



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 23 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dominic Bosi, Sr. EHS Manager
Avery Dennison Corporation
250 Chester Street
Painesville, Ohio 44077

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Avery Dennison Corporation, docket no. CAA-05-2019-0031. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on

September 23, 2019.

Avery Dennison Corporation must pay the civil penalty in paragraph 30 of the CAFO. Your check or electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Andre Daugavietis, Associate Region Counsel, at (312) 886-6663.

Sincerely,

A handwritten signature in black ink, appearing to read "Ethan Chatfield".

Ethan Chatfield, Acting Chief
Air Enforcement and Compliance Assurance Branch (MI/WT)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/ C-14J
Regional Hearing Clerk/ E-19J
Andre Daugavietis/ C-14J
Bob Hodanbosi, James Kavalec/ Ohio EPA
Bert Mechenbier/ Lake County General Health District

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Avery Dennison Corporation
Painesville, Ohio

Respondent.



Docket No. CAA-05-2019-0031

Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air Act,
42 U.S.C. § 7413(d)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.

2. Complainant is the Acting Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“EPA”), Region 5.

3. Respondent is Avery Dennison Corporation (“Avery Dennison” or “Respondent”), a corporation doing business in Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (“CAFO”). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and any right to appeal this CAFO.

9. The U.S. Department of Justice and the Air Enforcement Division of the EPA's Office of Enforcement and Compliance Assurance have concurred that pursuing claims for the violations alleged below through administrative action is appropriate, and granted waiver from the twelve-month limitation on administrative cases under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

Statutory and Regulatory Authority

Ohio State Implementation Plan

10. Effective January 22, 2003, EPA approved the Ohio Administrative Code ("OAC") rule 3745-31-05(D)(1)(a) as part of the Ohio State Implementation Plan (SIP). 68 Fed. Reg. 2909.

11. OAC rule 3745-31-05(D)(1)(a) provides that the "special terms and conditions necessary to ensure compliance with requirements mandated by the CAA, which include regulations promulgated by the administrator thereunder, include synthetic minor emissions unit terms and conditions issued in a permit-to-install ("PTI") or permit-to-install and operate ("PTIO") or Federally Enforceable PTIO ("FEPTIO"). Such terms and conditions shall be federally enforceable and may restrict a stationary source's potential to emit below major source

thresholds, below thresholds for other CAA requirements, or place other restrictions on an air contaminant source or stationary source in order to avoid a CAA requirement. Federally enforceable terms and conditions, including limitations on the potential to emit of a source, shall be designated as terms and conditions of a final permit-to-install issued under this chapter.”

Title V Permits

12. Section 502(d)(1) of the CAA, 42 U.S.C. § 7661a(d)(1), requires each state to develop and submit to EPA an operating permit program (“Title V Permit Program”). On August 15, 1995, EPA granted Ohio final approval of its Title V Permit Program, effective October 1, 1995. 60 Fed. Reg. 42045.
13. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b), provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.
14. The Ohio Environmental Protection Agency (“OEPA”) issued Air Pollution Control Title V Permit No. P0085050 for Avery Dennison’s Building 5 facility located at 250 Chester Street, Painesville, Ohio (“Building 5”) effective on June 17, 2014 (“Building 5 Permit”).
15. Building 5 Permit Condition C.4.b)(1)e. requires that K003 (I-1) and K009 (I-2) coating lines comply with the requirement that “organic HAP [hazardous air pollutant] emissions shall be no more than 5% of the organic HAP applied for each month (95% overall HAP reduction and with a 100% capture efficiency accomplished through the use of a permanent total enclosure)”. *See also* 40 C.F.R. §§ 63.3320(a)(4) and 63.3370(a)(4).
16. Building 5 Permit Condition C.2.b)(1)b. requires the K016 (I-5) coating line to meet a “98.5% overall VOC [volatile organic compounds] reduction by weight for all solvent based

coatings, through the use of a permanent total enclosure with 100% capture efficiency and 98.5% destruction efficiency.” *See also* OAC rule 3745-31-05(D)(1)(a).

17. Building 5 Permit Condition C.2.b)(1)d. requires the K016 (I-5) coating lines to comply with the requirement that “organic HAP emissions shall be no more than 5% of the organic HAP applied for each month (95% overall HAP reduction and with a 100% capture efficiency accomplished through the use of a permanent total enclosure).” *See also* 40 C.F.R. §§ 63.3320(a)(4) and 63.3370(a)(4).
18. OEPA issued Air Pollution Title V Permit No. P0085052 for Avery Dennison’s Building 3 facility located at 250 Chester Street, Painesville, Ohio (“Building 3”) effective on July 19, 2013 (“Building 3 Permit”).
19. Building 3 Permit Condition C.1.b)(1)e. requires the K007 (P-4) coating line to comply with the requirement that “organic HAP emissions shall be no more than 5% of the organic HAP applied for each month (95% overall HAP reduction and with a 100% capture efficiency accomplished through the use of a permanent total enclosure).” *See also* 40 C.F.R. §§ 63.3320(a)(4) and 63.3370(a)(4).
20. Building 3 Permit Condition C.2.b)(1)b. requires the K015 (P-7) coating line to meet a “98.5% overall VOC reduction by weight for all solvent based coatings, through the use of a permanent total enclosure with 100% capture efficiency and 98.5% destruction efficiency.” *See also* OAC rule 3745-31-05(D)(1)(a).
21. Building 3 Permit Condition C.2.b)(1)e. requires the K015 (P-7) coating line to comply with the requirement that “organic HAP emissions shall be no more than 5% of the organic HAP applied for each month (95% overall HAP reduction and with a 100% capture efficiency

accomplished through the use of a permanent total enclosure).” *See also* 40 C.F.R. §§ 63.3320(a)(4) and 63.3370(a)(4).

