



State of Ohio Environmental Protection Agency

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Issuance Date: _____

Effective Date: _____

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Browning-Ferris Industries of Ohio, Inc. :
Lorain County Landfill II : Director's Final
43502 Oberlin-Elyria Road : Findings and Orders
Oberlin, Ohio 44074 :

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 Administrative Code (OAC) Rule 3745-27-19(F)(3)(a).

II. PARTIES BOUND

These Orders shall apply to and be binding upon BFIO and its successors in interest liable under Ohio law. No change 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 Ohio Revised Code (ORC) Chapter 3734 and the rules promulgated thereunder. Unless otherwise stated, all OAC Rule citations shall refer to rules currently in effect.

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

IV. FINDINGS

The director of Ohio EPA has determined the following Findings:

1. BFIO is the owner, operator, permittee, and licensee of the Lorain County Landfill II (Facility). The Facility is located at 43502 Oberlin-Elyria Road, in the City of Oberlin, Lorain County, Ohio. The Facility is a "sanitary landfill facility" as defined in OAC Rule 3745-27-01.
2. On December 18, 2002, BFIO submitted a request to use a mixture of filter cake from a venturi scrubber and blast furnace flue dust (Mixture) as alternative daily cover (ADC) at the Facility. The Mixture is a solid waste material generated by Republic Technologies International's steel mill located in Lorain, Ohio. On March 31, 2003, Ohio EPA issued Orders approving a 180-day trial usage of the Mixture, but BFIO never used the mixture as ADC as authorized by these Orders.
3. On May 22, 2003, BFIO submitted another request to Ohio EPA to use the Mixture as ADC at the Facility. On January 15, 2004, Ohio EPA issued Orders approving a 180-day trial usage of the Mixture. The Orders limited the usage of ADC material at the Facility to no more than 5,000 square feet at any one time.
4. BFIO did not use the Mixture as ADC material at the Facility as authorized by the January 15, 2004, Orders because the approved 5,000-square foot area over which ADC material could be used was too small of an area to be useful to the Facility. The area of 5,000 square feet covers less than ten (10) percent of the daily working face and as low as two (2) percent of the weekly working face area.
5. On June 28, 2004, BFIO submitted a letter to Ohio EPA, Northeast District Office (NEDO) requesting modification to the January 15, 2004, Orders. Specifically, BFIO requested to modify the maximum area covered with ADC material at any one time from 5,000 square feet to 87,120 square feet. BFIO also requested a new start date for the 180-day trial period.
6. OAC Rule 3745-27-19(F) requires the owner or operator of a solid waste facility to apply daily cover to all exposed waste by the end of the working day to control fire hazards, blowing litter, odors, insects, vectors, and rodents. Daily cover material shall be non-putrescible, shall not contain large objects in such quantities as may interfere with its application and intended purpose, and shall not be solid waste unless the owner or operator has received prior, written authorization in accordance with OAC Rule 3745-27-19(F)(3)(a).

7. OAC Rule 3745-27-19(F)(3)(a) specifies that the director may approve solid waste for use as ADC if the owner or operator can demonstrate to the satisfaction of the director that the solid waste material proposed for use can provide protection comparable to six (6) inches of soil and is protective of human health and the environment.
8. The Mixture is a solid waste as defined in OAC Rule 3745-27-01(S)(24).
9. Based on the available information, Ohio EPA has determined that the Mixture has the potential to provide protection comparable to six (6) inches of soil. Furthermore, because BFIO must comply with the orders specified below, and because the approval is temporary, use of the Mixture as ADC will be protective of human health and the environment.

V. ORDERS

1. Pursuant to OAC Rule 3745-27-19(F)(3)(a), BFIO is hereby authorized to use the Mixture as ADC at the Facility, provided that it is consistent with the waste characterization profile included in the December 18, 2002, submittal. BFIO shall not use any other ADC material at the Facility without prior authorization from Ohio EPA.
2. The authorization granted in Order 1, above, shall terminate 180 days after the effective date of these Orders. BFIO may not use the Mixture as ADC after that date unless Ohio EPA approves its continued use.
3. BFIO shall provide written notification to Ohio EPA, NEDO and the Lorain County Health Department no later than 24 hours prior to the initial use of the Mixture as ADC material at the Facility.
4. All stockpile or storage areas shall be located within the current phase of operation, and run-off from any waste stockpile or storage area shall be managed as leachate.
5. BFIO shall place a minimum of six (6) inches of the Mixture over exposed waste by the end of the working day, or more frequently if necessary, to control fire hazards, blowing litter, odors, dust, insects, and rodents.
6. If inclement weather conditions render the placement or use of the Mixture ineffective or otherwise unsatisfactory, BFIO shall temporarily revert to using

conventional soil cover in accordance with OAC Rule 3745-27-19(F) until such conditions cease to exist. Under such circumstances, BFIO may apply another ADC material that has been approved for use at the Facility, provided that it is able to perform effectively under the inclement conditions.

