

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Sonoco Hickory, Inc.
1246 Main Avenue, SE
Hickory, North Carolina 28602,
EPA ID No.: NCD003224235

Respondent.

Docket No. **RCRA-04-2022-2104(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 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 Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.
5. Respondent is Sonoco Hickory, Inc., a corporation doing business in the State of North Carolina. This proceeding pertains to Respondent's facility located at 1246 Main Avenue, SE, Hickory, North Carolina 28602 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of North Carolina (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at the North Carolina Solid Waste Management Law (NCSQML), N.C.G.S. §§ 130A-17 to -28 and 130A-290 to 310.22 and North Carolina Hazardous Waste Management Rules (NCHWMR), 15A NCAC 13A .0101 to .0199.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.
11. Section 130A-294(c) of the NCSWML, N.C.G.S. § 130A-294(c) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at 15 NCAC 13A .0107 [40 C.F.R. Part 262].
12. Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 15A NCAC 13A .0109 (permitted) and 15A NCAC 13A .0110 (interim status) [40 C.F.R. Part 264 (permitted) and 265 (interim status)].
13. Pursuant to 15 NCAC 13A .0106(a) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to 15 NCAC 13A .0106(a) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in 15 NCAC 13A .0106(a) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 15 NCAC 13A .0106 [40 C.F.R. § 261.4(b)].
15. Pursuant to 15 NCAC 13A .0106(a) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 15 NCAC 13A .0106(c) [40 C.F.R. §§ 261.21-24]

are characteristic hazardous wastes and are provided with the EPA Hazardous Waste Numbers D001 through D043.

16. Pursuant to 15 NCAC 13A .0106(c) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to 15 NCAC 13A .0106(a) and (d) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed in 15 NCAC 13A .0106(d) [40 C.F.R. Part 261, Subpart D].
18. Pursuant to 15 NCAC 13A .0106(d) [40 C.F.R. § 261.31(a)], spent solvent mixtures containing, before use, a total of ten percent or more of ethyl acetate is a listed hazardous waste and is identified with the EPA Hazardous Waste Number F003.
19. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 15 NCAC 13A .0106 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
20. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], a “facility” includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
21. Pursuant to N.C.G.S. 130A-290(a)(22) [40 C.F.R. § 260.10], a “person” includes a corporation.
22. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
23. Pursuant to N.C.G.S. 130A-290(a)(41) [40 C.F.R. § 260.10], “storage” means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.
24. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], an “above ground tank” means a device meeting the definition of “tank” in 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10] and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.
25. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], “ancillary equipment” means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.
26. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], “hazardous secondary material” means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under 15 NCAC 13A .0106 [40 C.F.R. Part 262].

27. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], “in operation” refers to a facility which is treating, storing, or disposing of hazardous waste.
28. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], “large quantity generator” (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2200 pounds) of non-acute hazardous waste in a calendar month.
29. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], “leak detection system” means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.
30. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
31. Pursuant to 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10], “tank system” means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
32. Pursuant to 15A NCAC 13A .0106(a) [40 C.F.R. § 261.4(a)(8)], secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process are not solid wastes provided that the conditions listed in 15A NCAC 13A .0106 [40 C.F.R. § 261.4(a)(8)] are met (hereinafter referred to as the “Closed-Loop Recycling Exemption”).
33. Pursuant to 15 NCAC 13A .0107(a) [40 C.F.R. § 262.17], an LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, as required by Section 130A-294(c) to (g) of the NCSWML, N.C.G.S. § 130A-294(c) to (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 15 NCAC 13A .0107(a) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
34. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1050(b)(3)] and is a condition of the LQG Permit Exemption, the conditions listed in 15A NCAC 13A .0110(t) [40 C.F.R. § 265 Subpart BB] apply to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in a unit that is exempt from permitting under the LQG Permit Exemption and is not a recycling unit under the provisions of 15A NCAC 13A .0106 [40 C.F.R. § 261.6].
35. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1050(c)] and is a condition of the LQG Permit Exemption, each piece of equipment to which this subpart applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.
36. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(t) [40 C.F.R. Part 265, Subpart BB] and is a condition of the LQG Permit Exemption, a

generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB organic air emission standards for tank systems, including, but not limited to monitoring standards specified in 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1052-1060].

37. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(t) [40 C.F.R. Part 265, Subpart BB] and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB organic air emission standards for tank systems, including, but not limited to the recordkeeping requirements associated with identifying equipment to which subpart BB of Part 265 applies as specified in 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1064(b) and (g) - (k)].
38. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1050(e)] and is part of the LQG Permit Exemption, equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of 15A NCAC 13A .0110(t) [40 C.F.R. §§ 265.1052 - 1060] if it is identified, as required in 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1064(g)(6)] (hereinafter referred to as the “Less Than 300-Hour Exemption”).
39. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1052(a)], and is a condition of the LQG Permit Exemption, each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1063(b)], and each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.
40. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(5)(ii)(A)], which is a condition of the LQG Permit Exemption, a generator is required to mark or label hazardous waste storage tanks with the words “Hazardous Waste.”
41. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(u) [40 C.F.R. Part 265, Subpart CC] and is a condition of the LQG Permit Exemption, a generator that accumulates hazardous waste containing average volatile organic concentrations (“VOCs”) greater than 500 parts per million by weight (ppmw) at the point of waste origination in tanks must comply with the RCRA Subpart CC organic air emission standards for tanks, including, but not limited to visually inspecting the fixed roof and its closure devices to check for defects that could result in air pollutant emissions on or before the date that the tanks becomes subject to this section and at least once every year thereafter as specified in 15A NCAC 13A .0110(u) [40 C.F.R. § 265.1085(c)(4)(i) and (ii)].
42. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(j) [40 C.F.R. § 265.195(a) and (b)] and is a condition of the LQG Permit Exemption, a generator is required to inspect, where present, at least once each operating day, (a) data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design and (b) overfill / spill control equipment to ensure that it is in good working order; above ground portions of the tank system, if any, to detect corrosion or releases of waste; and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system to detect erosion or signs of releases of hazardous waste.

43. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(j) [40 C.F.R. § 265.195(g)] and is a condition of the LQG Permit Exemption, a generator is required to document in the operating record of the facility an inspection of the items in paragraphs (a) and (b) of this section.
44. Pursuant to 15A NCAC 13A .0106(a) [40 C.F.R. § 261.4(a)(23)], a hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator is not a solid waste, provided that the conditions listed in 15A NCAC 13A .0106 [40 C.F.R. § 261.4(a)(23)(i) and (ii)] are met (hereinafter referred to as the “Generator Controlled Exclusion”).

IV. FINDINGS OF FACTS

45. Respondent is a corporation that provides consumer packaging, industrial products, and packaging supply chain services and operates four flexographic printing lines at the Facility for polyethylene, poly propylene, and polyester film roles used in packaging of such items as packaged foods, tobacco products, specialty products and other consumer goods.
46. Respondent generates spent solvents and inks, which contain ethyl acetate, in the cleanup and/or changeover of inks in the printing press lines and manages them as D001 and F003 hazardous wastes.
47. Respondent manages and stores spent solvents and inks containing ethyl acetate in 55-gallon drums and stores spent solvents and inks containing ethyl acetate in a 2,000-gallon above ground tank (the “2000-gallon tank”) at the Facility.
48. The organic concentrations of spent solvents and inks generated at the Facility is at least 10 percent by weight.
49. Spent solvents and inks generated at the Facility have a volatile organic concentration of 85,000 ppmw.
50. Respondent generates still bottoms in the distillation of spent solvents containing ethyl acetate that are generated on-site and manages them as D001 and F003 hazardous wastes.
51. Respondent stores hazardous waste still bottoms in a 4,000-gallon above ground tank (the “4,000-gallon tank”) at the Facility.
52. The organic concentration of still bottoms generated at the Facility is at least 10 percent by weight.
53. Respondent has been operating as an LQG at the Facility since November 1, 2016.
54. On March 18, 2021, the EPA and the North Carolina Department of Environmental Quality (NCDEQ) conducted a joint compliance evaluation inspection (CEI) at the Facility. The EPA’s findings of the CEI were documented in a report mailed to the Respondent, dated April 29, 2021.
55. At the time of the CEI, Respondent was attempting to meet the conditions of the Closed-Loop Recycling Exemption for the equipment used to transfer spent solvents from the points of generation at the printing presses to the 2,000-gallon tank, for the 2,000-gallon tank, and for the equipment used to transfer spent solvents from the 2,000-gallon tank to the distillation unit.

