

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-0015-AIR -E **TCEQ ID:** RN100222686 **CASE NO.:** 35159  
**RESPONDENT NAME:** Owens Corning Roofing and Asphalt, LLC

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Owens Corning Roofing and Asphalt, 203 Cedar Road, Ennis, Ellis County</p> <p><b>TYPE OF OPERATION:</b> Asphalt roofing manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There are no additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 19, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Bryan Elliott, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6162; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Richard Vail, Plant Leader, Owens Corning Roofing and Asphalt, LLC, P.O. Box 608, Ennis, Texas 75120  Mr. Michael Burton, Vice President, Supply Chain/Operation, Owens Corning Roofing and Asphalt, LLC, P.O. Box 608, Ennis, Texas 75120  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> November 14, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 17, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to submit a permit compliance certification within 30 days after the end of the compliance period. Specifically, the Respondent submitted the July 6, 2006 through July 6, 2007 permit compliance certification on December 5, 2007, 121 days late [30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to include all necessary information used to assess compliance in the permit compliance certification. Specifically, the Respondent submitted the July 6, 2006 through July 6, 2007 permit compliance certification and did not include the applicable requirement nor monitoring or recordkeeping information [30 TEX. ADMIN. CODE § 122.146(5)(C)(ii) and (iii) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failed to submit a deviation report within 30 days after the end of the reporting period. Specifically, the Respondent submitted the February 28, 2007 through August 31, 2007 deviation report on November 30, 2007, 61 days late [30 TEX. ADMIN. CODE § 122.145(2)(C) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$5,000</p> <p><b>Total Deferred:</b> \$1,000  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,000</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On November 30, 2007, submitted the deviation report for the February 28, 2007 through August 31, 2007 reporting period; and</p> <p>b. On December 5, 2007, submitted the permit compliance certification for the July 6, 2006 through July 6, 2007 reporting period.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 30 days after the effective date of this Agreed Order, submit a corrected permit compliance certification for the July 6, 2006 through July 6, 2007 permit compliance certification period which includes the applicable requirement and monitoring or recordkeeping information.</p>

Additional ID No(s): ED0120U



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	17-Dec-2007	<b>Screening</b>	19-Dec-2007	<b>EPA Due</b>	9-Sep-2008
	<b>PCW</b>	19-Dec-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Owens Corning Roofing and Asphalt, LLC
<b>Reg. Ent. Ref. No.</b>	RN100222686
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	35159	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2008-0015-AIR-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Bryan Elliott	
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** **0% Enhancement** **Subtotals 2, 3, & 7**

Notes

**Culpability** **0% Enhancement** **Subtotal 4**

Notes

**Good Faith Effort to Comply** **0% Reduction** **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **20%** **Reduction** **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 19-Dec-2007

Docket No. 2008-0015-AIR-E

PCW

Respondent Owens Corning Roofing and Asphalt, LLC

Policy Revision 2 (September 2002)

Case ID No. 35159

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100222686

Media [Statute] Air

Enf. Coordinator Bryan Elliott

## Compliance History Worksheet

## &gt;&gt; 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)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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 judgments 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%

Please Enter Yes or No

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) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

<b>Screening Date</b> 19-Dec-2007	<b>Docket No.</b> 2008-0015-AIR-E	<b>PCW</b>			
<b>Respondent</b> Owens Corning Roofing and Asphalt, LLC	<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 35159	<i>PCW Revision November 6, 2007</i>				
<b>Reg. Ent. Reference No.</b> RN100222686					
<b>Media [Statute]</b> Air					
<b>Enf. Coordinator</b> Bryan Elliott					
<b>Violation Number</b> <input type="text" value="1"/>					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 122.146(2), and 122.146(5)(C)(ii) and (iii), and Tex. Health & Safety Code § 382.085(b)				
<b>Violation Description</b>	Failed to submit a permit compliance certification within 30 days after the end of the compliance period and failed to include all necessary information used to assess compliance in the permit compliance certification, as documented during an investigation conducted on November 14, 2007. Specifically, the Respondent submitted the July 6, 2006 through July 6, 2007 permit compliance certification on December 5, 2007, 121 days late and did not include the applicable requirement nor monitoring or recordkeeping information.				
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>			<b>Percent</b> <input type="text" value="0%"/>	
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="25%"/>
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
<b>Adjustment</b>		<input type="text" value="\$7,500"/>			
				<input type="text" value="\$2,500"/>	
<b>Violation Events</b>					
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="121"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>		
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	x				
One single event is recommended.					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
Estimated EB Amount <input type="text" value="\$43"/>		Violation Final Penalty Total <input type="text" value="\$2,500"/>			
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$2,500"/>		

## Economic Benefit Worksheet

**Respondent** Owens Corning Roofing and Asphalt, LLC  
**Case ID No.** 35159  
**Reg. Ent. Reference No.** RN100222686  
**Media** Air  
**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
No commas or \$							

**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)	\$1,000	6-Aug-2007	15-Jun-2008	0.9	\$43	n/a	\$43

Notes for DELAYED costs

Estimated cost to prepare and submit complete, accurate, and timely reports. Date Required is the earliest date of non-compliance (date first report was due) and Final Date is the date of prospective compliance.

