

BEFORE THE NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION

STATE OF NORTH CAROLINA)	
)	
COUNTY OF SAMPSON)	SPECIAL ORDER BY CONSENT
)	
IN THE MATTER OF:)	SOC 2020- <u>004</u>
ENVIVA PELLETS SAMPSON, LLC)	
)	
)	

This SPECIAL ORDER BY CONSENT (“ORDER”) is made and entered into pursuant to North Carolina General Statute 143-215.110 by and between ENVIVA PELLETS SAMPSON, LLC (the “COMPANY”) and the ENVIRONMENTAL MANAGEMENT COMMISSION, an agency of the State of North Carolina (the “COMMISSION”).

WITNESSETH:

- I. The COMPANY and the COMMISSION do hereby stipulate and agree to the following:
 - A. The COMPANY operates a wood pellets manufacturing facility in Faison, Sampson County, North Carolina (the “Facility”). The Facility currently operates under Air Quality Permit No. 10386R04 (the “Permit”), which was issued by the North Carolina Division of Air Quality (“DAQ”) on October 2, 2019.
 - B. Specific Permit Condition 2.2.A.1.b of the Permit, pursuant to 15A NCAC 2D .0530 of the North Carolina Administrative Code (“Prevention of Significant Deterioration,” “PSD”), requires that, for PSD purposes, best available control technology (“BACT”) emission limits shall not be exceeded. Specific Permit Condition 2.2.A.1.d of the Permit outlines the initial performance

testing requirements for the Facility to demonstrate compliance with the various BACT emission limits.

- C. On December 20, 2019, DAQ approved an extension request made by the COMPANY to delay initial performance testing for the particulate matter less than 2.5 microns (PM_{2.5}) BACT emission limit associated with the dry hammermills at the Facility. In preparing to conduct source testing to demonstrate compliance with the BACT emission limits in the Permit, the COMPANY realized that the PM_{2.5} emission limit for the dry hammermills was unachievable. The testing extension was necessary for the COMPANY to request a modified permit with an adjusted PM_{2.5} BACT emission limit. DAQ approved an extension until 60 days after of the issuance date of a new permit incorporating an updated PM_{2.5} BACT emission limit for the dry hammermills or by September 30, 2020, whichever date comes first. A new permit with updated PM_{2.5} BACT emission limits for the dry hammermills has not been issued to date. However, on October 7, 2020 DAQ notified Enviva that the September 30, 2020 deadline for testing the dry hammermills has been extended and that the new deadline shall be established by this ORDER.
- D. On January 30, 2020, the DAQ Fayetteville Regional Office (“FRO”) received the source test report for testing performed by the COMPANY during the week of December 16-20, 2019, on the following Facility sources: Dryer (ES-DRYER), Green Hammermills (ES-GHM-1, 2, and 3), Dry Wood Handling (ES-DWH), Dry Hammermills (ES-HM-3 and ES-HM-4), and Pellet Presses and Pellet Cooler (ES-CLR-5). The dry hammermills were not tested for PM_{2.5} BACT emission as indicated in Paragraph I.C above.
- E. As reflected in the source test review memorandum issued by DAQ on March 11, 2020, the December 2019 testing indicated that the Facility was in noncompliance with the BACT emission limits for particulate matter (PM) and particulate matter less than 10 microns (PM₁₀) for the pellet presses and

coolers. The same source testing demonstrated compliance with other applicable BACT emission limits, except for the PM_{2.5} limit for the dry hammermills as discussed above in Paragraph I.C.

- F. On May 5, 2020, DAQ issued a Notice of Violation (“NOV”) to the COMPANY finding that the exceedances of the BACT emission limits constitute violations of 15A NCAC 02D .0530 “Prevention of Significant Deterioration.”
- G. On May 29, 2020, the COMPANY responded to the May 5, 2020 NOV.
- H. The COMPANY maintains that in requesting the PM and PM₁₀ emission limits that are reflected in the Permit, the COMPANY submitted the best available data at the time to DAQ. However, the COMPANY has determined that the PM and PM₁₀ BACT emission limits in the Permit for the pellet presses/coolers are not achievable.
- I. The COMPANY also admits making an error in the original PSD permit application by including an emission factor used to determine the PM_{2.5} BACT emission limit for the dry hammermills that resulted in another unachievable emission limit.
- J. On May 31, 2019, the COMPANY and DAQ entered into a Settlement Agreement to resolve a separate dispute regarding the application of case-by-case maximum achievable control technology (“MACT”) requirements under section 112(g) of the Clean Air Act to the Facility’s emission sources. Under the Settlement Agreement, the COMPANY committed to install a regenerative catalytic oxidizer / regenerative thermal oxidizer (“RCO/RTO”) to control VOC and HAP emissions from the pellet presses/coolers and an RCO/RTO or equivalent controls to reduce VOC and HAP emissions from the dry hammermills. The COMPANY agreed to install and commence operation of the new emission controls within twelve (12) months of issuance of a permit by DAQ authorizing the implementation of the control devices/control strategies.

