

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.: 2010-0629-AIR-E TCEQ ID: RN100711118 CASE NO.: 39546**  
**RESPONDENT NAME: CROWN Cork & Seal USA, Inc.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 2501 North Frazier Street, Conroe, Montgomery County</p> <p><b>TYPE OF OPERATION:</b> Can 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 is no record of 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 August 23, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Michael A. Antry, Corporate Director of EHS, CROWN Cork &amp; Seal USA, Inc., 2501 North Frazier Street, Conroe, Texas 77303  <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 type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> February 1 - March 3, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 6, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>AIR</b></p> <p>Failure to perform a stack test to ensure that the Bryan Hot Water Boiler is within nitrogen oxide ("NOx") emission specifications. Specifically, the Respondent submitted an inadequate and invalid stack test on February 19, 2010, and was unable to provide a stack test showing that the boiler is in compliance with the minor source NOx emission specifications for a boiler which has a maximum rated capacity of seven million metric British thermal units per hour [30 TEX. ADMIN. CODE § 117.2035(e)(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,640</p> <p><b>Total Deferred:</b> \$328  <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> \$1,312</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, perform stack testing; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision a.</p>

Additional ID No(s): Air Account No. 1036



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	12-Apr-2010	<b>Screening</b>	22-Apr-2010	<b>EPA Due</b>	
	<b>PCW</b>	4-May-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	CROWN Cork & Seal USA, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100711118
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39546	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-0629-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Roshondra Lowe
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>EC's Team</b>	Enforcement Team 5
<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	64.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$640
<b>Notes</b>	Penalty enhanced due to two NOVs for dissimilar violations and three agreed orders containing a denial of liability.	
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b> \$0
<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b> \$0
<b>Total EB Amounts</b>	\$131	<small>*Capped at the Total EB \$ Amount</small>
<b>Approx. Cost of Compliance</b>	\$3,000	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,640
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b> \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
<b>Notes</b>		
	<b>Final Penalty Amount</b>	\$1,640
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b> \$1,640
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b> -\$328
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
<b>Notes</b>	Deferral offered for expedited settlement.	
<b>PAYABLE PENALTY</b>		\$1,312

Screening Date 22-Apr-2010

Docket No. 2010-0629-AIR-E

PCW

Respondent CROWN Cork & Seal USA, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100711118

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

### 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)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	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) 64%

>> 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

Penalty enhanced due to two NOVs for dissimilar violations and three agreed orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 64%

Screening Date 22-Apr-2010

Docket No. 2010-0629-AIR-E

PCW

Respondent CROWN Cork & Seal USA, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39548

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100711118

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 117.2035(e)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to perform a stack test to ensure that the Bryan Hot Water Boiler is within nitrogen oxide ("NOx") emission specifications. Specifically, the Respondent submitted an inadequate and invalid stack test on February 19, 2010, and was unable to provide a stack test showing that the boiler is in compliance with the minor source NOx emission specifications for a boiler which has a maximum rated capacity of seven million metric British thermal units per hour.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment in the Houston-Galveston-Brazoria nonattainment area will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

62 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$131

Violation Final Penalty Total \$1,640

This violation Final Assessed Penalty (adjusted for limits) \$1,640

## Economic Benefit Worksheet

**Respondent:** CROWN Cork & Seal USA, Inc.  
**Case ID No.:** 39546  
**Reg. Ent. Reference No.:** RN100711118  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	19-Feb-2010	3-Jan-2011	0.87	\$131	n/a	\$131

Notes for DELAYED costs

Estimated cost to perform stack testing and ensure the boiler is in compliance with NOx emission specifications. The date required is the date of the invalid test. The final date is based on the date corrective actions are expected to be completed.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

**TOTAL**

\$131

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602717332 CROWN Cork & Seal USA, Inc. Classification: AVERAGE Rating: 4.96  
Regulated Entity: RN100711118 CROWN CORK & SEAL Classification: AVERAGE Site Rating: 9.53

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	ACCOUNT NUMBER	MQ0117B
	AIR NEW SOURCE PERMITS	PERMIT	75271
	AIR NEW SOURCE PERMITS	AFS NUM	4833900034
	AIR OPERATING PERMITS	ACCOUNT NUMBER	MQ0117B
	AIR OPERATING PERMITS	PERMIT	1036
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	MQ0117B

Location: 2501 N FRAZIER ST, CONROE, TX, 77303

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 19, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 19, 2005 to April 19, 2010

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

Name: Roshondra Lowe Phone: (713) 767-3553

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

## 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)

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.

Effective Date: 04/13/2007

ADMINORDER 2006-1522-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: TCEQ Permit #75271, SC#3 PA

Description: Failure to prevent unauthorized emissions.

Effective Date: 07/13/2007

ADMINORDER 2006-2018-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ Permit #75271, SC#3 PA

Description: Failure to prevent unauthorized emission of 2-butoxyethanol.

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	05/20/2005	(380978)
2	04/24/2006	(461451)
3	04/28/2006	(463917)
4	05/11/2006	(456210)
5	06/30/2006	(480828)
6	08/10/2006	(486973)
7	08/14/2006	(487167)
8	11/17/2006	(517894)
9	02/27/2007	(531795)
10	03/20/2007	(543819)
11	06/27/2007	(558864)
12	11/06/2007	(598211)
13	01/25/2008	(614206)
14	03/31/2008	(617966)
15	06/14/2008	(466802)

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

Date: 05/11/2006 (456210)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)

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)

Permit #75271, Special Condition #3 PA

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

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)

TCEQ Permit #75271, SC#3 PA

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)

TCEQ Permit #75271, SC #14 PA

Description: Operated the process units while the thermal oxidizer was shutdown.

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 USA, INC.  
RN100711118**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0629-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 USA, Inc. ("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 a can manufacturing plant 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 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 April 11, 2010.
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 One Thousand Six Hundred Forty Dollars (\$1,640) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Three Hundred Twelve Dollars (\$1,312) of the administrative penalty and Three Hundred Twenty-Eight Dollars (\$328) 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 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.
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, the Respondent is alleged to have failed to perform a stack test to ensure that the Bryan Hot Water Boiler is within nitrogen oxide ("NOx") emission specifications, in violation of 30 TEX. ADMIN. CODE § 117.2035(e)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted February 1, 2010 through March 3, 2010. Specifically, the Respondent submitted an inadequate and invalid stack test on February 19, 2010, and was unable to provide a stack test showing that the boiler is in compliance with the minor source NOx emission specifications for a boiler which has a maximum rated capacity of seven million metric British thermal units per hour.

## 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: CROWN Cork & Seal USA, Inc., Docket No. 2010-0629-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 undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, perform stack testing in accordance with 30 TEX. ADMIN. CODE § 117.2035(e)(1); and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, monitoring records, training records, and/or other records to demonstrate compliance, and 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 fines 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 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 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

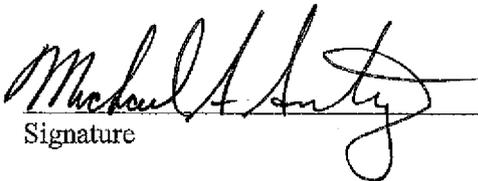
\_\_\_\_\_  
Date 9/14/2010

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 6/21/10

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
CROWN Cork & Seal USA, Inc.

\_\_\_\_\_  
Title Corporate Director - EHS

**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.

