year: each application for a Permit, or Permit amendment, to address or comply with any provision of this Consent Decree, as well as a copy of any Permit proposed as a result of such application.

37. All reports shall be submitted to the persons and in the manner designated in Section XVII (Notices).

38. Each report submitted by SGCI under this Section shall be signed by a plant manager, a corporate official responsible for environmental management and compliance, or a corporate official responsible for plant operations of SGCI, and shall include the following certification:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that this document and its attachments were prepared either by me personally or under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gather and present the information contained therein. I further certify, based on my personal knowledge or on my inquiry of those individuals immediately responsible

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for obtaining the information, that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowingly and willfully submitting a materially false statement.

39. The reporting requirements of this Consent Decree do not relieve SGCI of any reporting obligations required by the Act or implementing regulations, or by any other federal, State, or local law, regulation, permit, or other requirement. The reporting requirements of this Section are in addition to any other reports, plans or submissions required by other Sections of this Consent Decree.

40. Any information provided pursuant to this Consent Decree may be used by the United States and any Affected State in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law and may be made available to the public upon request, if not otherwise protected as confidential business information, pursuant to 40 C.F.R. Part 2.

X. REVIEW AND APPROVAL OF SUBMITTALS

41. Where this Consent Decree requires that SGCI seek approval (other than applying for a Permit) before undertaking any action, EPA will review the plan, report, or other item and after consultation with the Affected State, shall in writing:

a. approve the submission; or

b. disapprove the submission.

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42. If the submission is approved pursuant to the preceding Paragraph, SGCI shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document.

43. If the submission is disapproved pursuant to Paragraph 41 (b), SGCI shall, either: (i) within forty-five (45) Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, for approval, in accordance with the preceding Paragraphs; or (ii) submit the matter to Dispute Resolution under Section XIII of this Consent Decree. If the resubmission is approved, SGCI shall proceed in accordance with the preceding Paragraph.

44. Any stipulated penalties applicable to the original submission, as provided in Section XI of this Decree, shall accrue during the 45-Day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved.

45. If a resubmitted plan, report, or other item is disapproved, EPA, after consultation with the Affected State, may again require SGCI to correct any deficiencies, in accordance with the preceding Paragraphs, or may itself/ themselves correct any deficiencies, subject to SGCI's right to invoke Dispute Resolution and the right of EPA, after consultation with the Affected State, to seek stipulated penalties as provided in the preceding Paragraphs.

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1 XI. STIPULATED PENALTIES

2 46. SGCI shall be liable for stipulated penalties to the United States and the
3 Affected State for violations of this Consent Decree as specified below, unless
4 excused under Section XII (Force Majeure). A violation includes failing to
5 perform any obligation required by the terms of this Consent Decree, including any
6 work plan or schedule approved under this Decree, according to all applicable
7 requirements of this Decree and within the specified time. Unless otherwise
8 specified herein, stipulated penalties shall be payable as follows: 50 percent to the
9 United States and 50 percent to the Affected State.

10 47. Failure to Pay Civil Penalty: If SGCI fails to pay any portion of the civil
11 penalty required to be paid under Section V of this Consent Decree (Civil Penalty)
12 when due, SGCI shall pay a stipulated penalty of $1,000 per Day for each Day that
13 the payment is late. Late payment of the civil penalty shall be made in accordance
14 with Section V of this Consent Decree.

15 48. Emission Limits: The following stipulated penalties shall accrue per
16 violation for each violation of an NO_X, SO_2, and/or PM emission limit specified in
17 Paragraphs 7- 9 in Section IV of this Consent Decree.

18 a. Where the violation is less than or equal to 10 percent in excess of the
19 applicable emission limit, concentration limit, or removal efficiency
20 measured on a 30-day rolling average:

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Penalty Per Violation Per Day	Period of Noncompliance (unit-by-unit)
$750	1st through 30th Day
$1500	31st Day and beyond

b. Where the violation is greater than 10 percent in excess of the emission limit, concentration limit, or removal efficiency measured on a 30-day rolling average:

Penalty Per Violation Per Day	Period of Noncompliance (unit-by-unit)
$1500	1st through 14th Day
$2250	15th through 30th Day
$3000	31st Day and beyond

c. Emission Limits: For each NO_X, SO_2 and/or PM stack test conducted as required in Paragraph 7.a., 8.g.v., 9.g., or 9.h. where the applicable standard is exceeded, a stipulated penalty of $20,000 shall accrue per violation per Calendar Year. For any other NO_X, SO_2 and/or PM stack test conducted as required by Paragraphs 7 - 9, a stipulated penalty of $5,000 shall accrue per violation per Calendar Year.

