



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

February 22, 2012

CERTIFIED MAIL

Mr. Howard Hofmeister
Director Environmental Affairs
Bemis Company, Inc.
2200 Badger Avenue
Oshkosh, WI 54904

Re: Final Findings and Orders for: air pollution
control rule, permit and law violations by
Bemis Company, Inc.'s facility at 1972
Akron Peninsula Road, Akron, Ohio

Dear Mr. Hofmeister:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

Thomas J. Kalman, P.E.
Acting Assistant Chief, SIP Development and Enforcement
Division of Air Pollution Control

TJK/ef

xc: Carol Hester, PIC
Erica Fetty, DAPC
Akia Smith, Fiscal Office (Agency # 16)
Marcus Glasgow, Legal Office
Patty Porter, DAPC
Laura Miracle, Akron
Bob Hasenyager, Akron
Michelle Poole, Bemis

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

FEB 22 2012

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

Bemis Company, Inc.
1972 Akron Peninsula Road
Akron, Ohio 44313

: Director's Final Findings
: and Orders
:

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PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bemis Company, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 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 of the Respondent or of the facility (as hereinafter defined) 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 defined in OAC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility which is located at 1972 Akron Peninsula Road, Akron, Ohio, and produces roll-fed labels and roll-fed shrink labels for carbonated soft drinks, isotonic sports drinks, and bottled water applications. At the facility, Respondent operates six flexographic printing processes (identified by Ohio EPA as emissions units K003, K008, K010, K016, K020 and K021) and a plate-making process (identified by Ohio EPA as emissions unit P010). Prior to March 1, 2010, the facility was owned and operated by Pechiney Plastic Packaging, Inc. (Alcan Packaging).

2. The emissions units identified in Finding 1 emit, among other pollutants, volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs"), as defined

in Ohio Administrative Code ("OAC") Rules 3745-21-01(B)(16) and 3745-77-01(W), respectively. The VOCs and HAPs are defined as "air pollutants" or "air contaminants" in OAC Rule 3745-15-01(C). Additionally, these emissions units are "air contaminant sources" as defined in OAC Rules 3745-31-01(i) and 3745-15-01(C) and (X).

3. VOC and HAP emissions from the emissions units identified in Finding 1 are controlled by a single catalytic incinerator ("incinerator") except emissions units K010 and K020's in-line lamination stations and K021's in-line adhesive station are permitted to vent to the atmosphere uncontrolled when they employ low VOC emitting coatings and/or inks, i.e., coating and/or inks whose VOC content, by volume, does not exceed forty percent of the coating or ink, excluding water and exempt solvents; or twenty-five of the volatile matter in the coating or ink.

4. All the flexographic printing lines identified in Finding 1 are subject to the applicable requirements of the OAC Rules 3745-21-09 and 3745-31-05. The applicable requirements of these regulations are included in the emissions units' permit-to-install ("PTI") and/or in the Title V permit.

5. Unless specifically exempted, OAC Rule 3745-21-09(Y) prohibits the owner or operator of a flexographic printing line, located in Summit County, from causing, allowing or permitting the discharge into the ambient air of any VOC emissions from a flexographic printing line unless:

- the VOC contents of the coatings or inks employed by the printing line do not exceed: 40 percent, by volume, excluding water and exempt solvents, or 25 percent, by volume, of the volatile matter content of the coating or ink; or
- the printing line is equipped with a capture system and associated control equipment that are designed and operated to achieve at least 65 percent, by weight, capture efficiency of the VOC emissions and at least a 90 percent, by weight, VOC control (i.e., destruction) efficiency.

6. OAC Rule 3745-21-09(B)(3)(n) requires the owner or operator of a coating line or printing line who elects to demonstrate ongoing compliance with an applicable capture or control efficiency to install and operate continuous monitoring and recording devices (i.e., for temperature or VOC concentration). Further, OAC Rule 3745-21-09(B)(3)(l)(iii), requires such an owner or operator who uses a catalytic incinerator to control the VOC emissions to collect and record, each day, all three-hour periods of operation during which the average temperature of the process vent stream immediately before the catalyst bed is more than fifty degrees Fahrenheit below the average temperature of the process vent stream during the most recent performance test that demonstrated that the source was in compliance, and all three-hour periods of operation during which the average temperature difference across the catalyst bed is less than eighty per cent of the average temperature difference during the most recent performance test that demonstrated that the source was in compliance. OAC Rule

3745-21-09(B)(3)(I) requires that this information be maintained at the facility for a three-year period.