- K. On April 2, 2020, the COMPANY submitted an application to DAQ (received by DAQ on April 7, 2020) that proposes control of VOC and HAP emissions from the pellet presses and coolers via installation of a new RCO/RTO and two control options for VOC and HAP emissions from the dry hammermills: (1) routing the exhaust to the existing dryer furnace (ES-DRYER) followed by the existing wet electrostatic precipitator (CD-WESP) and existing RTO (CD-RTO) or (2) routing the exhaust directly to CD-WESP followed by CD-RTO. The COMPANY had previously committed to install the new emission controls and implement new control strategies within twelve (12) months of issuance of a permit by DAQ authorizing the installation/implementation.
- L. The COMPANY seeks to enter into this ORDER to require the Facility, through installation and operation of new emission controls and the implementation of new emission control strategies, to achieve synthetic minor status for PSD as soon as practicable and, thereby to resolve the Facility's noncompliance with the PM, PM₁₀, and PM_{2.5} BACT emission limits in the Permit for the pellet presses/coolers and dry hammermills.
- M. Although the PSD BACT emission limits would no longer apply after the Facility achieves synthetic minor status for PSD as a result of controlling pellet press/cooler and dry hammermill emissions, based on recent testing of pellet presses/coolers and dry hammermills at the COMPANY's Hamlet facility that are controlled by thermal oxidation, installation of the controls will likely also have the effect of reducing PM, PM₁₀, and PM_{2.5} emissions.
- N. After implementation of the emission controls and control strategies proposed in the April 2020 permit application, the COMPANY will test to quantify PM and PM₁₀ emissions from the pellet presses and coolers and PM_{2.5} emissions from the dry hammermills at the Facility in accordance with the permit to be issued authorizing implementation of the new emission controls and control strategies.

- O. The COMMISSION and the COMPANY agree that, for purposes of this ORDER, the Parties intend to resolve the violations identified above by requiring: (1) the Company to use best commercial efforts to install the new controls and control strategies within nine (9) months, and in no event to exceed twelve (12) months, of the issuance of a permit by DAQ authorizing the implementation of the new controls and control strategies that make the Facility a PSD minor source (achieve synthetic minor status for PSD); and (2) the Company to test to quantify PM and PM₁₀ emissions from the pellet presses/coolers and PM_{2.5} emissions from the dry hammermills after the new control devices and control strategies are installed and operational at the Facility in accordance with the permit to be issued authorizing implementation of the new emission controls and control strategies.

THEREFORE, the COMMISSION and the COMPANY, desiring to resolve and settle the compliance issues between them, have agreed to enter into this ORDER with the following terms and conditions:

II. The COMPANY, desiring to operate in a safe and environmentally sound manner in accordance with the rules and regulations of the COMMISSION, does hereby agree to adhere to the following conditions to reduce particulate matter and other pollutant emissions:

- A. Use best commercial efforts to install new emission controls and implement new emission control strategies to achieve synthetic minor status for PSD within nine (9) months, and in no event to exceed twelve (12) months, of issuance of a permit by DAQ authorizing the implementation of new emission controls and control strategies for the pellet presses/coolers and the dry hammermills.
- B. Perform emissions testing to quantify PM and PM₁₀ emissions rates from the pellet presses and coolers and PM_{2.5} emission rates from the dry hammermills after the new control devices and control strategies are

installed and operational at the Facility in accordance with the permit to be issued authorizing implementation of the new emission controls and control strategies and a DAQ-approved protocol.