49. Installation of Controls: The following stipulated penalties shall accrue per violation per Day for each violation of any requirement identified in this Consent Decree regarding installation and operation of emission controls by the dates outlined herein:

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Penalty Per Violation Per Day	Period of Noncompliance (unit-by-unit)
$2250	1st through 14th Day
$3500	15th through 30th Day
$5000	31st Day and beyond

50. Installation of CEMS: The following stipulated penalties shall accrue per violation per Day for each violation of any requirement identified in this Consent Decree regarding the installation and operation of a CEMS by the dates outlined herein:

Penalty Per Violation Per Day	Period of Noncompliance (unit-by-unit)
$300	1st through 30th Day
$600	31st through 60th Day
$1200	61st Day and beyond

51. Permitting Requirements: The following stipulated penalties shall accrue per violation per Day for each violation of any requirement identified in this Consent Decree relating to the application for Permits by the dates outlined herein:

Penalty Per Violation Per Day	Period of Noncompliance for each Permit
$750	1st through 14th Day
$1250	15th through 30th Day
$2000	31st Day and beyond

52. Recordkeeping and Reporting Requirements and Certification of CEMS or COMS: The following stipulated penalties shall accrue per violation per Day for each violation of any requirement of this Consent Decree relating to the

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submission of reports, the provision of notice, and the certification of CEMS or COMS by the dates outlined herein:

Penalty Per Violation Per Day	Period of Noncompliance
$250	1st through 14th Day
$500	15th through 30th Day
$1000	31st Day and beyond

53. SEPs: If SGCI fails to complete the Sapulpa, Oklahoma SEP in accordance with Paragraph 21, SGCI shall pay a stipulated penalty of $500,000. If SGCI fails to complete the Millville, New Jersey SEP in accordance with Paragraph 22, SGCI shall pay a stipulated penalty of $500,000.

54. Furnace Stabilization Phase: A stipulated penalty of $750 shall accrue per violation per day for each violation of Paragraph 6.y.iii. in Section III.

55. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree. The per day penalties do not increase from one tier to the next unless the violations are continuous.

56. SGCI shall pay all stipulated penalties to the United States, and/or the Affected State as the case may be, within thirty (30) Days of receipt of written demand to the SGCI designee set forth in Paragraph 90 from the United States or

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the Affected State as the case may be unless SGCI elects within twenty (20) Days of receipt of written demand to SGCI from the United States or the Affected State to dispute the obligation to pay stipulated penalties in accordance with the provisions in Section XIII (Dispute Resolution) of this Consent Decree.

57. Stipulated penalties shall continue to accrue as provided in accordance with Paragraphs 47-55 during any dispute, with interest on accrued stipulated penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

a. If the dispute is resolved by agreement, or by a decision of the United States pursuant to Section XIII (Dispute Resolution) of this Consent Decree that is not appealed to the Court, accrued stipulated penalties agreed or determined to be owing, together with accrued interest, shall be paid within thirty (30) Days of the effective date of the agreement or of the receipt of the United States and the Affected State's decision;

b. If the dispute is appealed to the Court and United States and/or the Affected State(s) prevail in whole or in part, SGCI shall, within sixty (60) Days of receipt of the Court's decision or order, pay all accrued stipulated penalties determined by the Court to be owing, together with interest accrued on such penalties determined by the Court to be owing, except as provided in Subparagraph c, below;

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c. If the Court's decision is appealed by any Party, SGCI shall, within fifteen (15) Days of receipt of the final appellate court decision, pay all accrued stipulated penalties determined to be owed, together with interest accrued on such stipulated penalties determined to be owed by the appellate court.

58. Notwithstanding any other provision of this Consent Decree, the accrued stipulated penalties agreed by the Plaintiff, the Plaintiff-Intervenors, and SGCI, or determined by the United States and the Affected State(s) through Dispute Resolution, to be owed may be less than the stipulated penalty amounts set forth in Paragraphs 47-54.

59. All stipulated penalties shall be paid in the manner set forth in Section V (Civil Penalty) of this Consent Decree.

60. If SGCI fails to pay stipulated penalties according to the terms of this Consent Decree, SGCI shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961.

61. The stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States and the Affected State(s) by reason of SGCI's failure to comply with any requirement of this Consent Decree or applicable law, except that for any violation of relevant statutory, regulatory, or permitting requirements for which this Consent

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Decree provides for payment of a stipulated penalty, the United States and the Affected State will elect whether to seek Stipulated Penalties or to seek statutory penalties for such violation.

XII. FORCE MAJEURE

62. "Force Majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of SGCI, of any entity controlled by SGCI, or of SGCI's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite SGCI's best efforts to fulfill the obligation. The requirement that SGCI exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. "Force Majeure" does not include SGCI's financial inability to perform any obligation under this Consent Decree.

63. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a Force Majeure event, SGCI shall provide notice orally or by electronic or facsimile transmission to EPA and the Affected State(s), within ten (10) Days of when SGCI first knew that the event might cause a delay, and within thirty (30) Days of when SGCI first knew that the event might cause a delay, SGCI shall provide in writing to EPA and

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the Affected State an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; SGCI's rationale for attributing such delay to a Force Majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of SGCI, such event may cause or contribute to an endangerment to public health, welfare or the environment. SGCI shall include with any notice all available documentation supporting the claim that the delay was attributable to a Force Majeure. Failure to comply with the above requirements shall preclude SGCI from asserting any claim of Force Majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure.

