



February 22, 2021

Submitted electronically to Boone.Brothers@BD.com

Boone Brothers
Sr. EHS Manager
Becton, Dickinson and Company
8195 Industrial Blvd
Covington, GA 30014

RE: Consent Order executed October 28, 2019, as amended

Dear Mr. Brothers:

On October 28, 2019, Judge Eugene M. Benton of the Superior Court of Newton County entered a Consent Order (CO) agreed to between Richard Dunn, Director, Environmental Protection Division, Georgia Department of Natural Resources (EPD) and Becton, Dickinson and Company (BD). The CO was amended on January 15, 2020, and again on March 25, 2020. The Second Amendment was entered in response to the Governor's Declaration of Public Health Emergency regarding the Covid-19 pandemic and the related increased need for medical products sterilized by BD.

In accordance with the Second Amendment to the CO, the Court retained jurisdiction over the matter until December 31, 2020. Even though the Court's enforcement jurisdiction has ended, the requirements agreed to in the CO and its Amendments are still in effect. This letter serves as a response to the request by BD for clarification regarding any requirements going-forward related to the CO and its Amendments up to and through when EPD will issue final permits to BD. Many of the conditions and requirements of the CO and its Amendments have been met. There are still several outstanding conditions, however, and this letter serves to clarify which conditions will continue to be enforced by EPD until such time as final permits have been issued by EPD for the Covington and Madison sterilization facilities and the Covington Global Distribution Center.

- In accordance with Condition 2 of Attachment A to the CO and as further described in O.C.G.A. § 12-9-7(a)(3), BD must report any spill or release of ethylene oxide, regardless of the amount, to EPD in writing within 24 hours of discovering such spill or release.
- Condition 4 of Attachment A to the CO required that BD limit lots of sterilized product at Covington and increase aeration time for all products. As described in Condition 5, these limits were designed to increase the amount of ethylene oxide (EtO) captured and destroyed by the facility's emissions control systems and therefore reduce fugitive emissions. Condition 8 of Attachment A to the CO defined this production limit and established it as 600 lots per month for Covington based on a 90-day average. Condition 2 of the Attachment to the Second Amendment revised this amount for a specified period. Condition 15 of Attachment A to the CO required product lots to be limited at Madison to the amounts in July, August, and September 2019 until the final permit for BD Covington is issued (this amount was 612 lots per month). In addition to the change in Condition 2 of the Attachment to the Second

Amendment described above, the limits for both Covington and Madison were changed in Condition 4 of the Attachment to the Second Amendment. Since fugitive control systems have been installed for indoor air at both facilities, lot limits no longer decrease the fugitive emissions by a substantial amount; therefore EPD has determined that the lot limits described in Attachment A to the CO and modified in the Attachment to the Second Amendment are no longer necessary and that aspect of those conditions, as amended, is no longer required.

- Condition 16 of Attachment A to the CO and Condition 5 of the Attachment to the Second Amendment required BD to maintain and provide to EPD weekly records for BD Madison and BD Covington of lots sterilized, EtO usage, EtO destroyed in the Regenerative Thermal Oxidizer (RTO), and sterilization cycle reports to demonstrate compliance with the CO's conditions. Aeration limits for both facilities established in Condition 4 of Attachment A to the CO and Condition 5 of the Attachment to the Second Amendment will continue until the final permit has been issued by EPD to the BD Covington facility. The records required by these conditions shall be kept on site at the facilities and be made available for inspection but are no longer required to be submitted to EPD weekly.
- Conditions 1, 3, 5, 6, 7, 9, 10, 12, 13, 14, 17, 18, 19, and 20 of Attachment A of the CO, along with associated conditions in Second Amendment, have been completed by BD and are considered fulfilled.

The First Amendment to the CO was entered into by both parties to address concerns with the BD Global Distribution Center (GDC). Condition 2.a established indoor monitoring and fence line monitoring for GDC. Since controls have been added to the GDC, indoor monitoring is no longer required and that portion of the condition is no longer required. Fence line monitoring will continue until the final permit for the GDC has been issued by EPD. The fence line monitoring schedule can be modified to follow the schedule for the outdoor ambient monitoring (see the bullet below).

- Conditions 2.b and 2.c of the First Amendment require outdoor ambient monitoring. Those requirements will remain in effect as established until the final GDC permit has been issued by EPD with this exception: BD has verbally requested to change the monitoring frequency from at least every three days to every six days. EPD agrees to this change.
- Conditions 2.d-j of the First Amendment have been completed by BD and are considered fulfilled. EPD requests, however, that BD continue to update EPD with pertinent information from ongoing engineering studies to help classify and determine emissions from off gassing of packaging, product, and other sources.
- Condition 3 of the First Amendment mandates that the aeration time of any product brought to the GDC be greater than 24 hours, later amended to 20 hours heated and 24 hours dry bed aeration for product sterilized at BD Covington in Condition 8 of the Attachment to the Second Amendment. These limits remain in effect until the final GDC permit has been issued by EPD.
- Condition 4 of the First Amendment required a permit application for the GDC, which was delivered to EPD before the deadline. Since that time, however, BD has stated that it intends to update the permit application due to changes in off gassing calculations. The updated permit application for BD GDC shall be submitted to EPD on or before April 30, 2021.

- Conditions 1, 5 and 6 of the Attachment to the First Amendment have been completed by BD and are considered fulfilled.
- Condition 7 of the Attachment to the First Amendment, force majeure, will continue as established in that condition until the final permits have been issued by EPD.

For avoidance of doubt and regardless of the present status of the Governor's Declaration of Public Health Emergency, unless a requirement in the CO and its Amendments has been 1) specifically deemed no longer required by this letter or 2) specifically referenced in this letter as having been fulfilled, EPD expects BD to abide by such requirements until final air quality permits have been issued by EPD for the BD Covington facility, the BD Madison facility, and the GDC, as applicable. Further, EPD expect BD to abide by any condition specifically modified by this letter up to and through issuance of final permits.

If you have any questions or comments concerning this letter, please contact Mr. Stephen Damaske at 470-938-3370 or Stephen.Damaske@dnr.ga.gov.

Sincerely,



Karen D. Hays, P.E.
Branch Chief
Air Protection Branch EPD

KDH:sdd