56. At the time of the CEI, the EPA determined that Respondent's solvent recycling system was not meeting the conditions for operating under the Closed-Loop Recycling Exemption, because spent solvents were occasionally removed from the system for shipment off-site as hazardous waste and because clean solvent was routinely removed from the system for use on-site. The EPA also reviewed a letter from Respondent's consultant to Respondent which indicated that the system ceased meeting the conditions for operating under the Closed-Loop Recycling Exemption when Press 15, one of the four flexographic printing lines, was added at the Facility in 2020.
57. At the time of the CEI, the inspectors noted that for equipment used to transfer spent solvents and inks from the point of generation to the 2,000-gallon tank, Respondent:
- a. had not marked each piece of equipment in such a manner that it could be distinguished readily from other pieces of equipment;
 - b. had not conducted any air monitoring of this equipment; and
 - c. did not provide the following records for this equipment: equipment identification number and hazardous waste management unit identification, approximate locations within the facility, type of equipment, percent-by-weight total organics in the hazardous waste stream at the equipment, hazardous waste state at the equipment, or method of compliance with the standard.
58. At the time of the CEI, Respondent provided calculations to demonstrate that the equipment used to transfer hazardous waste still bottoms from the distillation unit to the 4,000-gallon tank is operated for approximately 15.4 hours each year. Respondent attempted to meet the conditions of the Less Than 300-Hour Exemption by removing hazardous waste still bottoms from the equipment between transfer events via gravity flow.
59. At the time of the CEI, the EPA determined that gravity flow would not cause hazardous waste still bottoms to exit the pneumatic pump used to transfer this material from the distillation unit to the 4,000-gallon tank. Therefore, Respondent failed to show that the pneumatic pump contains, or contacts hazardous waste still bottoms for less than 300-hours per year.
60. At the time of the CEI, the inspectors noted that for the pneumatic pump, which is used to transfer hazardous waste still bottoms from the distillation unit to the 4,000-gallon tank and did not meet the conditions of the Less Than 300-Hour Exemption, Respondent:
- a. had not marked the equipment in a manner that it could be distinguished readily from other pieces of equipment; and
 - b. had not conducted monthly air monitoring to detect leaks or conducted weekly visual inspections of the pump for indications of liquids dripping.
61. At the time of the CEI, the inspectors observed that the 2,000-gallon tank was not marked or labeled with the words "Hazardous Waste."
62. At the time of the CEI, no records of annual visual inspections of the fixed roof or closure devices were available for the 2,000-gallon tank.

63. At the time of the CEI, no records of daily inspections of the 2,000-gallon and 4,000-gallon tanks were available for five consecutive days when the tanks were in operation in December 2018, April 2019, May 2019, and December 2020, for four consecutive days when the tanks were in operation between December 2019 and January 2020, or for four consecutive days when the tanks were in operation in April 2020, July 2020, and September 2020.
64. On May 28, 2021, Respondent submitted a written response to the EPA's CEI report.
65. On June 23, 2021, Respondent met with the EPA to respond to the alleged violations identified in the CEI.
66. On October 12, 2021, the EPA and NCDEQ conducted a joint case development inspection (CDI) to observe how clean and spent solvents are used, transferred, stored, and recycled at the Facility. The EPA's findings of the CDI were documented in a report mailed to the Respondent, dated December 1, 2021.
67. On December 10, 2021, Respondent submitted a letter to the EPA indicating that they had submitted a RCRA Notice to the NCDEQ Portal system that the Facility is managing spent solvents as a hazardous secondary material under the Generator Controlled Exclusion.