64. If EPA, after a reasonable opportunity for review and comment by the Affected State, agrees that the delay or anticipated delay is attributable to a Force Majeure event, the time for performance of the obligations under this Consent Decree that are affected by the Force Majeure event will be extended by EPA, after a reasonable opportunity for review and comment by the Affected State, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the Force Majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify

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SGCI in writing of the length of the extension, if any, for performance of the obligations affected by the Force Majeure event.

65. If EPA, after a reasonable opportunity for review and comment by the Affected State, does not agree that the delay or anticipated delay has been or will be caused by a Force Majeure event, EPA will notify SGCI in writing of its decision.

66. If SGCI elects to invoke the dispute resolution procedures set forth in Section XIII (Dispute Resolution), it shall do so no later than fifteen (15) Days after receipt of EPA's notice. In any such proceeding, SGCI shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a Force Majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that SGCI complied with the requirements of Paragraphs 62 and 63, above. If SGCI carries this burden, the delay at issue shall be deemed not to be a violation by SGCI of the affected obligation of this Consent Decree identified to EPA and the Court.

XIII. DISPUTE RESOLUTION

67. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve

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disputes arising under or with respect to the Consent Decree. The procedures set forth in this Section do not apply to actions by the United States or an Affected State to enforce obligations of SGCI that have not been disputed in accordance with this Section.

68. Except as otherwise expressly provided in the Consent Decree, the dispute resolution procedures set forth in this Section shall be available to resolve any and all disputes arising under the Consent Decree, provided that the Party invoking the procedures has made a good faith attempt to resolve the matter with the other Party or Parties involved.

69. The dispute resolution procedure required herein shall be invoked upon the giving of written notice by one of the Parties to the Consent Decree to another advising the other appropriate Party(ies) of a dispute pursuant to Section XVII. The notice shall describe the nature of the dispute and shall state the noticing Party's position with regard to such dispute. The Party or Parties receiving such notice will acknowledge receipt of the notice and the Parties shall expeditiously schedule a meeting to discuss the dispute informally not later than fourteen (14) Days from the receipt of such notice.

70. Disputes submitted to dispute resolution shall, in the first instance, be the subject of informal negotiations between the Parties. Such period of informal negotiations shall not extend beyond thirty (30) Days from the date of the first

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meeting between representatives of the Parties, unless the Parties involved in the dispute agree that this period should be shortened or extended.

71. In the event that the Parties are unable to reach agreement during such informal negotiations period, the United States and/or the Affected State(s), as applicable, shall provide SGCI with a written summary of its/their position regarding the dispute. The position advanced by the United States and/or the Affected State(s), as applicable, will be considered binding unless, within forty-five (45) Days of SGCI's receipt of the written summary, SGCI invokes formal dispute resolution by filing with the Court a petition which describes the nature of the dispute and SGCI's position on the dispute. The United States and/or the Affected State(s) shall respond to the petition within forty-five (45) Days of filing.

72. In the event that the United States and the Affected State(s) are unable to reach agreement among themselves with regard to SGCI's claim, the position of the United States shall be the final position.

73. In a formal dispute resolution proceeding under this Section, the Court shall decide all disputes pursuant to applicable principles of law for resolving such disputes. In their filings with the Court under Paragraph 71, the Parties shall state their respective positions as to the applicable standard of law for resolving the particular dispute.

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74. Where the nature of the dispute is such that a more timely resolution of the issue is required, the time periods set forth in this Section may be shortened upon motion of one of the Parties to the dispute or by agreement of the Parties to the dispute. The Parties do not intend that the invocation of this Section by a Party cause the Court to draw any inferences nor establish any presumptions adverse to either Party as a result of invocation of this section.

75. In appropriate circumstances, as part of the resolution of any matter submitted to the Court under this Section, the Parties involved in the dispute may agree to, or the Court may order, an extension or modification of the schedule for completion of work under the Consent Decree to account for the delay in the work that occurred as a result of dispute resolution. If appropriate, the Court may also order SGCI to mitigate any adverse environmental impacts resulting from SGCI's failure to timely perform any obligation under this Consent Decree. SGCI shall be liable for stipulated penalties for its failure thereafter to complete the work in accordance with the extended or modified schedule. Invocation of dispute resolution with respect to any of SGCI's obligations under the Consent Decree shall not, of itself, excuse or extend the time for performance of any other obligation of SGCI under the Consent Decree.

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XIV. INFORMATION COLLECTION AND RETENTION

76. The United States, the Affected States, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry into any of the Facilities covered by the Consent Decree, at all reasonable times, upon presentation of credentials, to:

a. Monitor the progress of activities required under the Consent Decree;

b. Verify any data or information submitted to the United States or an Affected State in accordance with the terms of the Consent Decree;

c. Obtain samples and, upon request, splits of any samples taken by SGCI or its representatives, contractors, or consultants;

d. Obtain documentary evidence, including photographs and similar data; and

e. Assess SGCI's compliance with the Consent Decree.

77. Until at least three years after the termination of the Consent Decree, SGCI shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that directly relates to SGCI's performance of its obligations under the Consent Decree. This information-

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retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, the United States or an Affected State may request copies of any documents, records, or other information required to be maintained under this Paragraph.