7. Additionally, 40 CFR 64.3 requires the owner or operator of a major stationary source of air pollution, required to obtain Title V operating permit, to conduct enhanced compliance assurance monitoring ("CAM") to provide a reasonable assurance of compliance with applicable requirements under the Clean Air Act. The monitoring focuses on emissions units that rely on pollution control equipment to achieve compliance with an applicable standard. The monitoring requirements are determined on a case-by-case basis.

8. OAC Rule 3745-31-05(D) states, in part, that the Director of Ohio EPA may impose special terms and conditions in a PTI that are appropriate or necessary to ensure compliance with applicable laws and to ensure adequate protection of the environment.

9. OAC Rule 3745-77-07(A)(1) requires, in part, that a Title V permit include emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance. OAC Rule 3745-77-07(A)(3) requires, in part, that a Title V permit contain emission monitoring and analysis procedures or test methods sufficient to yield reliable representative data to determine the source's compliance with the permit and applicable emission limitations. Similarly, OAC Rule 3745-77-07(C)(1) requires that a Title V permit include compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the federally enforceable terms and conditions of the permit.

10. Unless a Title V permit prohibits the construction or operation of a new or modified source, OAC Rule 3745-77-04(D) requires sources who obtain a preconstruction permit under Part C or Part D of Title I of the Clean Air Act to submit a complete Title V permit application within twelve months after commencing operation.

11. ORC § 3704.05(C) prohibits any person from violating any terms or conditions of any permit issued by the Director of Ohio EPA.

12. ORC § 3704.05(G) prohibits any person from violating any order, rule or determination of the Director of Ohio EPA issued, adopted, or made under ORC Chapter 3704. All of the rules mentioned herein were adopted under ORC Chapter 3704 except 40 CFR 64.3.

13. ORC § 3704.05(J)(2) prohibits, in part, any person from violating any applicable requirement of a Title V permit or any permit condition, except for an emergency as defined in 40 CFR 70.6(g).

Failure to continuously monitor and record the temperature before and after the incinerator's catalyst bed and failure to measure the total exhaust gas flow rate

14. Ohio EPA issued various PTIs and Title V permits that specified monitoring and recordkeeping requirements for emissions units K003, K008, K010, K016, K020, K021 and P010, which provided reasonable assurance of compliance with OAC Rule 3745-21-09(Y). Particularly, the permits required Respondent to install, operate, and maintain equipment to continuously monitor and record the temperature immediately upstream and downstream of the incinerator's catalyst bed during the operation of one or more of these emissions units. Additionally, the permits required Respondent to measure the exhaust flow rate from emissions units K003, K008, K010, K016, K020, and K021, at the outlet of each emissions unit, once per calendar quarter, with the exception of PTI 16-02184 which allows for semiannual monitoring frequency if four consecutive quarters of flow rate measurements did not identify a deviation of the specified flow rate limitations. The specific PTI and Title V permit, emissions unit, and issuance date are identified in Table 1 of these Orders.

15. On October 30, 2009, and February 15, 2010, Pechiney Plastic Packaging, Inc., the previous owner and operator, submitted the third quarter deviation report for 2009 and the 2009 annual Title V Compliance Certification, respectively, for emissions units K003, K008, K010, K016, K020, K021, and P010. Both reports were required by the facility's Title V permit, and they indicated that from July 13, 2009 to September 20, 2009, Respondent failed to monitor and record the temperature immediately upstream and downstream of the incinerator's catalyst bed during the operation of one or more of the emissions units.