III. The COMPANY shall pay the following civil penalties:

- A. The COMPANY agrees to pay the COMMISSION a civil penalty in the amount of \$59,000. This amount shall be due and payable within thirty (30) days of the effective date of this ORDER.
- B. In the event that the COMPANY fails to comply with the requirements set forth in Paragraph II of this ORDER, the COMPANY agrees that, unless excused under Paragraph IV, the COMPANY will pay the COMMISSION stipulated penalties according to the following schedule:

<u>Deadlines and Requirements</u>	<u>Stipulated Penalties</u>
Failure to comply with any deadline established in Paragraph II.	\$500 per day for the first five days and \$1,000 per day thereafter.

The COMPANY shall notify DAQ in writing of any violation of Paragraph II of this ORDER within ten (10) days of discovering such violation. Failure within thirty (30) days of receipt of the DAQ Director's written demand to pay the penalties will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. The only issue in such an action will be whether thirty (30) days has elapsed.

IV. The COMPANY'S obligation to comply with the requirements set forth in this ORDER for which a stipulated penalty may be assessed may be delayed or excused only to the extent that noncompliance is caused by circumstances beyond control of the COMPANY, as determined by the DAQ Director. Contractor delays or failure to obtain funding will not be considered events beyond the COMPANY'S control. If any such delaying event occurs, the COMPANY shall notify DAQ in writing within ten (10) days of encountering or discovering the delaying event, describing in detail the event or delay,

the precise cause(s) of the event or delay, the measure(s) taken and to be taken by the COMPANY to prevent or minimize the event or delay, and the schedule by which those measures will be implemented.

V. This ORDER constitutes full and final settlement and satisfaction of any and all claims or prospective claims that the COMMISSION has or may have for violations described in Paragraph I hereof, as of the date this ORDER is approved by the COMMISSION. The COMMISSION agrees that, except as authorized pursuant to Paragraph II, it shall not issue a Notice of Violation or pursue any enforcement action against the COMPANY related to the violations specified in Paragraph I during the term of this ORDER. This ORDER shall not affect the COMPANY'S obligation to comply with any Federal, State, or local laws or regulations. Any violations not resolved by this ORDER shall subject the COMPANY to appropriate enforcement action pursuant to North Carolina General Statute §§ 143-215.114A, 143-215.114B, or 143-215.114C.

VI. The COMMISSION acknowledges that nothing prohibits the COMPANY from seeking modification of this ORDER if any regulatory standards upon which this ORDER is based are changed subsequent to its execution. In such cases, the COMPANY may petition that the ORDER be modified to reflect those regulatory changes.

VII. All notices and reports required from the COMPANY by this ORDER shall be delivered to:

Heather S. Carter, Regional Air Quality Supervisor
NCDEQ, Division of Air Quality
Fayetteville Regional Office
225 Green Street, Suite 714
Fayetteville, North Carolina 28301

All payments required from the COMPANY by this ORDER shall be mailed, first class postage prepaid, to the following address:

Enforcement Group - Payments
NCDEQ – DAQ
Mail Service Center 1641

Raleigh, North Carolina 27699-1641

VIII. By entering into this ORDER the COMPANY makes no admission of liability, violation, or wrongdoing whatsoever, by itself, any of its affiliated companies, or any or its or their present or former officers, directors, employees, or agents.

IX. Final approval and entry into this ORDER are subject to the requirements that the COMMISSION give notice of proposed consent order to the public, and that the public have at least thirty (30) days within which to comment on the ORDER.

X. Should any provision of this ORDER be declared by a court of competent jurisdiction to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

XI. The Parties may jointly stipulate and agree to modify this ORDER at any time subject to the requirements of 15A NCAC 02D .2203. Any modifications of this ORDER must be agreed to in writing and signed by both parties.

XII. Except as otherwise set forth herein, this ORDER is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the COMPANY of its obligations to comply in the future with any permit.

XIII. This ORDER is effective on execution by the Division of Air Quality and shall expire upon DAQ approval of the results of emissions testing required by Paragraph II.B, or by December 31, 2022, whichever comes first.

ATTESTED BY:

ENVIVA PELLETS SAMPSON, LLC

BY: 
Yanina A. Kravtsova
Executive Vice President, Communications, Public and Environmental Affairs

DATE: 11/9/2020

APPROVED AND ACCEPTED:

BY: 
Environmental Management Commission

DATE: 12/16/20