78. At the conclusion of the information retention period specified in the preceding Paragraph, SGCI shall notify the United States and the Affected States at least ninety (90) Days prior to destroying any document(s), record(s), or other information subject to the requirements of the preceding Paragraph and, upon request by the United States or an Affected State, SGCI shall deliver any such document(s), record(s), or other information to the requesting Party.

79. SGCI may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by applicable state or federal law. If SGCI asserts such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of each author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by SGCI. However, no documents, records, data, or

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other information created or generated as required by the Consent Decree shall be withheld on grounds of privilege.

80. SGCI may also assert that information required to be provided under this Consent Decree is protected as Confidential Business Information (CBI) under 40 C.F.R. Part 2. As to any information that SGCI seeks to protect as CBI, SGCI shall follow the procedures set forth in 40 C.F.R. Part 2.

81. The information retention requirements of Paragraphs 77 and 78 shall survive termination of the Consent Decree and shall be enforceable by this Court even after such termination. The Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the Affected States pursuant to applicable federal or State laws, regulations, or permits, nor does it limit or affect any duty or obligation of SGCI to maintain documents, records, or other information imposed by applicable federal or State laws, regulations, or permits.

XV. EFFECT OF SETTLEMENT / RESERVATION OF RIGHTS

82. Entry of this Consent Decree shall resolve all civil liability of SGCI to the United States and the Affected States that arose from any construction, modification, or change in the method of operation commenced at any SGCI Facility prior to the Date of Lodging of this Consent Decree, under any or all of:

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a. Parts C or D of Subchapter I of the Clean Air Act, 42 U.S.C. §§ 7470-7492, 7501-7515 7515, and the regulations promulgated thereunder at 40 C.F.R. § 52.21, 40 C.F.R. §§ 51.165 (a) and (b), 40 C.F.R. Part 51, Appendix S, and 40 C.F.R. § 52.24;

b. Section 111 of the Clean Air Act, 42 U.S.C. § 7411, and 40 C.F.R. Part 60 Subparts A and CC;

c. The federally-approved and enforceable State Implementation Plan for each State;

d. Sections 502(a) and 504(a) of Title V of the Clean Air Act, 42 U.S.C. §§ 7661a(a) and 7661c(a), but only to the extent that such claims are based on SGCI's failure to obtain a Permit that reflects applicable requirements imposed under Parts C or D of Subchapter I, or Section 111 of the Clean Air Act;

e. Any State or local law counterparts to the provisions above in this Paragraph;

f. Any allegations set forth in the Notice of Violation issued January 13, 2008, or the Complaints; or

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g. Violations at the Ruston Facility alleged in LDEQ Consolidated Compliance Order and Notice of Potential Penalty dated August 8, 2005 and amended on September 18, 2006 and October 19, 2007, Enforcement Tracking Nos. AE-CN-05-0098, AE-CN-05-0098A, and AE-CN-05-0098B, respectively.

The terms "construction" and "modification" as used in this Paragraph shall have the meanings those terms are given under the Clean Air Act and under the implementing regulations in effect on or prior to the Date of Lodging of this Consent Decree or any State or local counterpart, rule or regulation in effect on or prior to the Date of Lodging. The resolution of liability set forth in this Paragraph shall apply and only apply for the pollutants NO_X, SO_2, sulfuric acid mist, and PM (including PM_{10}, and $PM_{2.5}$), and shall not apply to any other pollutant.

83. The United States and the Affected States reserve all legal and equitable remedies available to enforce the provisions of the Consent Decree, except as expressly stated in Paragraph 82. The Consent Decree shall not be construed to limit the rights of the United States or the Affected States to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal

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or State laws, regulations, or permit conditions, except as expressly specified in Paragraph 82.

84. The United States and the Affected States further reserve all legal and equitable remedies to address any situation that may present an imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, SGCI's Facilities, whether related to the violations addressed in this Consent Decree or otherwise.

85. In any subsequent administrative or judicial proceeding initiated by the United States or the Affected State(s) for injunctive relief, civil penalties, other appropriate relief relating to the Facilities or SGCI's violations, SGCI shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the Affected State(s) in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 82 of this Section.

86. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. SGCI is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; and SGCI's compliance with the Consent Decree shall be

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no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the Affected States do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that SGCI's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Act, or with any other provisions of federal, State, or local laws, regulations, or permits.

87. This Consent Decree does not limit or affect the rights of SGCI or of the United States or the Affected States against any third parties, not party to the Consent Decree, nor does it limit the rights of third parties, not party to the Consent Decree, against SGCI, except as otherwise provided by law.

88. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party that is not a Party to the Consent Decree.

XVI. COSTS

89. The Parties shall bear their own costs of this action, including attorneys' fees, except that if the United States and/or an Affected State are the prevailing party(ies) they shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by SGCI.

