

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-2018-AIR-E **TCEQ ID:** RN100711118 **CASE NO.:** 31770
RESPONDENT NAME: Crown Cork & Seal Company (USA), Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Crown Cork & Seal, 2501 North Frazier Street, Conroe, Montgomery County</p> <p>TYPE OF OPERATION: Can manufacturing facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 19, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Daniel Siringi, Enforcement Division, Enforcement Section III, MC R-10, (409) 899-8799; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. Michael Autry, Director of EHS, Crown Cork & Seal (USA), Inc., 2501 North Frazier Street in Conroe, Texas 77303 Mr. George Rice, Plant Manager, Crown Cork & Seal (USA), Inc., 2501 North Frazier Street in Conroe, Texas 77303 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 31, 2006</p> <p>Date of NOE Relating to this Case: November 17, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>AIR</p> <p>Failed to prevent unauthorized emissions. Specifically, 156 pounds (lbs) of 2-butoxyethanol were emitted to the atmosphere during an emissions event which occurred on August 16, 2006 and lasted for 6 hours (hrs) and 30 minutes. Since the emissions event could have been avoided, Crown failed to meet the demonstrations for affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 75271, Special Condition 3 and TEXAS HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,650</p> <p>Total Deferred: \$730 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,920</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and implement measures designed to prevent the recurrence of unauthorized emissions events due to the same causes as the unauthorized emissions event that occurred on August 16, 2006; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



Penalty Calculation Worksheet (PCW)

DATES	Assigned	20-Nov-2006	Screening	20-Nov-2006	EPA Due	17-Aug-2007
	PCW	29-Nov-2006				

RESPONDENT/FACILITY INFORMATION			
Respondent	Crown Cork & Seal Company (USA), Inc.		
Reg. Ent. Ref. No.	RN100711118		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	31770	No. of Violations	1
Docket No.	2006-2018-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Daniel Siringi
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum	\$0	Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 46% Enhancement Subtotals 2, 3, & 7 \$1,150

Notes: Enhancement for two (2) NOVs with same or similar violations, eight (8) NOVs without same or similar violations and one (1) 1660 Order with denial of liability in the past five years at this plant.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$57 0% Enhancement* Subtotal 6 \$0
Approx. Cost of Compliance \$1,500 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$3,650

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount \$3,650

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$3,650

DEFERRAL 20% Reduction Adjustment -\$730

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,920

Screening Date 20-Nov-2006

Docket No. 2006-2018-AIR-E

PCW

Respondent Crown Cork & Seal Company (USA), Inc.

Policy Revision 2 (September 2002)

Case ID No. 31770

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN100711118

Media [Statute] Air Quality

Enf. Coordinator Daniel Stringl

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 46%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two (2) NOVs with same or similar violations, eight (8) NOVs without same or similar violations and one (1) 1660 Order with denial of liability in the past five years at this plant.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 46%

Screening Date 20-Nov-2006

Docket No. 2006-2018-AIR-E

PCW

Respondent Crown Cork & Seal Company (USA), Inc.

Policy Revision 2 (September 2002)

Case ID No. 31770

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN100711118

Media [Statute] Air Quality

Enf. Coordinator Daniel Siringi

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Air Permit No. 75271, Special Condition 3 and Texas Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, 156 pounds (lbs) of 2-butoxyethanol were emitted to the atmosphere during an emissions event which occurred on August 16, 2006 and lasted for 6 hours (hrs) and 30 minutes. Since the emissions event could have been avoided, Crown failed to meet the demonstrations for affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	25%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	monthly	
	quarterly	
	semianual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$57

Violation Final Penalty Total \$3,650

This violation Final Assessed Penalty (adjusted for limits) \$3,650

Economic Benefit Worksheet

Respondent: Crown Cork & Seal Company (USA), Inc.
Case ID No.: 31770
Reg. Ent. Reference No.: RN100711118
Media: Air Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	16-Aug-2006	19-May-2007	0.8	\$57	n/a	\$57

Notes for DELAYED costs

Estimated cost of preventing unauthorized emissions. Date required is the date of occurrence and final date is the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$57