16. On March 1, 2010, the facility was purchased by Respondent.

17. On March 16, 2010, Akron Regional Air Quality Management District ("Akron"), a contractual representative of Ohio EPA in Summit County, sent Pechiney Plastic Packaging, Inc. a Notice of Violation ("NOV") letter for failure to conduct the monitoring and recordkeeping identified in Finding 15 and for failure to submit a complete Title V application within twelve months after commencing operation of emissions units K021 and P010 as identified in Finding 27. Respondent requested and was granted a time extension to respond to the March 16, 2010, NOV letter. The extension deadline was April 6, 2010.

18. On April 2, 2010, Respondent replied to the March 16, 2010 NOV stating that the failure to measure and record the temperature immediately upstream and downstream of the incinerator's catalyst bed, during the operation of one or more of emissions units K003, K008, K010, K016, K020, K021, and P010, was due to an error in the data logger communication system. Respondent also stated that it was confident that there were no periods where the temperatures were below the minimum required temperature because the system was programmed to automatically shut down the process lines (i.e., emissions units) if the required temperature was not maintained.

19. On May 11, 2010, Respondent installed a strip chart recorder ("backup system") to record the incinerator's temperatures.

20. On or around July 20, 2010, Respondent submitted the first semiannual deviation report required by PTIs P0104938, 16-02184 and 16-02495 and the Title V permit. The report did not indicate that any deviations occurred during the reporting period. Similarly, on November 1, 2010, Respondent submitted the 2010 third quarterly deviation report for July 2010 to September 2010. The report indicated that the total exhaust flow rates for emissions units K003, K008, K010, K016, K020 and K021 were not measured during the first three quarters of 2010. However, this deviation was not included in the July 20, 2010, semiannual deviation report. Additionally, the reports indicated that on July 26, 2010, and from August 27, 2010 to September 8, 2010, the temperature immediately upstream and downstream of the incinerator's catalyst bed, during the operation of one or more of the emissions units K003, K008, K010, K016, K020, K021, and P010, was not monitored and recorded.

21. On November 30, 2010, Akron sent a NOV letter to Respondent regarding the deviations identified in Findings 20 and 28. The NOV letter also requested Respondent to submit a compliance plan to Akron within fourteen days of receipt of the letter.

22. On January 31, 2011, Respondent replied to the November 30, 2010, NOV letter. The letter stated that upstream and downstream temperatures of incinerator's catalyst bed were not continuously monitored because the data logger locked up from a power failure and the backup system's strip chart's paper was jammed. Respondent stated that on September 8, 2010, the strip chart started to record the temperature data and on September 13, 2010, was verified to be properly recording the data. In order to assure future proper operation of the temperature monitoring and recording systems, Respondent implemented the following:

- Monday through Friday visual verification of both recording systems was started on September 19, 2010. By February 5, 2011, the daily verification checks were extended to include the weekends and holidays and a formal written log of the verifications was maintained.
- By February 28, 2011, the data logger system was upgraded to allow faster and more reliable communication and to allow automatic downloading of the data to an independent recorder.

Respondent also stated in the NOV response that it would permanently add the exhaust flow rate measurement requirement to the Environmental Health and Safety Steering Committee's monthly meeting agenda starting in February 2011.

23. Respondent failed to comply with the requirements of its Title V permit, PTIs P0104938, 16-02489, 16-02495 and 16-02184, OAC Rule 3745-21-09(B)(3) and

40 CFR 64.3 by not monitoring and/or recording the temperature before and after incinerator's catalytic bed for emissions units K003, K008, K010, K016, K020, K021, and P010 and for not monitoring and recording the exhaust flow rates for emissions units K003, K008, K010, K016, K020 and K021, in violation of ORC § 3704.05(C), (G) and (J)(2).

Failure to submit complete semiannual deviation report:

24. Respondent's Title V permit and PTIs require that written semiannual reports be submitted to Ohio EPA every six months, by January 31 and July 31 of each year, for the previous six calendar months. Respondent is required to report any deviations from the requirements to monitor, maintain records, and/or submit reports. Respondent is required to submit a semiannual report even if no deviations occurred during the reporting period.

25. Respondent failed to comply with the terms and conditions of its Title V permit by not completely identifying the failure to monitor the total exhaust flow rates for emissions units K003, K008, K010, K016, K020 and K021 on the 2010 first semiannual report, in violation of ORC § 3704.05(C) and (J)(2).