**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

\$1,000

TOTAL

\$43

<b>Screening Date</b> 19-Dec-2007	<b>Docket No.</b> 2008-0015-AIR-E	<b>PCW</b>	
<b>Respondent</b> Owens Corning Roofing and Asphalt, LLC	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 35159	<i>PCW Revision November 6, 2007</i>		
<b>Reg. Ent. Reference No.</b> RN100222686			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Bryan Elliott			
<b>Violation Number</b> 2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 122.145(2)(C) and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to submit a deviation report within 30 days after the end of the reporting period, as documented during an investigation conducted on November 14, 2007. Specifically, the Respondent submitted the February 28, 2007 through August 31, 2007 deviation report on November 30, 2007, 61 days late.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>Harm</b>			
OR	Release	Major      Moderate      Minor	
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major      Moderate      Minor			
<input type="text"/> <input checked="" type="text" value="x"/> <input type="text"/>			<b>Percent</b> <input type="text" value="25%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
<b>Adjustment</b>		\$7,500	
		\$2,500	
<b>Violation Events</b>			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="61"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text" value="x"/>	
One single event is recommended.			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount <input type="text" value="\$4"/>		Violation Final Penalty Total <input type="text" value="\$2,500"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,500"/>	

## Economic Benefit Worksheet

**Respondent** Owens Corning Roofing and Asphalt, LLC  
**Case ID No.** 35159  
**Reg. Ent. Reference No.** RN100222686  
**Media Air**  
**Violation No. 2**

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$500	30-Sep-2007	30-Nov-2007	0.2	\$4	n/a	\$4

**Notes for DELAYED costs** Estimated cost to prepare and submit complete, accurate, and timely reports. Date Required is the earliest date of non-compliance (date first report was due) and Final Date is the date of compliance.

**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 \$500

**TOTAL** \$4

# Compliance History

Customer/Respondent/Owner-Operator:	CN602134488 Owens Corning Roofing and Asphalt, LLC	Classification: AVERAGE	Rating: 24.58
Regulated Entity:	RN100222686 OWENS CORNING ROOFING AND ASPHALT	Classification: HIGH	Site Rating: 0.00
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	ED0120U
	AIR OPERATING PERMITS	PERMIT	1779
	AIR NEW SOURCE PERMITS	PERMIT	15614A
	AIR NEW SOURCE PERMITS	PERMIT	20807
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	ED0120U
	AIR NEW SOURCE PERMITS	AFS NUM	4813900025
	AIR NEW SOURCE PERMITS	REGISTRATION	82395
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD982284507
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD982284507
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	73348
	STORMWATER	PERMIT	TXR05N734
Location:	203 CEDAR RD, ENNIS, TX, 75119	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	December 18, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 18, 2002 to December 18, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Bryan Elliott</u>	Phone:	<u>239-6162</u>

## 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.  
N/A
- 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	(405)
2	08/23/2005	(406338)
3	11/09/2005	(435837)
4	10/30/2006	(512845)
5	12/14/2007	(608694)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- 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  
OWENS CORNING ROOFING AND  
ASPHALT, LLC  
RN100222686

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-0015-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 Owens Corning Roofing and Asphalt, LLC ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an asphalt roofing manufacturing plant located at 203 Cedar Road in Ennis, Ellis 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 22, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Five Thousand Dollars (\$5,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Dollars (\$4,000) of the administrative penalty and One Thousand Dollars (\$1,000) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On November 30, 2007, submitted the deviation report for the February 28, 2007 through August 31, 2007 reporting period; and
  - b. On December 5, 2007, submitted the permit compliance certification for the July 6, 2006 through July 6, 2007 reporting period.
10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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, the Respondent is alleged to have:

1. Failed to submit a permit compliance certification within 30 days after the end of the compliance period, in violation of 30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 14, 2007. Specifically, the Respondent submitted the July 6, 2006 through July 6, 2007 permit compliance certification on December 5, 2007, 121 days late.
2. Failed to include all necessary information used to assess compliance in the permit compliance certification, in violation of 30 TEX. ADMIN. CODE § 122.146(5)(C)(ii) and (iii) and TEX. HEALTH



& SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 14, 2007. Specifically, the Respondent submitted the July 6, 2006 through July 6, 2007 permit compliance certification and did not include the applicable requirement nor monitoring or recordkeeping information.

3. Failed to submit a deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 14, 2007. Specifically, the Respondent submitted the February 28, 2007 through August 31, 2007 deviation report on November 30, 2007, 61 days late.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Owens Corning Roofing and Asphalt, LLC, Docket No. 2008-0015-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 the Respondent shall, within 30 days after the effective date of this Agreed Order, submit a corrected permit compliance certification for the July 6, 2006 through July 6, 2007 permit compliance certification period which includes the applicable requirement and monitoring or recordkeeping information.

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 Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

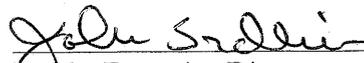
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 5/2/2008

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date Feb 6<sup>th</sup>, 2008

Michael Burton  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Owens Corning Roofing and Asphalt, LLC

VP - Supply Chain/Operation  
\_\_\_\_\_  
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.

