

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	Docket No.
)	RCRA-04-2021-2106(b)
)	
Lanxess Corporation)	
214 West Ruby Avenue)	
Gastonia, North Carolina 28054)	
EPA ID No.: NCD003164464)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency is authorized to enter into this Expedited Settlement Agreement (ESA or Agreement) pursuant to Section 3008 of the Resource Conservation and Recovery Act (RCRA) and 40 C.F.R. § 22.13(b).

2. Lanxess Corporation (Respondent) is the owner or operator of the facility at 214 West Ruby Avenue, Gastonia, North Carolina 28054. The EPA and the North Carolina Department of Environmental Quality (NCDEQ) inspected the facility on September 22, 2020. The EPA alleges that Respondent violated the following requirements of the EPA approved and authorized State of North Carolina hazardous waste management program found at N.C.G.S. §§ 130A-17 to -28 and 130A-290 to -310.22 [42 U.S.C. §§ 6921 *et seq.*], and the North Carolina Solid Waste Management Law (NCSWML) at 15A NCAC 13A .0101 to.0119 [40 C.F.R. Parts 260 through 270, 273 and 279].
 - a. Pursuant to 15A NCAC 13A .0118(c) [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.” On September 22, 2020, the EPA inspector observed four 55-gallon containers mislabeled in the Conventional Packing Area and two 55-gallon containers not labeled as “Used Oil” in a Used Oil Shed. Therefore, the facility violated 15A NCAC 13A .0118(c) [40 C.F.R. § 279.22(c)(1)], by failing to label used oil containers with the words “Used Oil”.

 - b. Pursuant to 15A NCAC 13A .0119(a) [40 C.F.R. § 273.9], a Small Quantity Handler of Universal Waste (SQHUW) is a universal waste handler who does not accumulate 5,000 kilograms or more of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time. Pursuant to 15A NCAC 13A .0119(b) [40 C.F.R. § 273.15(a)] a SQHUW may accumulate universal waste no longer than one year. On September 22, 2020, the EPA inspector observed a container of used 4-foot lamps, labeled “Universal Waste,” dated March 28, 2019 (stored on-site for greater than one year). In addition, the inspectors observed two 2-gallon containers labeled universal waste batteries, dated April 10, 2019 (stored on-site for greater than one year). Therefore, the facility violated 15A NCAC 13A .0119(b) [40 C.F.R. § 273.15(a)] by accumulating universal waste longer than one year from the date that it became a waste or was received.

- c. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17], a large quantity generator (LQG) may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by 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], provided that the generator complies with the conditions listed in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
- d. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect central accumulation areas (CAAs) looking for leaking containers and for deterioration of containers caused by corrosion or other factors. Based on the September 22, 2020 inspection, the EPA inspector observed that the weekly inspections of CAAs were conducted more than seven days following the previous weekly inspection on five occasions (August 14, 2020, January 3, 2019, December 13, 2019, July 9, 2018, and June 26, 2018). Therefore, the facility was in violation of N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925] by failing to meet a condition of the LQG Permit Exemption.
- e. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(7) which is a condition of the LQG Permit Exemption, the Facility personnel must take part in an annual review of the initial training required by this section; and the generator must maintain training records that include, among others: the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position; and records documenting that the training required has been given to and completed by facility personnel. Based on the training records provided from 2017-2020, which was part of Lanxess’s response to the 3007 Information Request Letter, the RCRA training for several employees handling hazardous waste exceeded the one-year annual review of training requirement. One Lanxess employee received training on June 26, 2018, and again on September 26, 2019; another employee received training on June 26, 2018 and again on October 21, 2019; another employee received training on October 21, 2019 and January 27, 2021. Records also indicated that some employees failed to receive any training in 2018 and 2019. Therefore, the facility was in violation of N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925] by failing to meet a condition of the LQG Permit Exemption.

3. The EPA and Respondent agree that settlement of this matter for a civil penalty of **FIVE THOUSAND DOLLARS (\$5,000.00)** is in the public interest.

4. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that the EPA has jurisdiction over Respondent and Respondent’s conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the issuance of this compliance order and assessment of this penalty; (5) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to

Section 3008(b) of RCRA; and (7) consents to electronic service of the filed ESA.

5. By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the alleged violations have been corrected.
6. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement and Final Order, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
7. The EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
8. Each party shall bear its own costs and fees, if any.
9. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

**[Remainder of Page Intentionally Left Blank
Both Parties will Sign on a Separate Page]**

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6938(a), and according to the terms of this Expedited Settlement Agreement and Final Order, IT IS HEREBY ORDERED THAT:

10. Respondent shall pay a civil penalty of **FIVE THOUSAND DOLLARS (\$5,000.00)** within 15 days of the effective date of this ESA. Such payment shall identify Respondent by name and docket number and be paid in accordance with the Penalty Collection Procedures below.
11. 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.

- a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. 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

12. A copy of the certified or cashier's check or other information confirming payment by EFT or ACH shall be simultaneously sent via e-mail to the following:

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

And

Raj Aiyar
RCRA Enforcement Section
Chemical Safety and Land Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
aiyar.raj@epa.gov

13. Pursuant to 31 U.S.C. 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this ESA, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
14. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this ESA shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
15. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to section 9006(b) of RCRA or 40 C.F.R. part 22.
16. This ESA and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

In the Matter of Lanxess Corporation, it is so agreed by the parties below.

FOR RESPONDENT:

JOHN E. HOLLOWAY
Name (print)

SITE MANAGER
Title (print)

John E. Holloway
Signature

Date: March 15, 2022

APPROVED BY THE EPA:

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch

IT IS SO ORDERED:

Tanya Floyd
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 4

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement and Final Order, in the Matter of **Lanxess Corporation**, Docket No. **RCRA-04-2021-2106(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. Dave Martin
 EHS Manager
 Lanxess Corporation
 214 West Ruby Avenue
 Gastonia, North Carolina 28054
 Curtis.Martin@lanxess.com

To EPA: Raj Aiyar
 Environmental Engineer
 aiyar.raj@epagov

and

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

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