

Issuance Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Browning-Ferris Industries of Ohio, Inc.	:	
Ottawa County Landfill	:	Director's Final
530 North Camp Road	:	Findings and Orders
Port Clinton, Ohio 43452	:	

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Browning-Ferris Industries of Ohio, Inc. (BFIO) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Section 3734.02(G) and Ohio Administrative Code (OAC) Rule 3745-27-03(B).

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon BFIO and successors in interest liable under Ohio law. No changes in ownership of BFIO or the Facility, as defined herein, shall in any way alter BFIO's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder. Unless otherwise stated, all OAC citations shall refer to rules in effect on the date of these Orders.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. BFIO is the owner, operator, permittee, and licensee of the BFI-Ottawa County Landfill (Facility) located at 530 North Camp Road, Port Clinton, Ottawa County, Ohio. The Facility is a "sanitary landfill facility" as that term is defined in OAC

Rule 3745-27-01(S)(4). BFIO is currently operating the Facility in accordance with a permit-to-install (PTI Number 03-3822) issued on February 28, 1992.

2. By letter dated October 23, 2003, BFIO requested to use gypsum waste generated by US Gypsum as road base material for roads located within the Facility's approved limits of waste placement. As part of the request, BFIO also proposes to periodically stockpile up to 100 cubic yards of the gypsum waste within the approved limits of waste placement for up to two days per week.
3. OAC Rule 3745-27-19(E)(7)(c) states that the owner or operator shall ensure that all waste admitted to the landfill is deposited at the working face, spread in layers not more than two feet thick, and compacted to the smallest practical volume.
4. OAC Rule 3745-27-19(F) states that daily cover shall be applied to all exposed solid waste by the end of the working day to control fire hazards, blowing litter, odors, insects, vectors, and rodents. In no event shall solid waste be exposed for more than 24 hours after unloading.
5. The gypsum waste generated from US Gypsum is a solid waste that, based on submitted test results, is incombustible and does not exhibit the characteristics that would promote the presence of insects, vectors, or rodents.
6. Pursuant to OAC Rule 3745-27-03(B), the Director of Ohio EPA may, by order, exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, including scrap tires, from any requirement of ORC Chapter 3734 or any rules adopted thereunder, if granting the exemption is unlikely to adversely affect the public health or safety or the environment.
7. Because the gypsum waste is incombustible and does not exhibit the characteristics that would promote the presence of insects, vectors, or rodents, and because the activities will be confined to the Facility's approved limits of waste placement, granting an exemption from the requirements to place the gypsum waste at the Facility's working face and to apply daily cover over the stockpiled waste within 24 hours is unlikely to adversely affect the public health or safety or the environment.

## V. ORDERS

1. Pursuant to OAC Rule 3745-27-03(B), BFIO is granted an exemption from the requirement of OAC Rule 3745-27-19(E)(7)(c) to dispose of waste admitted to the Facility at the working face in layers not more than two feet thick.
2. Pursuant to OAC Rule 3745-27-03(B), BFIO is granted an exemption from the requirement of OAC Rule 3745-27-19(F) to apply daily cover to all exposed solid waste by the end of the working day and within 24 hours after unloading.
3. The exemptions granted in Orders 1 and 2, above, shall apply only to the gypsum waste generated from US Gypsum that is to be used as road base material for roads located within the Facility's limits of waste placement. No solid waste other than the gypsum waste generated by US Gypsum may be left exposed or placed at a location other than the working face without prior approval from Ohio EPA.
4. BFIO shall not stockpile more than 100 cubic yards of the gypsum waste at any one time.
5. BFIO shall not place the stockpiles or use the gypsum waste as road base anywhere outside the Facility's approved limits of waste placement.
6. BFIO shall not stockpile any of the gypsum waste for longer than two days per week.
7. BFIO shall document the stockpiling or the use of the gypsum waste as road base on the required Municipal Solid Waste Disposal Facility Daily Log of Operations, Form 3 each day it is used.
8. If BFIO determines that the exposed stockpiles pose a risk due to fires, blowing litter, odors, insects, vectors, or rodents, then it shall either apply daily cover to the stockpile in accordance with OAC Rule 3745-27-19(F) or remove the stockpile and properly dispose of the gypsum waste.
9. If BFIO determines that either stockpiling the gypsum waste or using it as road base causes operational problems at the Facility, then it shall cease stockpiling or using the waste and shall remove any existing stockpile and dispose of the gypsum waste.

10. If, at any time, Ohio EPA determines that the activities are adversely affecting the public health or safety or the environment, then the Director of Ohio EPA may revoke these Orders. Upon revocation, BFIO shall cease stockpiling and using the waste and shall remove any existing stockpile and dispose of the gypsum waste.
11. All water coming in contact with the gypsum waste shall be collected and managed as leachate. If the owner or operator cannot collect surface water that has been in contact with the gypsum waste as leachate, then conventional daily cover must be applied to the exposed waste in accordance with OAC Rule 3745-27-19(F).
12. Appropriate state disposal fees and local solid waste management fees shall be applied to the gypsum waste, regardless of whether it is used as road base or disposed of at the working face.
13. Nothing in these Orders shall be construed to authorize any other exemption from the requirements of any other applicable state solid waste laws and regulations. This exemption shall not be interpreted to release the owner or operator of this Facility from responsibility under ORC Chapters 3704, 3734, or 6111; under the Federal Clean Water Act or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other requirements for remedying conditions resulting from any release of contaminants to the environment.

## **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 BFIO.

## **VII. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent 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 BFIO for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require BFIO to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of BFIO to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of BFIO. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations which may occur at the Facility.

**IT IS SO ORDERED:**

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Christopher Jones  
Director