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XVII. NOTICES

90. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, SGCI's submissions shall be deemed submitted on the date they are sent either by overnight delivery service or by certified or registered mail, return receipt requested. When SGCI is required to submit notices or communicate in writing to the United States and the Affected State relating to one of the SGCI's Facilities, SGCI shall also submit a copy of that notice or other writing to the United States and the Affected State for the Facility located in that State. Except as otherwise provided herein, when written notification or communication is required by this Consent Decree, it shall be addressed as follows, unless a Party notifies all other Parties in writing to provide notification to a different addressee:

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, DC 20044-7611

U.S. Attorney, W.D. Washington
5220 United States Courthouse
700 Stewart Street
Seattle, WA 98101-1671

As to the U.S. Environmental Protection Agency:

Director

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(206) 553-7970

Air Enforcement Division (2242A)
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

with a hard copy to:
Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance

With copies to the EPA Regional office where the relevant Facility is located:

EPA Region 1:

Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency – Region 1
One Congress Street (Mailcode SAA)
Boston, MA 02114-2023

EPA Region 2:

Kenneth Eng, Air Compliance Branch Chief
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency – Region 2
290 Broadway - 21st Floor
New York, NY 10007

and

Flaire Hope Mills, Air Branch Chief
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 2
290 Broadway - 16th Floor
New York, NY 10007

EPA Region 3:

Mr. Christopher Pilla, Chief

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Air Enforcement Branch
Mail Code 3AP12
U.S. Environmental Protection Agency – Region 3
1650 Arch Street
Philadelphia, PA 19103

EPA Region 4:

Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104

EPA Region 5:

Compliance Tracker, AE-17J
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency – Region 5
77 West Jackson Blvd.
Chicago, IL 60604

EPA Region 6:

Associate Director
Air, Toxics, and Inspection Coordination Branch (6EN-A)
Compliance Assurance and Enforcement Division
U.S. Environmental Protection Agency – Region 6
1445 Ross Avenue
Dallas, TX 75202

EPA Region 7:

Director
Air and Waste Management Division
U.S. Environmental Protection Agency – Region 7
901 North 5th Street
Kansas City, KS 66101

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EPA Region 9:

Director
Air Division
U.S. Environmental Protection Agency – Region 9
75 Hawthorne Street
San Francisco, CA 94105
Attention: Air Enforcement Office (AIR-5)

EPA Region 10:

Director
Office of Compliance and Enforcement
U.S. Environmental Protection Agency – Region 9
1200 Sixth Ave, Suite 900, OCE-127
Seattle, WA 98101

As to Plaintiff-Intervenor, the Commonwealth of Massachusetts:

For the Massachusetts Department of Environmental Protection:

Department of Environmental Protection
Central Regional Office
627 Main Street
Worcester, MA 01605
Attn: Tom Cusson, Section Chief

For the Massachusetts Attorney General:

Office of the Attorney General
1 Ashburton Place, 18th Floor
Boston, MA 02108
Attn: Frederick D. Augenstern, Environmental Protection Division

As to Plaintiff-Intervenor, the State of Pennsylvania:

Staci Gustafson, Operations Chief
Air Quality Program
Pennsylvania Department of Environmental Protection
Meadville Regional Office

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700 STEWART STREET
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(206) 553-7970

230 Chestnut Street
Meadville, PA 16335

As to Plaintiff-Intervenor, the State of North Carolina:

All notices and reports required from St. Gobain should be mailed, first class postage prepaid to:

Patrick Butler, Regional Air Quality Supervisor
Raleigh Regional Office
Department of Environment and Natural Resources
3800 Barrett Drive, Suite 101
Raleigh, NC 27609

As to the Plaintiff-Intervenor, the State of Illinois:

Ray Pilapil
Illinois EPA
Bureau of Air, Compliance Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

As to the Plaintiff-Intervenor, State of Indiana and its Department of Environmental Management

Indiana Department of Environmental Management
100 N. Senate Ave.
Mail Code 61-53 IGCN 1003
Indianapolis, IN 46204-2251

As to Plaintiff-Intervenor, the State of Wisconsin

Southeast Region Air Supervisor - Team 1
2300 North Dr. Martin Luther King Jr. Drive
Milwaukee, WI 53212

As to Plaintiff-Intervenor, the Oklahoma Department of Environmental Quality:

Eddie Terrill, Director

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(206) 553-7970

Air Quality Division
P.O. Box 1677
Oklahoma City, OK 73101-1677

As to Plaintiff-Intervenor, the State of Louisiana, on behalf of Louisiana Department of Environmental Quality:

Administrator, Enforcement Division
Office of Environmental Compliance
Louisiana Department of Environmental Quality
P. O. Box 4312
Baton Rouge, LA 70821-4312

As to the Plaintiff-Intervenor, the State of Missouri, Department of Natural Resources

For the Missouri Department of Natural Resources:
James L. Kavanaugh, Director
Air Pollution Control Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

For the Missouri Attorney General's Office:

Timothy P. Duggan, Assistant Attorney General
Attorney General of Missouri
P.O. Box 899
Jefferson City, MO 65102

As to Plaintiff-Intervenor, the Washington State Department of Ecology:

Stuart Clark
Manager, Air Quality Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

As to Plaintiff-Intervenor, the San Joaquin Valley Unified Air Pollution Control District:

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

1 San Joaquin Valley Air Pollution Control District
2 1990 East Gettysburg Avenue
3 Fresno, CA 93726-0244
4 Phone Number: (559) 230-6000
5 FAX: (559) 230-6062
6 District Contact: Jon Adams, (559) 230-5965

7 As to Plaintiff-Intervenor, the Puget Sound Clean Air Agency:

8 Dennis McLerran, Executive Director
9 Puget Sound Clean Air Agency
10 1904 3rd Ave, Suite 105
11 Seattle, WA 98101

12 As to SGCI:

13 Stephen A. Segebarth
14 General Counsel
15 Saint-Gobain Containers, Inc.
16 1509 South Macedonia Avenue
17 P.O. Box 4200
18 Muncie, IN 47307-4200

19 Philip D. McPherson
20 Senior Vice President, Technology
21 Saint-Gobain Containers, Inc.
22 1509 South Macedonia Avenue
23 P.O. Box 4200
24 Muncie, IN 47307-4200

25 John W. Carroll
26 Pepper Hamilton, LLP
27 100 Market Street
28 Harrisburg, PA 17108

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

XVIII. SALES OR TRANSFERS OF OPERATIONAL OR OWNERSHIP INTERESTS

91. If SGCI proposes to sell or transfer an operational or ownership interest in any Facility to an entity unrelated to SGCI (Third Party), it shall advise the Third Party in writing of the existence of this Consent Decree prior to such closing, and shall send a copy of such written notification to the United States and the Affected State pursuant to Section XVII (Notices) of this Consent Decree prior to such proposed closing.

92. SGCI shall condition any transfer, in whole or in part, of ownership, operation of, or other interest in any of the Facilities that are subject of the Consent Decree upon the execution by the Third Party of a modification to the Consent Decree, making the terms and conditions of the Decree that apply to such Facility applicable to the Third Party. SGCI shall submit the application for modification to the Court promptly upon such transfer making the terms and conditions of the Consent Decree that apply to such Facility applicable to the Third Party.

93. Upon approval by the Court of such modification, pursuant to Section XXI (Modification) of this Consent Decree making the Third Party a party to this Consent Decree and liable for all the requirements of this Decree that may be applicable to the transferred or purchased interests, SGCI shall be released from the obligations and liabilities of this Consent Decree as to the transferred or

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

purchased interests, provided that all Civil Penalties pursuant to Section V (Civil Penalty) have been fully paid and all Supplemental Environmental Projects pursuant to Section VI (Supplemental Environmental Project) have been fully funded or implemented.

94. This Consent Decree shall not be construed to impede the transfer of any interests between SGCI and any Third Party so long as the requirements of this Consent Decree are met. This Section XVIII applies to transfers of assets or interest only, and shall not be construed to affect or apply to mergers or other corporate transactions in which the shares of SGCI or its affiliate corporation are acquired by any Third Party and the surviving corporation, by operation of law, assumes all of the assets and liabilities of SGCI pursuant to this Consent Decree related to the Facilities.

95. Notwithstanding the foregoing, however, SGCI may not assign, and may not be released from, any obligation under this Consent Decree that is not specific to the purchased or transferred interests, including Section V (Civil Penalty) and Section VI (Supplemental Environmental Project).

XIX. EFFECTIVE DATE

96. The Effective Date of the Consent Decree shall be the Date of Entry.

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

XX. RETENTION OF JURISDICTION

97. The Court shall retain jurisdiction of this case after the Date of Entry of this Consent Decree to enforce compliance with the terms and conditions of this Consent Decree and to take any action necessary or appropriate for its interpretation, construction, execution, modification, or adjudication of disputes. During the term of this Consent Decree, any Party to this Consent Decree may apply to the Court for any relief necessary to construe or effectuate this Consent Decree.

98. The Court shall retain jurisdiction over this case for the purpose of resolving disputes arising under this Consent Decree or entering orders modifying this Decree, pursuant to Sections XIII and XXI, or effectuating or enforcing compliance with the terms of this Decree.

XXI. MODIFICATION

99. The terms of this Consent Decree may be modified (including the event of a partial termination) only by a subsequent written agreement signed by the United States, the applicable Affected State(s) and SGCI. Where the modification constitutes a material change to any term of this Consent Decree, it shall be effective only upon approval by the Court.

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

100. Any disputes concerning modification of this Decree shall be resolved pursuant to Section XIII (Dispute Resolution). The Party seeking modification bears the burden of demonstrating that it is entitled to the requested modification.

XXII. GENERAL PROVISIONS

101. This Consent Decree does not apply to any claim(s) of alleged criminal liability.

102. SGCI reserves the right to permanently cease Operating a Furnace in lieu of installing or continuing to operate controls on that Furnace required under Paragraphs 7 through 9.

