

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

FILED

Sep 30, 2025

2:50 pm

U.S. EPA REGION 5
HEARING CLERK

In the Matter of:	)	Docket No. CAA-05-2025-0001
	)	
Pregis Innovative Packaging LLC	)	Proceeding to Assess a Civil Penalty
Plymouth, Indiana,	)	Under Section 113(d) of the Clean Air Act,
	)	42 U.S.C. § 7413(d)
Respondent.	)	
_____	)	

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. §§ 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3).
2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.
3. Respondent is Pregis Innovative Packaging LLC (Pregis), a corporation doing business in Indiana. Respondent is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b)(2) and (3) without the adjudication of any issues of fact or law.
5. Respondent agrees to the terms of this CAFO.

B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the CAA.

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. On September 26, 2023, the EPA issued to Respondent a Finding of Violation (FOV) providing notice to Respondent that the EPA found Respondent committed the alleged violations described in Section D of this CAFO and providing Respondent an opportunity to confer with the EPA. On October 23, 2023, representatives of Respondent and the EPA conferred regarding the September 26, 2023 FOV.

9. The Regional Judicial Officer of Region 5 is authorized to ratify the Consent Agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. § 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

10. Pursuant to Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), it is unlawful for any person to, among other things, operate a major source subject to Title V except in compliance with a Title V operating permit after the effective date of any permit program approved or promulgated under Title V of the CAA. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See* 57 Fed. Reg. 32295; 40 C.F.R. Part 70. The EPA promulgated regulations governing the federal operating permit program on July 1, 1996. *See* 61 Fed. Reg. 34228; 40 C.F.R. Part 70.

11. On December 4, 2001, the EPA granted final full approval to the Indiana Title V operating permit program. *See* 66 Fed. Reg. 62969. The program became effective on November 30, 2001. *See* 40 C.F.R. Part 70, Appendix A.

12. On June 29, 2017, Indiana Department of Environmental Management renewed Pregis's Title V Operating Permit (099-46334-00028).

13. The Title V Operating Permit renewal issued June 29, 2017, states the following:

a. Condition D.1.9

- i. The Permittee shall install, calibrate, operate and maintain a continuous monitoring device that continuously records the combustion temperature of any effluent gases incinerated in CE03 and CE04 to achieve compliance with the limit in Conditions D.1.1 and D.1.2.

The operation of this device can allow for brief periods of time when temperature is not recorded to allow for a change of the recording media.

For the purposes of this condition, continuous means no less than once per fifteen (15) minutes. The output of this system shall be recorded as a 3-hour rolling average.

This device shall have an accuracy of $\pm 2.5^{\circ}\text{C}$ or ± 0.75 percent of the temperature range measured in degrees Celsius, whichever is greater.

- ii. The Permittee shall determine the 3-hour rolling average temperature for CE03 and CE04 from the most recent valid compliant stack test.
- iii. The Permittee shall operate CE03 and CE04 at or above the 3-hour rolling average temperature as observed during the most recent valid compliant stack test.

14. The Administrator of EPA may require any person who owns or operates an emission source to provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1)(Section 114). The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

15. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$59,114 per day of violation up to a total of \$472,901 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

16. **Stipulated Facts**

17. Pregis owns and operates a packaging manufacturing facility at 1411 Pidco Drive, Plymouth, Indiana 46563 (the Pregis facility).

18. Pregis, owns and operates an emission source, which is the Pregis facility, and is therefore subject to the requirements of Section 114(a)(1).

19. Pregis injects a blowing agent comprised of 100 percent volatile organic compounds (VOCs) by weight into extruded plastic.

20. Pregis operates two regenerative thermal oxidizers (RTOs) referred to as CE03 (also referred to as RTO South or Plank RTO) and CE04 (also referred to as RTO North or Foam Sheet RTO).

21. Pregis maintains two permanent total enclosures (PTEs): PL-1, PL-3, BG-1, and GR-8 share a PTE routed to CE03 and exhausted to one stack (SC-3), and SL-1, SL-2, and GR-1 share a PTE routed to CE04 and exhausted to one stack (SC-4).

22. On March 13, 2019, the EPA conducted a CAA inspection at the Pregis facility.

23. On March 21, 2019, the EPA issued a CAA Inspection Report to Pregis.

24. On April 7, 2021, the EPA issued an Information Request to Pregis under Section 114(a) of the CAA.

25. On March 28 and June 8, 2018, pursuant to Pregis's permit requirements, Pregis conducted performance tests on CE04 and CE03 to determine its VOC destruction, capture, and overall reduction efficiency. These tests, consisting of three trials per test, measured average RTO temperature and differential pressure drop at various process points. These measurements are summarized below:

a. Average RTO Temperature from 2018 Performance Tests:

i. For CE03: 1670 ± 12 °F

ii. For CE04: 1642 ± 12 °F

26. Pregis records 3-hour rolling average temperatures of the center bed for CE03 and CE04 every 15 minutes. These temperatures were screen-captured daily.

27. On September 9, 2022, Pregis submitted to the EPA the minimum temperature setpoints for compliance for CE03 and CE04 programmed into its screen capture system, which are as follows:

b. For CE03: Minimum setpoint of 1580°F, NGI setpoint of 1650°F; and

c. For CE04: Minimum setpoint of 1515°F, NGI setpoint of 1650°F.

