

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Crown Cork & Seal Co. (USA), Inc.  
700 16<sup>th</sup> St., S.E.  
Massillon, Ohio 44648**

**RESPONDENT**

**Director's Final Findings  
and Orders**

**ENTERED DIRECTOR'S JOURNAL**

**JUN 11 2002**

**OHIO E.P.A.**

**PREAMBLE**

It is hereby agreed that:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Crown Cork & Seal Co. (USA), Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under R.C. 3704.03 and R.C. 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership relating to the facility shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in R.C. Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS OF FACT**

The Director of Ohio EPA has determined the following findings of fact:

1. Respondent owns and operates a two and three piece food can end seal compound coating line ("coating line"), which is identified by Ohio EPA as "emissions unit K026" at its facility located at 700 16<sup>th</sup> St., S.E., Massillon, Ohio (Ohio EPA facility identification number 1576130634). The coating line consists of one Dewey & Almy model no. 800 lining machine with two sets of dual spray nozzles.

2. This coating line is an "air contaminant source" as defined by Ohio Administrative Code ("OAC") Rules 3745-31-01(D) and 3745-35-01(B)(1). Operation of the coating line

releases emissions of volatile organic compounds ("VOC"), as defined by OAC Rule 3745-21-01(B)(6), into the ambient air and makes the coating line subject to the VOC emission limitations of OAC Rules 3745-21-09(D)(1)(e) and 3745-21-09(D)(2)(e) for a two and three piece can coating operation, respectively. VOC emissions from the coating line are partially captured by hooding, and vented to a catalytic incinerator.

3. OAC Rule 3745-35-02 states, in part, that "no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the director."

4. R.C. 3704.05(C) states that no person who is the holder of a permit issued under division (F) and (G) of R.C. 3704.03 shall violate any of its terms or conditions, and R.C. 3704.05(G) states that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under this chapter.

5. On September 29, 1992, Respondent submitted a permit to operate ("PTO") application to Canton for emissions unit K026. The Respondent began operation of the coating line at its facility on September 8, 1993. Respondent operated the emissions unit without first obtaining a PTO from September 8, 1993 through July 28, 1995 (the date a PTO was issued for emissions unit K026), in violation of OAC Rule 3745-35-02 and R.C. 3704.05(G).

6. On July 22, 1998, Respondent had a stack test performed by Total Source Analysis ("TSA") for emissions unit K026. The stack test was conducted to demonstrate compliance with the best available technology ("BAT") VOC emission limitation of 2.33 pounds of VOC (as carbon)/hour (lbs of VOC/hr) cited in Permit to Install ("PTI") # 15-0859, which was issued on December 2, 1992, for emissions unit K026. Canton reviewed the stack test report and determined that the emissions unit was emitting 3.98 lbs of VOC/hr compared to allowable VOC emission limitation of 2.33 lbs of VOC/hr, in violation of R.C. 3704.05(C). The overall VOC emission control efficiency was only 6%. In a letter dated August 20, 1998, Respondent stated that upon completion of any recommendations made by the supplier of the catalytic incinerator, a complete re-test of this emissions unit would be scheduled.

7. On September 16, 1998, Respondent re-tested the emissions unit, and submitted the results to Canton on October 13, 1998. Canton reviewed the test results and determined that the emissions unit was emitting 3.13 lbs of VOC/hr compared to the allowable VOC emission limitation of 2.33 lbs of VOC/hr, in violation of R.C. 3704.05(C). However, the overall VOC emission control efficiency improved to 31%.

8. After receiving the results of the stack test conducted on September 16, 1998, Respondent initiated a follow-up investigation to determine the reason for non-compliance in collaboration with the manufacturer of the catalytic incinerator. It was determined that

the installation of a new capture and control system (catalytic incinerator) was warranted. Canton requested a stack test of the emissions unit following the installation and start-up of the new catalytic incinerator.

9. On or about March 11, 1999, Respondent replaced the entire capture and control system, including a new catalytic incinerator, to control the VOC emissions from emissions unit K026. On April 22, 1999, TSA conducted a stack test on emissions unit K026 for the Respondent. Canton's review of the test results indicated that the emissions unit was in compliance with the VOC emission limitation, with the actual emissions of 1.86 lbs of VOC/hr. Based on this information, the emissions unit was operated out of compliance for approximately 9 months from at least July 22, 1998 through April 22, 1999.

10. On August 8, 2001, Canton issued a notice of violation ("NOV") to Respondent. The NOV requested that the Respondent provide Canton with an acceptable preventative maintenance and malfunction abatement plan ("PMMAP"), pursuant to OAC Rule 3745-15-06(D)(1). The PMMAP was requested to prevent similar violations in the future.

11. On August 15, 1999, Respondent submitted a satisfactory response to the NOV and the PMMAP in a timely manner to Canton.

12. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

## V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall maintain compliance with the terms and conditions of PTI # 15-0859.
2. Respondent shall not install any new air contaminant source at the facility without first applying for and obtaining a PTI, pursuant to OAC Chapter 3745-31, except as provided by rule or law.
3. Pursuant to R.C. 3704.06, Respondent is assessed a civil penalty in the amount of thirty-two thousand dollars (\$32,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-five thousand six hundred dollars (\$25,600) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Vicki Galilei, Fiscal Specialist, or her successor, at the following address:

Fiscal Administration  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

The remaining six thousand four hundred dollars (\$6,400) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban area tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry  
Ohio Department of Natural Resources  
1855 Fountain Square Court, H-1  
Columbus, Ohio 43224-1327

A copy of both checks shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

#### **VI. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent's facility.

#### **VII. NOTICE**

All documents required by these Orders, unless otherwise specified in writing, shall be addressed to:

Air Pollution Control Division  
Canton City Health Department  
420 Market Ave., North  
Canton, Ohio 44702-1544  
Attention: Pat Petrella

and to:

Ohio EPA/DAPC  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Thomas Kalman

### **VIII. RESERVATION OF RIGHTS**

Nothing contained herein prevents Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities at the facility pursuant to R.C. Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Respondent to raise any administrative, legal, or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require from Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by mutual agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the Journal of the Director of Ohio EPA.

### **X. SIGNATORIES**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to this document.

### **XI. WAIVER**

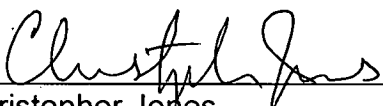
In order to resolve disputed claims, without admission of fact, violation or liability, Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's civil liability for the specific violations cited herein. Respondent hereby waives the right to appeal the issuance, terms and service of

these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such an appeal. In such event, Respondent shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

**IT IS SO ORDERED AND AGREED:**

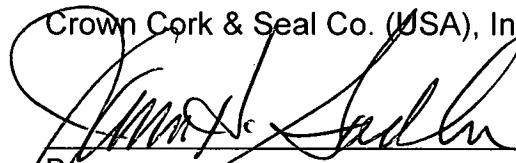
Ohio Environmental Protection Agency

  
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Christopher Jones  
Director

6-7-07  
Date

**IT IS AGREED:**

Crown Cork & Seal Co. (USA), Inc.

  
\_\_\_\_\_  
By  
V.P. Food Operations  
Title

5-29-02  
Date