V. ALLEGED VIOLATIONS

68. Respondent is a "person" as defined in N.C.G.S. 130A-290(a)(22) [40 C.F.R. § 260.10].
69. Respondent is the "owner" and "operator" of a "facility" located in Hickory, North Carolina, as those terms are defined in 15 NCAC 13A .0102(b) and (c) [40 C.F.R. § 260.10].
70. Respondent generates wastes that are "solid wastes" and "hazardous wastes" as those terms are defined in 15 NCAC 13A .0106(a) [40 C.F.R. §§ 261.2 and 261.3].
71. If the conditions of the Closed-Loop Recycling Exemption are not met, spent solvents that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process are a "solid waste" and "hazardous waste," as those terms are defined in 15 NCAC 13A .0106(a) [40 C.F.R. § 261.2 and § 261.3].
72. Respondent generates hazardous waste spent solvents and inks, which are identified with the EPA hazardous waste codes D001 and F003, in the cleanup and/or changeover of inks in the printing press lines.
73. Respondent generates hazardous waste still bottoms, which are identified with the EPA hazardous waste codes D001 and F003, in the distillation of spent solvents that are generated on-site.
74. Respondent is an "LQG" of hazardous waste as that term is defined in 15 NCAC 13A .0102(b) [40 C.F.R. § 260.10].
75. Respondent manages and stores hazardous waste spent solvents and inks in 55-gallon drums and in the 2,000-gallon tank at the Facility.
76. Respondent stores hazardous waste still bottoms in the 4,000-gallon tank at the Facility.

77. Respondent had not conducted air monitoring of any equipment used to transfer spent solvents and inks from the point of generation to the 2,000-gallon tank. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to conduct air monitoring as required by 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1052-1060], which is a condition of the LQG Permit Exemption.
78. Respondent did not provide the following records for equipment used to transfer spent solvents and inks from the point of generation to the 2,000-gallon tank: equipment identification number and hazardous waste management unit identification, approximate locations within the facility, type of equipment, percent-by-weight total organics in the hazardous waste stream at the equipment, hazardous waste state at the equipment, and the method of compliance with the standard. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the recordkeeping requirements associated with identifying equipment to which subpart BB of Part 265 applies as required by 15A NCAC 13A .0110(t) [40 C.F.R. § 265.1064(b) and (g) - (k)], which is a condition of the LQG Permit Exemption.
79. Respondent had not marked or identified a pneumatic pump used to transfer hazardous waste still bottoms from the distillation unit to the 4,000-gallon tank or any equipment used to transfer spent solvents and inks from the point of generation to the 2,000-gallon tank in a manner to distinguish it from other pieces of equipment. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to mark each piece of equipment to which 15A NCAC 13A .0110 [40 C.F.R. Part 265 Subpart BB] applies in such a manner that it can be distinguished readily from other pieces of equipment as required by 15A NCAC 13A .0110(u) [40 C.F.R. § 265.1050(c)], which is a condition of the LQG Permit Exemption.
80. Respondent had not conducted air monitoring of a pneumatic pump used to transfer hazardous waste still bottoms from the distillation unit to the 4,000-gallon tank. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to monitor each pump in light liquid service monthly to detect leaks by the methods specified in 15A NCAC 13A .0110(u) [40 C.F.R. § 265.1063(b)], as required by 15A NCAC 13A .0110(u) [40 C.F.R. § 265.1052(a)], which is a condition of the LQG Permit Exemption.
81. Respondent did not label the 2,000-gallon tank with the words "Hazardous Waste." The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to mark or label a hazardous waste storage tank with the words "Hazardous Waste," as required by 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(5)(ii)(A)], which is a condition of the LQG Permit Exemption.
82. Respondent did not provide records of annual visual inspections of the fixed roof or closure devices for the 2,000-gallon tank. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA,