7. If BFIO determines that the Mixture is ineffective or otherwise unsatisfactory under normal operating conditions, BFIO shall immediately revert to using conventional soil cover in accordance with OAC Rule 3745-27-19(F). Under such circumstances, BFIO may apply another ADC material that has been approved for use at the Facility. BFIO shall verbally notify Ohio EPA, NEDO and the Lorain County Health Department of this action by the end of the next working day and shall submit written notification to Ohio EPA, NEDO within fourteen (14) calendar days. This notification is not necessary if use of the Mixture ceases on a temporary basis in accordance with Order 6, above.
8. If Ohio EPA or the Lorain County Health Department determines that use of the Mixture is ineffective or otherwise unsatisfactory under normal operating conditions, then approval to use the Mixture as ADC may be revoked upon written notification from the director. Immediately upon such revocation, BFIO shall cease use of the Mixture as ADC at the Facility and shall revert to using conventional soil cover in accordance with OAC Rule 3745-27-19(F). Under such circumstances, BFIO may apply another ADC material that has been approved for use at the Facility.
9. In all areas of the Facility where the Mixture is used as ADC, BFIO shall direct all surface water drainage into the leachate collection system. No drainage from this ADC material shall enter the surface water management system.
10. BFIO shall not have more than 87,120 square feet of waste covered with ADC material at any one time. This maximum area applies to the use of the Mixture by itself or in combination with other ADC materials that have been approved for use at the Facility.
11. BFIO shall not use the Mixture as intermediate or final cover. Any solid waste disposal area that remains inactive for a period of seven (7) days, and which has been covered with the Mixture, shall be covered with at least six (6) inches of soil in accordance with OAC Rule 3745-27-19(F) by the end of the seventh day. Prior to applying the soil cover, the Mixture shall be removed or otherwise prepared as necessary so as not to impede the flow of leachate to the leachate management system.

12. Not later than 120 days after the effective date of these Orders, BFIO shall submit to Ohio EPA, NEDO a report comparing the effectiveness of the Mixture to conventional soil cover and to other ADC materials that have been used at the Facility. If, as provided in Order 7 or 8, above, BFIO ceases to use the Mixture prior to the end of the 180-day trial period, then the report shall be due not later than 30 days after its use ceases. In either situation, the report shall, at a minimum, contain a discussion of the following items:
 - a. number of days the Mixture was used,
 - b. weather conditions at the time the Mixture was inspected,
 - c. number of days odors were detected,
 - d. presence of vectors, rodents, and insects,
 - e. any increase in blowing litter, and
 - f. method(s) for controlling fire during use of the Mixture as ADC material
13. Photographs of the working face shall be taken from at least two opposing sides after the Mixture has been applied. At least four (4) such series of photographs shall be taken during the 180-day trial period. These photographs shall be included in the report required by Order 12, above.
14. BFIO shall record the following information during the trial period and shall, at a minimum, include the following information in the report required by Order 12, above:
 - a. total amount of the Mixture brought to the Facility, in tons,
 - b. total amount of the Mixture used as ADC at the Facility, in tons, and
 - c. total amount of the Mixture disposed at the Facility, in tons.

The information specified in a, b, and c, above, shall be recorded on a daily basis and shall be made available to Ohio EPA, NEDO or the Lorain County Health Department upon request. In the annual report prepared and submitted pursuant to OAC Rule 3745-27-19(M), BFIO shall include a summary of the monthly totals of the above information and the total amount of the Mixture brought to the Facility, used as ADC, and disposed at the Facility, in tons, for the calendar year represented by the annual report.
15. The use of the Mixture shall be documented on the required Municipal Solid Waste Disposal Facility Daily Log of Operations, Form 3, on each day it is used as ADC material.

16. All the Mixture brought to the Facility shall be applied to the Facility's authorized maximum daily waste receipt (AMDWR), whether used as ADC or disposed at the Facility.
17. Any Mixture placed on the working face for disposal shall be covered with conventional soil cover or another ADC material approved for use at the Facility by the end of the working day.
18. BFIO shall collect and remit the applicable local and state solid waste disposal and/or management fees for the Mixture, regardless of whether it is used as ADC or disposed at the Facility.
19. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any other applicable federal or state laws or regulations. The approval shall not be interpreted to release BFIO from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable 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 and the Facility.

VII. NOTICE

All documents required by these Orders to be submitted to Ohio EPA shall be submitted to the following address:

Ohio Environmental Protection Agency
Northeast District Office
Division of Solid and Infectious Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Supervisor

VIII. 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 non-compliance 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 at the Facility.

IT IS SO ORDERED

Christopher Jones, Director
Ohio Environmental Protection Agency