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Title II Mobile Source Enforcement/Clean Air Act: U.S. Environmental Protection Agency and Bottling Company Enter into Consent Agreement

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The United States Environmental Protection Agency (“EPA”) and Royal Crown Bottling Corporation (“Royal Crown”) entered into an April 5th Consent Agreement and Final Order (“CAFO”) addressing alleged violations of certain mobile source provisions of Title II of the Clean Air Act. See Docket No. CAA-05-2019–0015.

The CAFO provides that Royal Crown does business in Indiana and throughout Illinois, Kentucky, Missouri and Tennessee.

A discussion of certain provisions of Title II of the Clean Air Act are provided in the CAFO which details the definitions of “motor vehicle” and “motor vehicle engine.” Also referenced are EPA’s issuance of certificates of conformity to motor vehicle and motor vehicle engine manufacturers under section 206. Such certification provides that a particular group of motor vehicles or motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions.

EPA is stated to have sent Royal Crown a written Request for Information on May 31, 2017, pursuant to Section 208 of the Clean Air Act. Royal Crown is stated to have provided invoices and other information indicating that between June 1, 2014, and approximately September 6, 2017, it removed or rendered inoperative air pollution control devices on 5 HDDE motor vehicles (Modified Trucks) owned by Royal Crown. Such removals are stated by the CAFO to have had “a principal effect of bypassing, defeating, rendering inoperative HDDE emission control devices or elements of design.”

Royal Crown is stated to have notified EPA in an October 31, 2017, letter that it had returned all Modified Trucks “to stock.”

The CAFO contains allegations that include:

- violation of Section 203(a)(3)(A) of the Clean Air Act (knowingly removed or rendered inoperative devices or elements of design that were installed on or in at least five motor vehicles or motor vehicle engines to comply with emission standards promulgated under Title II of the Clean Air Act)
- violation of Section 203(a)(3)(B) of the Clean Air Act (installed at least five parts or components where a principal effect of the part or component was to bypass, defeat and/or render inoperative emission control devices or elements of design that were installed on or in motor vehicles or motor

vehicles engines to comply with the emission standards promulgated under Title II of the Clean Air Act, and that Royal Crown knew or should have known that such products were installed for such use or put to such use)

Royal Crown is stated to have provided EPA with an executed affidavit of its fleet manager providing certain certifications regarding reinstallation of air pollution control systems and its inspection of such systems.

A civil penalty of \$13,953 is assessed.

A copy of the CAFO can be downloaded [here](#).