42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to visually inspect the fixed roof and its closure devices to check for defects that could result in air pollutant emissions on or before the date that the tank becomes subject to this section and at least once every year thereafter as required by 15A NCAC 13A .0110(u) [40 C.F.R. § 265.1085(c)(4)(i) and (ii)], which is a condition of the LQG Permit Exemption.

83. Respondent did not provide records of daily inspections of the 2,000-gallon and 4,000-gallon tanks for five consecutive days in December 2018, April 2019, May 2019, and December 2020, for four consecutive days between December 2019 and January 2020, or for four consecutive days in April 2020, July 2020, and September 2020. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to document an inspection of data gathered from monitoring and leak detection equipment; overfill / spill control equipment; above ground portions of the tank system; and the construction materials in the area immediately surrounding the externally accessible portion of the tank system in the operating records of the facility as required by 15A NCAC 13A .0110(j) [40 C.F.R. § 265.195(g)], which is a condition of the LQG Permit Exemption.

VI. STIPULATIONS

84. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
85. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
- a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
 - b. neither admits nor denies the factual allegations set forth in Section IVV (Findings of Facts) of this CAFO;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. consents to the conditions specified in this CAFO;
 - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
 - f. waives its rights to appeal the Final Order accompanying this CAFO.
86. For the purpose of this proceeding, Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
 - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
 - c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law

set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;

- d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
- e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of this CAFO.

- 87. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
- 88. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

- 89. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **FIFTY-TWO THOUSAND DOLLARS (\$52,000.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
 - a. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.
If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

- b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza

Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

- c. If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

- d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-877-372-2457

90. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Laurie Benton DiGaetano
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
benton-digaetano.laurie@epa.gov

91. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the Facility name and “Docket No. **RCRA-04-2022-2104(b)**.”

92. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, EPA may require the Respondent to pay the following amounts on any amount overdue:

- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
- b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
- c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

93. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
- b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

94. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

95. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
96. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
97. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).
98. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
99. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
100. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
101. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.
102. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
103. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
104. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
105. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
106. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there

are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

107. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
108. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
109. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

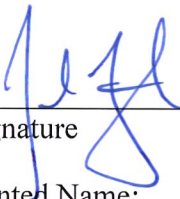
110. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of Sonoco Hickory, Inc., Docket No. RCRA-04-2022-2104(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:


Signature _____ Date 4/20/22
Printed Name: J.C. Florence
Title: Genl Counsel
Address: One N 2nd St., Hartsville, SC 29550

The foregoing Consent Agreement In the Matter of Sonoco Hickory, Inc., Docket No. RCRA-04-2022-2104(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch
Enforcement & Compliance Assurance Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Sonoco Hickory, Inc.
1246 Main Avenue, SE
Hickory, North Carolina 28602
EPA ID No.: NCD003224235

Respondent.

Docket No. **RCRA-04-2022-2104(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of Sonoco Hickory, Inc., Docket No. RCRA-04-2022-2104(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Mr. Edward Harrington
 Global Environmental Director
 Sonoco
 One North 2nd Street A55
 Hartsville, South Carolina 29550
 (843) 339-6333
 Edward.Harrington@Sonoco.com

To EPA: Laurie Benton DiGaetano
 Environmental Engineer
 benton-digaetano.laurie@epa.gov

 Ximena Vasquez
 Associate Regional Counsel
 vasquez.maria-ximena@epa.gov

 Quantindra Smith
 Environmental Protection Specialist
 smith.quantindra@epa.gov

Shannon L. Richardson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960