28. On September 9, 2022, Pregis submitted to the EPA charts for CE03 and CE04 with the minimum temperatures at which operators are notified of a temperature deviation, referred to by Pregis as the natural gas injection (NGI) temperature setpoints, for January 1, 2020, to July 31, 2022.

The NGI temperature setpoints provided by Pregis are as follows:

d. For CE03:

i. January 1, 2020 – March 22, 2022: 1690°F

ii. March 23, 2022 – June 4, 2022: 1670°F

iii. June 14, 2022 – July 31, 2022: 1600°F

e. For CE04:

i. January 1, 2020 – February 1, 2022: 1650°F

ii. February 2, 2022 – February 6, 2022: 1630°F

iii. February 7, 2022 – July 31, 2022: 1642°F

29. On May 24, 2022, Pregis submitted to the EPA 3-hour rolling average temperatures for CE03 and CE04 for January 1, 2020, through March 20, 2022.

30. To determine compliance with the setpoints determined by the 2018 performance tests, the EPA reviewed a portion of the available temperature records Pregis submitted on May 24, 2022,

including, January 2020, April 2020, August 2020, November 2020, February 2021, May 2021, September 2021, December 2021, and March 2022, for a total of 273 days checked.

31. For CE03, 8 days were determined to be below the setpoint determined by the 2018 performance test (2.9% of all days checked).

32. For CE04, 9 days were determined to be below the setpoint determined by the 2018 performance test (3.3% of all days checked).

33. On October 23, 2023, Pregis informed the EPA that a RTO temperature monitoring system that uses a datalogger was installed on December 21, 2022 to replace the existing RTO temperature screen capture system.

34. On September 28, 2023, EPA issued a Finding of Violation (FOV) to Pregis alleging that it violated Condition D.1.9 of its Title V Operating Permit by failing to maintain the minimum 3-hour rolling average temperatures for CE03 and CE04 at various times from January 1, 2020 to March 20, 2022.

35. On October 23, 2023, representatives of Pregis and the EPA discussed the September 28, 2023 FOV.

36. Following the FOV, Respondent completed the following actions:

- a. On April 24, 2024, Pregis completed a compliance stack test demonstrating that greater than 98% VOC destruction was achieved at 1578 degrees Fahrenheit for CE04 when processing VOCs.
- b. On November 15, 2024, Pregis conducted another stack test at RTO CE03 to determine its VOC destruction, capture, and overall reduction efficiency. This test included three runs and measured an average RTO temperature of 1639 degrees Fahrenheit while achieving 99.7 percent VOC destruction efficiency.

D. Allegations

37. Pregis violated Condition D.1.9 of its Title V Operating Permit by failing to maintain the minimum 3-hour rolling average temperatures for CE03 and CE04 at various times from January 1, 2020 to March 20, 2022.

Terms of Consent Agreement

38. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits to the jurisdictional allegations in this CAFO;
- b. neither admits nor denies the allegations stated in Section D of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to any conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section D of this CAFO;
- and
- f. waives its right to appeal this CAFO.

39. For the purposes of this proceeding, Respondent:

- a. agrees this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges this proceeding constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c);
- e. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement; and

- f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

40. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C.

§ 7413(e), the facts of this case, Pregis's cooperation, and Pregis's prompt attention to this matter, Complainant has determined that an appropriate civil penalty to settle this action is \$92,705.

41. Respondent agrees to pay a civil penalty in the amount of \$92,705 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date"). Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

42. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CAA-05-2025-0001,
- b. Concurrently with any payment or within 24 hours of any payment,

Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Sarah Baehr
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5

baehr.sarah@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

43. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is, the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.
- b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of handling collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

44. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

45. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

46. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

47. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service (IRS) annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written

statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent's failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide the EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to the EPA's Cincinnati Finance Division at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, or within 7 days after the Final Order ratifying this Consent Agreement is filed should that happen between December 15 and December 31 of the calendar year. The EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide the EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of a TIN issued by the IRS.

48. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

49. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal authority to bind the party they represent to this CAFO.

50. By signing this CAFO, Respondent certifies the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there may be significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment under 18 U.S.C. §§ 1001 and 1519.

51. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

E. Effect of Consent Agreement and Final Order

52. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: baehr.sarah@epa.gov (for the EPA), and tmccoy@pregis.com (for Respondent).

53. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged in this CAFO.

54. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter with the exception of the administrative compliance order, docket number CAA-05-2025-0001 issued concurrently.

55. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

56. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, authorized representatives, successors, and assigns.

57. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

58. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

59. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

60. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

F. Effective Date

61. This CAFO will be effective after the Regional Judicial Officer executes the attached Final Order, on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

Pregis Innovative Packaging LLC, Respondent

9/30/25

Date



Kathy Whitney, Plant Manager
Pregis Innovative Packaging LLC

United States Environmental Protection Agency, Complainant

Date

Carolyn Persoon
Acting Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Pregis Innovative Packaging LLC
Docket No. CAA-05-2025-0001

Final Order

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

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5