

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Browning-Ferris Industries of Ohio, Inc.	:	
Lorain County II Landfill	:	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

These Orders shall apply to and be binding upon BFIO and successors in interest liable under Ohio law. No change in ownership of BFIO or of 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 used 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.

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 II Landfill (Facility). The Facility is located at 43502 Oberlin-Elyria Road, in the City of Oberlin in Lorain County, Ohio. The Facility is a sanitary landfill as defined in OAC Rule 3745-27-01. BFIO is currently operating the Facility in accordance with Permit-to-Install (PTI) Number 02-15346, issued on April 4, 2003.

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 waste material generated by Republic Technologies International's steel mill located in Lorain, Ohio. On March 31, 2003, Ohio EPA issued Director's Final Findings and Orders approving a 180-day trial usage of the Mixture. The approval was issued under the previously approved permit (PTI Number 02-8972) issued on April 4, 1996. That permit was superseded by a vertical and lateral expansion permit (PTI Number 02-15346) issued on April 4, 2003.
3. On May 22, 2003, BFIO submitted another request to Ohio EPA to use the Mixture as ADC at the Facility.
4. OAC Rule 3745-27-19(F) specifies that daily cover material 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).
5. 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 inches of soil and is protective of human health and the environment.
6. The Mixture is a solid waste as defined in OAC Rule 3745-27-01(S)(24).
7. Based on the available information, Ohio EPA has determined that the Mixture has the potential to provide protection comparable to six 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 that is consistent with the waste characterization profile included in the December 18, 2002, submittal as ADC at the Facility. 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 the 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 at least 24 hours prior to the anticipated use of the Mixture as ADC.
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 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 will 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 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 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 5,000 square feet of the working face 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. The Mixture shall not be used as intermediate or final cover. Any solid waste disposal area that remains inactive for a period of seven days and that has been covered with the Mixture shall be covered with at least six inches of soil in accordance with OAC Rule 3745-27-19(F) by the end of the seventh day.
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 Orders 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 Mixture as ADC.
13. Photographs of the working face shall be taken from at least two opposing sides after the Mixture has been applied. At least four such series of photographs shall be taken during the 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 of 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. BFIO shall include in the annual report

prepared and submitted pursuant to OAC Rule 3745-27-19(M) 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.
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 in the Facility.
19. These Orders 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 federal, state, and local laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to BFIO.

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 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 any violations at the Facility.

IT IS SO ORDERED:

Christopher Jones, Director
Ohio Environmental Protection Agency