Compliance History

Customer/Respondent/Owner-Operator:	CN601465230 Crown Cork & Seal Company (USA), Inc.	Classification: AVERAGE	Rating: 3.10
Regulated Entity:	RN100711118 CROWN CORK & SEAL	Classification: AVERAGE	Site Rating: 4.46
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD092914662
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	38054
	AIR NEW SOURCE PERMITS	PERMIT	17848
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	MQ0117B
	AIR NEW SOURCE PERMITS	PERMIT	75271
	AIR NEW SOURCE PERMITS	AFS NUM	0034
	AIR OPERATING PERMITS	ACCOUNT NUMBER	MQ0117B
	AIR OPERATING PERMITS	PERMIT	1036
Location:	2501 N FRAZIER ST, CONROE, TX, 77303	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	November 20, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 20, 2001 to November 20, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Daniel Siringi Phone: (409) 899-8799

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 12/15/2005 ADMINORDER 2005-0675-AIR-E
- Classification: Major
- Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
30 TAC Chapter 116, SubChapter D 116.315(a)
5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failure to obtain authorization to operate. Specifically, Air Permit 17848 expired on August 1, 2003 and an alternative authorization to operate was not obtained prior to the permit's expiration.
- B. Any criminal convictions of the state of Texas and the federal government: N/A
- C. Chronic excessive emissions events. N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 04/26/2004 | (252443) |
| 2 | 08/31/2004 | (272254) |
| 3 | 06/16/2003 | (114077) |
| 4 | 02/21/2006 | (440115) |
| 5 | 04/28/2006 | (463917) |
| 6 | 05/20/2005 | (380978) |
| 7 | 08/20/2002 | (4641) |
| 8 | 08/10/2006 | (486973) |
| 9 | 06/02/2004 | (274039) |
| 10 | 06/02/2004 | (274040) |
| 11 | 08/14/2006 | (487167) |
| 12 | 05/11/2006 | (456210) |

13 06/10/2004 (251396)
 14 08/05/2005 (396842)
 15 03/23/2005 (373588)
 16 11/17/2006 (517894)
 17 07/06/2006 (457533)
 18 06/02/2004 (272841)
 19 06/09/2005 (393668)
 20 12/17/2004 (340681)
 21 06/30/2006 (480828)
 22 09/17/2003 (249114)
 23 12/30/2004 (340618)
 24 04/24/2006 (461451)
 25 02/14/2005 (348821)
 26 10/06/2004 (333815)
 27 12/10/2004 (285252)
 28 03/16/2005 (345965)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/05/2005 (396842)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 Description: Failure to notify the Agency in their deviation report that their NSR permit # 17848 has expired in August 2003.
 Date: 12/10/2004 (285252)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT IA
 Description: Failed to prevent to prevent the emergency stop button from being activated, thus causing the incinerator to shutdown.
 Date: 06/11/2004 (251396)
 Self Report? NO Classification: Minor
 Rqmt Prov: OP IA
 Description: Failed to have a certified observer under EPA Method 9, conduct the opacity readings submitted by the RE in their annual compliance certification for 2003 and 2004.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PERMIT IA
 Description: Failure to keep the temperature of the thermal oxidizer at the 1500 degree Fahrenheit required by the permit. The temperature fell by almost 160 degree Fahrenheit for a period of 15 minutes on August 16, 2003.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PERMIT IA
 Description: Failure to store sponges or cloths that have been used for cleaning volatile organic compounds in sealed containers.
 Date: 02/21/2006 (440115)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT IA
 Description: Crown failed to control emissions from the beverage can coating line due to the failure of the actuator motor.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 30 TAC Chapter 101, SubChapter F 101.201(b)
 30 TAC Chapter 101, SubChapter F 101.201(b)(1)
 Description: Crown failed to submit the Initial Notification of the reportable incident (# 66069) within 24 hours of discovery and the final report within 14 days of the end of the incident.
 Date: 04/26/2004 (252443)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)(1)(I)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to identify the estimated quantities of contaminants on an initial shutdown notification.
 Date: 07/06/2006 (457533)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter E 115.412(1)(C)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: OP IA
 Description: Failure to have a permanent label summarizing the operating requirements attached to the cleaner.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.495(b)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: OP IA
 Description: Failure to provide quarterly reports to the Administrator of each instance in which the volume weighted average of the total mass of VOC per volume of coating solids, after the control device.
 Date: 06/20/2003 (114077)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 Rqmt Prov: OP IA
 Description: Failure to submit the annual compliance certification within thirty (30) days after the certification end date.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 Rqmt Prov: OP IA
 Description: Failure to submit the semiannual deviation report within thirty (30) days after the certification end date.
 Date: 08/21/2002 (4641)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 Rqmt Prov: OP IA
 Description: Failure to submit the annual compliance certification within thirty (30) days after the certification end date.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 Rqmt Prov: OP IA
 Description: Failure to submit the semiannual deviation report within thirty (30) days after the certification end date.
 Date: 08/10/2006 (486973)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 Description: Failure to report initial notification in a timely manner.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PA IA
 Description: Failure to prevent unauthorized emissions of volatile organic compounds (VOC).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PA IA
 Description: Operated the process units while the thermal oxidizer was shutdown.
 Date: 05/11/2006 (456210)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(G)
 30 TAC Chapter 101, SubChapter F 101.201(b)(8)