103. At any time prior to termination of this Consent Decree, SGCI may request approval from EPA and the Affected State(s) to implement other control technology for NO_X, SO_2, or PM than what is required by this Consent Decree (except for the installation of SCR on the Dolton Facility, which must be installed regardless of other available technology). In seeking such approval, SGCI must demonstrate that such alternative control technology is capable of achieving pollution reductions equivalent to the technology required in Tables 2, 3, and 5 for the SGCI Furnace at which SGCI seeks approval to implement such other control technology for NO_X, SO_2, or PM. Such alternative control technology may also confer environmental benefit, such as through reducing greenhouse gas emissions (e.g. carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), sulfur

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

hexafluoride (SF_6), hydrofluorocarbons (HFCs), perfluorochemicals (PFCs), and other fluorinated gases (e.g., nitrogen trifluoride and hydrofluorinated ethers (HFEs)). SGCI must also demonstrate that it can achieve monitoring equal to or better than what is required in Table 8. Approval or denial of such a request shall be made by EPA after consultation with the Affected State(s) and SGCI may invoke Dispute Resolution under Section XIII of this Decree.

104. Each limit and/or other requirement established by or under this Consent Decree is a separate, independent requirement.

105. Performance standards, emissions limits, and other quantitative standards set by or under this Consent Decree must be met to the number of significant digits in which the standard or limit is expressed. For example, an emission rate of 0.100 is not met if the actual emission rate is 0.101. SGCI shall round the fourth significant digit to the nearest third significant digit, or the third significant digit to the nearest second significant digit, depending upon whether the limit is expressed to three or two significant digits. For example, if an actual emission rate is 3.84, that shall be reported as 3.8, and shall be in compliance with an emission rate of 3.8, and if an actual emission rate is 3.85, that shall be reported as 3.9, and shall not be in compliance with an emission rate of 3.8. SGCI shall report data to the number of significant digits in which the standard or limit is expressed.

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

106. This Consent Decree does not limit, enlarge, or affect the rights of any Party to this Consent Decree as against any third parties.

107. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree, and supersedes all prior agreements and understandings among the Parties related to the subject matter herein. No document, representation, inducement, agreement, understanding, or promise constitutes any part of this Consent Decree or the settlement it represents, nor shall they be used in construing the terms of this Consent Decree.

XXIII. TERMINATION

108. After SGCI has completed the requirements of this Consent Decree, has paid the civil penalty, and any accrued stipulated penalties as required by this Consent Decree, SGCI may serve upon the United States and the Affected States a Request for Termination, stating that SGCI has satisfied those requirements, together with all necessary supporting documentation. If SGCI has completed the requirements of this Consent Decree as to any Facility, SGCI may seek to terminate the requirements of this Consent Decree as to that Facility through the Modification procedures set forth in Section XXI.

109. Following receipt by the United States and the Affected States of SGCI's Request for Termination, the Parties shall confer informally concerning the

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

Request for Termination and any disagreement that the Parties may have as to whether SGCI has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States, after consultation with the Affected States, agrees that the Consent Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Decree.

110. If the United States, after consultation with the Affected States, does not agree that the Decree may be terminated, SGCI may invoke Dispute Resolution under Section XIII of this Decree. However, SGCI shall not seek Dispute Resolution of any dispute regarding termination, under Paragraph 71 (Formal Dispute Resolution) of Section XIII until sixty (60) Days after service of its Request for Termination.

XXIV. PUBLIC PARTICIPATION

111. The Consent Decree shall be lodged with the Court for a period of not less than thirty (30) Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. SGCI consents to entry of the Consent Decree without further notice. SGCI agrees not to oppose entry of this Consent Decree by the Court or to challenge any

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

provision of the Consent Decree, unless the United States has notified SGCI in writing that it no longer supports entry of the Consent Decree.

112. The Parties agree and acknowledge that final approval by Affected States and entry of this Consent Decree are subject to the requirements of those State statutes providing for public notice, public comment, and concurrence by State and local officials, including Attorneys General (Public Notice Affected States). The Public Notice Affected States that are subject to those requirements reserve the right to withdraw or withhold consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper or inadequate. SGCI agrees not to oppose entry of the Consent Decree by the Court or to challenge any provision of the Consent Decree, unless a Public Notice Affected State has notified SGCI in writing that it no longer supports entry of the Decree. The Parties agree that this decree shall not be entered by the Court unless all Parties are bound by its terms and conditions.

XXV. SIGNATORIES AND SERVICE

113. Each undersigned representative of SGCI and the Affected States, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice (or his or her designee) certifies that he or she is fully authorized to enter into the terms and conditions of the Consent Decree and to execute and legally bind the Party he or she represents to this document.

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

114. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

115. SGCI agrees to accept service of process by mail with respect to all matters arising under or relating to the Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXVI. INTEGRATION

116. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supercedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XXVII. FINAL JUDGMENT

117. Upon approval and entry of the Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court in this action as to the United States, the States, and SGCI. The Court finds that there is no just reason for delay

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5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

1 and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and
2 58.
3 IT IS SO ORDERED.
4 DATED this _____ day of _____, 2009.
5
6 _____
7 United States District Judge

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR PLAINTIFF UNITED STATES OF AMERICA:

_____ DATED:_____

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

_____ DATED:_____

JAMES A. LOFTON
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
Post Office Box 7611
Washington, D.C. 20044
Telephone: (202) 514-2445
Fax: (202) 514-0097
E-mail: jim.lofton@usdoj.gov