26. On November 30, 2010, Akron sent a NOV letter to Respondent regarding its failure to include monitoring violations in the semiannual deviation report. On January 31, 2011, Respondent replied to the NOV, stating that the deviations were not included in the earlier report because they were not discovered until after the report was submitted.

Failure to submit Title V permit applications within twelve months after commencing operation of emissions units P010 and K021:

27. In accordance with OAC Rule 3745-77-04(D), PTIs 16-02489, P0104938 and 16-02495 require Respondent to submit complete Title V permit applications or complete Title V modification applications within twelve months of the commencement of operation of emissions units P010 and K021, respectively. In or around April 2008, emissions unit K021 started operation, and in or around June 2007, emissions unit P010 started to operate. Therefore, Respondent was required to submit complete Title V modification applications by April 2009 for emissions unit K021 and by June 2008 for emissions unit P010.

28. Respondent did not submit the applications until May 12, 2010. Respondent failed to timely submit complete Title V modification applications, in violation of OAC Rule 3745-77-04(D), the terms and conditions of PTIs 16-02489, P0104938 and 16-02495, and ORC § 3704.05(C) and (J)(2).

Failure to comply with PTI operational restriction to not use photochemically reactive material:

29. PTI 16-02489 and PTI P0104938 prohibited Respondent from using photochemical reactive material in emissions unit P010 unless otherwise provided.

30. In 2007, when emissions unit P010 started operation it employed a highly proprietary washout solution manufactured by NuPro Technologies ("NuPro"). NuPro certified that the solution was non-photochemical reactive. In late 2008, NuPro was sold to Kodak and the washout solution was changed to a Kodak product. Respondent inquired about the new solution and was informed by Kodak that the solution was basically the same as the previous one supplied by NuPro. However, after an October 18, 2010 audit by Akron, Respondent contacted Kodak and was informed that the solution was photochemical reactive. Respondent took immediate steps to change to a non-photochemical reactive solution and was able to convert the operations of emissions unit P010 to a non-photochemical reactive solution by October 29, 2010.

31. From late 2008, until October 29, 2010, the facility employed a photochemically reactive solution in emissions unit P010, in violation of the terms and conditions of the PTIs and ORC § 3704.05(C).

32. 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 the 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 pay the amount of twenty-one thousand two hundred dollars (\$21,200) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for sixteen thousand nine hundred and sixty dollars (\$16,960). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining four thousand two hundred and forty dollars (\$4,240) of the civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a

contribution in the amount of \$4,240 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$4,240. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to Thomas Kalman, Acting Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$4,240 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facility.

VIII. 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.

IX. MODIFICATIONS

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

X. NOTICE

Except as otherwise provided in these Orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Akron Regional Air Quality Management District
Division of Akron Health Department
146 South High Street, Suite 904
Akron, Ohio 44308
Attention: Robert Hasenyager

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for the Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may 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 appeal. In such an event, Respondent shall continue to comply with these Orders

notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

XIII. EFFECTIVE DATE

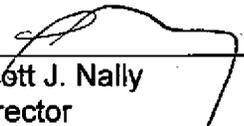
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

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 these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally
Director

2/24/12

Date

AGREED:

Bemis Company, Inc.



Signature

1/30/2012

Date

MICHAEL PARNELL

Printed or Typed Name

PRESIDENT, POLYETHYLENE PACKAGING DIVISION

Title

Table 1 – Identification of applicable permits and monitoring requirements

Permit number	Date issued	Emissions units	Total exhaust flow	Catalyst bed temperatures
16-02184	03/14/2006	K008, K010, K016, K020	X	X
16-02489	04/17/2007	P010		X
16-02495	08/02/2007	K021	X	X
Title V (renewal)	12/26/07	K003, K008, K010, K016, K020	X	X
PTI : P0104938 [#]	05/21/2009	P010		X
Title V: P0106172 ^{##}	04/14/2010	K003, K008, K010, K016, K020	X	X
[#] Administrative Modification. ^{##} Administrative Title V Permit Modification				