Description: Failure to submit initial notification in a timely manner and identify the permit number.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PA IA

Description: Failure to comply with the emissions events reporting requirements.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CROWN CORK & SEAL
COMPANY (USA), INC.
RN100711118

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-2018-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Crown Cork & Seal Company (USA), Inc. ("Crown Cork & Seal") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Crown Cork & Seal appear before the Commission and together stipulate that:

1. Crown Cork & Seal owns and operates a can manufacturing facility at 2501 North Frazier Street in Conroe, Montgomery County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Crown Cork & Seal agree that the Commission has jurisdiction to enter this Agreed Order, and that Crown Cork & Seal is subject to the Commission's jurisdiction.
4. Crown Cork & Seal received notice of the violations alleged in Section II ("Allegations") on or about November 22, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Crown Cork & Seal of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Six Hundred Fifty Dollars (\$3,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Crown Cork & Seal has paid Two Thousand Nine Hundred Twenty Dollars (\$2,920) of the administrative penalty and Seven Hundred Thirty Dollars (\$730) is deferred contingent upon Crown Cork & Seal's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Crown Cork & Seal fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Crown Cork & Seal to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Crown Cork & Seal have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Crown Cork & Seal has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Crown Cork & Seal is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 75271, Special Condition 3 and TEXAS HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 31, 2006. Specifically, 156 pounds (lbs) of 2-butoxyethanol were emitted to the atmosphere during an emissions event which occurred on August 16, 2006 and lasted for 6 hours (hrs) and 30 minutes. Since the emissions event could have been avoided, Crown failed to meet the demonstrations for affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

Crown Cork & Seal generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Crown Cork & Seal pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Crown Cork & Seal's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Crown Cork & Seal Company (USA), Inc., Docket No. 2006-2018-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Crown Cork & Seal shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, develop and implement measures designed to prevent the recurrence of unauthorized emissions events due to the same causes as the unauthorized emissions event that occurred on August 16, 2006; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Quality Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Crown Cork & Seal. Crown Cork & Seal is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Crown Cork & Seal fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Crown Cork & Seal's failure to comply is not a violation of this Agreed Order. Crown Cork & Seal shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Crown Cork & Seal shall notify the Executive Director within seven days after Crown Cork & Seal becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Crown Cork & Seal shall be made in writing to the Executive Director. Extensions are not effective until Crown Cork & Seal receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Crown Cork & Seal in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Crown Cork & Seal, or three days after the date on which the Commission mails notice of the Order to Crown Cork & Seal, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/27/07

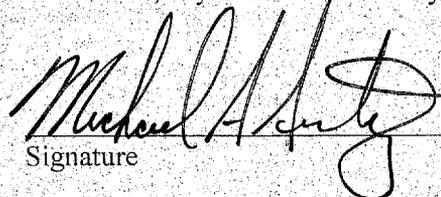
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

12/17/06

Date

Michael Antey

Name (Printed or typed)
Authorized Representative of
Crown Cork & Seal Company (USA), Inc.

Director of EHS

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