_____ DATED:_____

BRIAN C. KIPNIS
Assistant United States Attorney
5220 United States Courthouse
700 Stewart Street
Seattle, WA 98101-1671
Telephone: (206) 553-7970
Fax: (206) 553-4073
E-mail: brian.kipnis@usdoj.gov

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR PLAINTIFF UNITED STATES OF AMERICA:

_____ DATED:_____
CYNTHIA GILES
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

_____ DATED:_____
PAMELA MAZAKAS
Acting Director
Air Enforcement Division
Office of Civil Enforcement

_____ DATED:_____
ROBERT FENTRESS
Air Enforcement Division
Office of Civil Enforcement

Of Counsel:

JULIANE MATTHEWS
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Mail Code: ORC-158
Seattle, Washington 98101
(206) 553-1169
matthews.juliane@epa.gov

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

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FOR THE PLANTIFF-INTERVENOR; Commonwealth of Massachusetts:

MARTHA COAKLEY
Attorney General

_____ DATED:_____

FREDERICK D. AUGENSTERN
BBO# 553102
Assistant Attorney General
Environmental Protection Division
1 Ashburton Place, 18th Floor
Boston, Massachusetts 02108
(617) 963-2427
Fred.augenstern@state.ma.us

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; Commonwealth of Pennsylvania – Department of Environmental Protection

_____ DATED:_____

JOHN F. GUTH
Regional Manager, Air Quality Program
Pennsylvania Department of Environmental Protection

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; North Carolina Department of Environment and Natural Resources

_____ DATED:_____
B. KEITH OVERCASH, P.E.
Director of North Carolina Division of Air Quality
North Carolina Department of Environmental and Natural Resources

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; State of Illinois:
FOR THE STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS *ex rel.*
LISA MADIGAN
Attorney General of the State of Illinois
MATTHEW J. DUNN, Chief

Environmental Enforcement Division/Asbestos
Litigation Division

_____ DATED:_____
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY:
DOUGLAS P. SCOTT, DIRECTOR

_____ DATED:_____
JOHN J. KIM
Chief Legal Counsel

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; State of Indiana and its Department of Environmental Management

_____ DATED:_____
THOMAS W. EASTERLY
Commissioner
Indiana Department of Environmental Management

_____ DATED:_____
PATRICIA ORLOFF ERDMANN
Deputy Attorney General and
Chief Counsel for Litigation

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; State of Wisconsin

J.B. VAN HOLLEN
Attorney General

_____ DATED:_____

THOMAS J. DAWSON
Assistant Attorney General
Wisconsin Department of Justice
17 West Main Street
P.O. Box 7857
Madison, Wisconsin 53707-7857
(608) 266-8987
(608) 266-2250 (Fax)
dawsontj@doj.state.wi.us

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; Oklahoma Department of Environmental Quality

_____ DATED:_____

STEVEN A. THOMPSON
Executive Director
Oklahoma Department of Environmental Quality

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; the State of Louisiana, through the Louisiana Department of Environmental Quality

_____ DATED:_____
PEGGY M. HATCH
Assistant Secretary
Office of Environmental Compliance
Louisiana Department of Environmental Quality

_____ DATED:_____
KATHY WRIGHT (LA. # 30804)
Attorney
Office of the Secretary
Legal Affairs Division
Louisiana Department of Environmental Quality
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; State of Missouri, Department of Natural Resources:

_____ DATED:_____

DANIEL R. SCHUETTE
Director
Division of Environmental Quality
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

FOR THE PLAINTIFF-INTERVENOR; State of Missouri, Attorney General's Office:

CHRIS KOSTER
Attorney General of Missouri

_____ DATED:_____

TIMOTHY P. DUGGAN
Assistant Attorney General
P.O. Box 899
Jefferson City, MO 65102-0899
FAX: 573-751-8464
Phone: 573-751-9802
Email: tim.duggan@ago.mo.gov

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; Washington State Department of Ecology

_____ DATED:_____

KATHARINE G. SHIREY
Assistant Attorney General
2425 Bristol Court SW, 2nd Floor
P.O. Box 40117
Olympia, WA 98504-0117
STUART CLARK
Manager, Air Quality Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

_____ DATED:_____

STUART CLARK
Manager, Air Quality Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; San Joaquin Valley Unified Air Pollution Control District

_____ DATED:_____
SEYED SADREDIN
Air Pollution Control Officer
San Joaquin Valley Air Pollution Control District

_____ DATED:_____
PHIL JAY
District Counsel
San Joaquin Valley Air Pollution Control District

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Saint-Gobain Containers, Inc.* (W.D. Wash.), relating to alleged violations of the Clean Air Act:

FOR THE PLAINTIFF-INTERVENOR; Puget Sound Clean Air Agency

_____ DATED:_____
DENNIS MCLERRAN, Executive Director
Puget Sound Clean Air Agency
1904 3rd Ave, Suite 105
Seattle WA 98101

_____ DATED:_____
LAURIE HALVORSON, General Counsel
Puget Sound Clean Air Agency
1904 3rd Ave, Suite 105
Seattle WA USA 98101

UNITED STATES ATTORNEY
5220 UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101-1271
(206) 553-7970