National Emissions Standards for Hazardous Air Pollutants

22. Pursuant to Section 112(b) of the CAA, 42 U.S.C. § 7412(b), EPA designates HAPs which present or may present a threat of adverse effects to human health or the environment.
23. Section 112(c) of the CAA, 42 U.S.C. § 7412(c), requires EPA to publish a list of categories of sources which EPA finds present a threat of adverse effects to human health or the environment due to emissions of HAPs, and to promulgate emission standards for each source category. These standards are known as “national emission standards for hazardous air pollutants,” or “NESHAPs.” EPA codifies these requirements at 40 C.F.R. Parts 61 and 63.
24. The NESHAPs are national technology-based performance standards for HAP sources in each category that become effective on a specified date. The purpose of these standards is to ensure that all sources achieve the maximum degree of reduction in emissions of HAPs that EPA determines is achievable for each source category.
25. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3), and 40 C.F.R. §§ 61.05 and 63.4, prohibit the owner or operator of any source from operating such source in violation of any NESHAP applicable to such source.
26. On December 11, 2003, EPA promulgated the NESHAP for Paper and Other Web Coating at 40 C.F.R. Part 63, Subpart JJJJ (Subpart JJJJ NESHAP) which applies to major sources of HAPs that employ web coating lines. *See* 69 Fed. Reg. 69185.
27. Subpart JJJJ NESHAP, at 40 C.F.R. § 63.3310, defines “web coating line” as “any number of work stations, of which one or more applies a continuous layer of coating material across the

entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station.”

Subpart JJJJ NESHAP applies to web coating lines that employ HAP coatings.

28. Subpart JJJJ NESHAP, at § 63.3310, defines “work station” as “a unit on a web coating line where coating material is deposited onto a web substrate.”
29. The Subpart JJJJ NESHAP, at 40 C.F.R. §§ 63.3320(a)(4) and 63.3370(a)(4), requires the HAP emissions from the web coating lines to be reduced by 95% overall including a 100% capture efficiency accomplished through use of a permanent total enclosure (PTE) when using a capture system and control device.
30. The Subpart JJJJ NESHAP, at 40 C.F.R. § 63.3350(f), requires an affected source to develop and implement a capture system monitoring plan (CSMP), to monitor the performance of a capture system used to comply with this rule.

Finding of Fact

31. EPA conducted an inspection of Building 3 and Building 5 on August 15, 2017. EPA utilized an optical gas imaging camera during the inspection and made the following observations:
 - a. Uncaptured HAP emissions were coming from the curing ovens that are part of web coating lines K003 (I-1) and K009 (I-2) in Building 5.
 - b. Uncaptured VOC and HAP emissions were coming from the oven doorways that are a part of web coating line K016 (I-5) in Building 5.
 - c. Uncaptured HAP emissions were coming from the curing ovens that are part of web coating lines K007 (P-4) in Building 3.
 - d. Uncaptured VOC and HAP emissions were coming from an open drum containing web coating in use that is part of web coating line K015 (P-7) in Building 3.

32. The Building 3 Permit and the Building 5 Permit set forth applicable rules and requirements for each building's web coating lines.
- e. K003 (I-1) and K009 (I-2) web coating lines are subject to Subpart JJJ NESHAP, as stated in Building 5 Permit Condition C.4.b)(1)e.
 - f. K016 (I-5) web coating line is subject to Subpart JJJ NESHAP, as stated in Building 5 Permit Condition C.2.b)(1)d.
 - g. K007 (P-4) and K015 (P-7) web coating lines are subject to Subpart JJJ NESHAP, as stated in Building 3 Permit Conditions C.1.b)(1)e and C.2.b)(1)e, respectively.
33. Based on EPA's feedback during the inspection concerning web coating lines in Building 5, Avery Dennison reported that it identified and corrected an error in the K009 (I-2) line exhaust control logic on the day of the inspection. Avery Denison reported that on August 16, 2017, Building 5 personnel collected photoionization detector ("PID") readings from K009 (I-2), which did not identify HAP concentrations above background levels. Avery Dennison reported its corrective actions to EPA on September 8, 2017.
34. Based on EPA's feedback during the inspection concerning the web coating line K016 (I-5) in Building 5, Avery Dennison reported that it identified and replaced a displaced/torn gasket in the oven doorway on the day of the inspection. Avery Dension reported that on August 16, 2017, Building 5 personnel collected PID readings from several locations near the door and did not identify VOC/HAP emissions above background levels. Avery Dennison reported these corrective actions to EPA on September 8, 2017.
35. EPA provided the August 15, 2017 Inspection Report, including images, of Buildings 3 and 5, to Avery Dennison on March 13, 2018, after Avery Dennison submitted a Freedom of Information Act Request to EPA for these records on February 1, 2018.

Alleged Violations

36. On March 27, 2018, EPA issued Avery Dennison a Notice and Finding of Violation (NOV/FOV) citing the following violations. The dates of alleged violation in subparagraphs a. through f. below have been modified from the dates in the NOV/FOV based on information provided by Avery Dennison regarding compliance dates.
- a. On at least August 15, 2017, Avery Dennison did not meet the 100% capture requirement for HAPs, set forth in Building 5 Permit Condition C.4.b)(1)e., at the K003 (I-1) and K009 (I-2) coating line.
 - b. On at least August 15, 2017, Avery Dennison did not meet the 100% capture requirement for VOCs, set forth in Building 5 Permit Condition C.2.b)(1)b., at the K016 (I-5) coating line.
 - c. On at least August 15, 2017, Avery Dennison did not meet the 100% capture requirement for HAPs, set forth in Building 5 Permit Condition C.2.b)(1)d., at the K016 (I-5) coating line.
 - d. From at least August 15, 2017 until May 15, 2018, Avery Dennison did not meet the 100% capture requirement for HAPs, set forth in Building 3 Permit Condition C.1.b)(1)e., at the K007 (P-4) coating line.
 - e. From at least August 15, 2017 until May 15, 2018, Avery Dennison did not meet the 100% capture requirement for VOCs, set forth in Building 3 Permit Condition C.2.b)(1)b., at the K015 (P-7) coating line.
 - f. From at least August 15, 2017 until May 15, 2018, Avery Dennison did not meet the 100% capture requirement for HAPs, set forth in Building 3 Permit Condition C.2.b)(1)e., at the K015 (P-7) coating line.
37. On May 10, 2018, Avery Dennison provided a written response to the NOV/FOV and further summarized corrective actions and investigations conducted in response to EPA's inspection and the NOV/FOV.
38. On May 15, 2018, EPA met with Avery Dennison to discuss the alleged violations in the NOV/FOV and corrective actions implemented and to be implemented by Avery Dennison following EPA's inspection. Subsequently EPA and Avery Dennison representatives

Civil Penalty

30. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the Clean Air Act Stationary Civil Penalty Policy, the facts of this case and Avery Dennison's cooperation and efforts to promptly return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$160,000. Within 30 days after the effective date of this CAFO, Respondent must pay the \$160,000 penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

For checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes) please use the following address instead:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

31. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Andre Daugavietis (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

32. This civil penalty is not deductible for federal tax purposes.

33. If Respondent does not timely pay the civil penalty or any penalties due under Paragraph 34, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

34. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

35. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: daugavietis.andre@epa.gov (for Complainant), and devin.barry@thompsonhine.com

General Provisions

35. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: daugavietis.andre@epa.gov (for Complainant), and devin.barry@thompsonhine.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

36. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

37. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

38. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state, and local laws. Except as provided in Paragraph 36 of this CAFO, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

39. Respondent certifies that it is complying with the CAA and Ohio SIP provisions cited above.

40. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

41. The terms of this CAFO bind Respondent, its successors, and its assigns.

42. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

43. Each party agrees to bear its own costs and attorney's fees in this action.

44. This CAFO constitutes the entire agreement between the parties.

Consent Agreement and Final Order

In the Matter of: Avery Dennison Corporation, Painesville, Ohio

Avery Dennison Corporation, Respondent

Sept. 12, 2019
Date

Kim Humphreys
Kim Humphreys, Vice President Operations
Label and Graphic Materials, North America
Avery Dennison Corporation

Consent Agreement and Final Order

In the Matter of: Avery Dennison Corporation, Painesville, Ohio

United States Environmental Protection Agency, Complainant

9/17/2019
Date

Sara Bruneman
for Michael D. Harris
Acting Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order

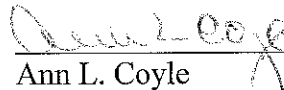
In the Matter of: Avery Dennison Corporation Painesville, Ohio

Docket No. CAA-05-2019-0031

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date 7/20/19



Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Avery Dennison Corporation of Painesville, Ohio
Docket Number: CAA-05-2019-0031

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [CAA 05 2019 0031], which was filed on [September 23, 2019], in the following manner to the following addressees:

Copy by Certified Mail to Respondent: Dominic Bosi
Sr. EHS Manager
Avery Dennison Corporation
250 Chester Street
Painesville, Ohio 44077

Painesville, Ohio

Copy by E-mail to Attorney for Complainant: Andre Daugavietis
daugavietis.andre@epa.gov

Copy by E-mail to Attorney for Respondent: Devin Barry
devin.barry@ThompsonHine.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: September 23, 2019

LaDawn Whitehead
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7018 3090 0002 2526 7518