



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 13 2017

CERTIFIED MAIL RETURN RECEIPT

Mr. Eric Haddad  
General Manager  
Valmont Composite Structures  
19845 US Highway 76  
Newberry, South Carolina 29108

Re: Valmont Composite Structures, EPA ID# SCD 987 589 188  
Consent Agreement and Final Order, Docket No. RCRA-04-2017-4004(b)

Dear Mr. Haddad:

Enclosed please find a copy of the Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within 30 days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at (404) 562-8590 or by email at [lamberth.larry@epa.gov](mailto:lamberth.larry@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth  
Chief, Enforcement and Compliance Branch  
Resource Conservation and Restoration Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: )  
)  
Valmont Composite Structures )  
145 Wood Street )  
Estill, SC 29918 )  
EPA ID No.: SCD 987 589 188 )  
)  
Respondent )  
\_\_\_\_\_ )

DOCKET NO.: RCRA-04-2017-4004(b)

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

2017 SEP 13 PM 3:46  
HEARING CLERK  
USEPA REGION 4  
OFFICE OF REGIONAL  
COUNSEL

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the South Carolina Hazardous Waste Management Act (SCHWMA), S.C. Code Ann. § 44-56-10 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at South Carolina Hazardous Waste Management Regulations (SCHWMR), 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270 and 273]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 44-56-60(a)(2) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] and 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273 [40 C.F.R. Parts 260 through 270 and 273].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

## II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Valmont Composite Structures, LLC, a corporation that is organized under the laws of the State of Florida. Respondent is the owner and operator of a lighting equipment manufacturing facility located at 145 Wood Street, Estill, South Carolina (the Facility).

## III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South 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 SCHWMA, S.C. Code Ann. § 44-56-10 *et seq.* and SCHWMR 25 S.C. Code Ann. Regs. 61-79.260-270, and 61-79.273.
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. South Carolina 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)(2) of RCRA, 42 U.S.C. § 6928(a)(2). 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 CA/FO.
11. Sections 44-56-30 and 44-56-35 of the SCHWMA, S.C. Code Ann. §§ 44-56-30 and 44-56-35 [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 25 S.C. Code Ann. Regs. 61-79 Part 262. [40 C.F.R. Part 262].
12. Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets 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 25 S.C. Code Ann. Regs. 61-79 Part

264 (permitted) and 25 S.C. Code Ann. Regs. 61-79 Part 265 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.2 [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 25 S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 25 S.C. Code Ann. Regs. 61-79.261.4(b) [40 C.F.R. § 261.4(b)].
15. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 61-79.261.20 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 25 S.C. Code Ann. Regs. 61-79.261.21-24 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Wastes Numbers D001 through D043.
16. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2)(ii) and 61-79.261.30 [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 25 S.C. Code Ann. Regs. 61-79.261 [40 C.F.R. Part 261, Subpart D] and is not otherwise excluded by 25 S.C. Code Ann. Regs. 61-79.260.20 or 61-79.260.22 [40 C.F.R. § 260.20 or 40 C.F.R. § 260.22].
17. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
18. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [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.”
19. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.
20. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [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.”
21. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “hazardous waste” means a hazardous waste as defined in § 261.3 in accordance with this chapter.
22. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

23. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
24. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “universal waste” means any hazardous wastes that are managed under the universal waste requirements of part 273 in accordance with this chapter.
25. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a) [40 C.F.R. § 262.34 (a)] a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 25 S.C. Code Ann. Regs. 61-79.262.34(a)(1)-(4) [40 C.F.R. § 262.34(a)(1)-(4)], (hereinafter referred to as the “LQG Permit Exemption”).
26. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(3) [40 C.F.R. § 262.34(a)(3)], as a condition of the LQG Permit Exemption, a generator may accumulate hazardous waste on-site for 90 days or less, provided each container and tank is labeled or marked clearly with the words, “Hazardous Waste.”
27. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which references 25 S.C. Code Ann. Regs. 61-79.265.35 [40 C.F.R. § 265.35], and is a condition of the LQG Permit Exemption, the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, and decontamination equipment to any area of facility operation in an emergency, unless the aisle space is not needed for any of these purposes.
28. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) which references R.61-79.265.174 [40 C.F.R. § 262.34(a)(1)(i)], which references [40 C.F.R. § 265.174], as a condition of the LQG Permit Exemption, the owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
29. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates 25 SC. Code Ann. R.61-79.265.52(c)(e)(f) [40 C.F.R. § 265.52(c)(e) and (f)], and is a condition of the LQG Permit Exemption, a generator is required to have a contingency plan that describes arrangements agreed to by local police departments, fire departments, hospitals, contractors and State and local emergency response teams to coordinate emergency services. The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities. The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

30. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without interim status, as required by S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the Satellite Accumulation Area (SAA) conditions listed in 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i)-(ii) [40 C.F.R. § 262.34(c)(1)(i)-(ii)], (hereinafter referred to as the “SAA Permit Exemption”).
31. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates 25 S.C. Code Ann. Regs. 61-79.265.173 [40 C.F.R. § 265.173(a)] as a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
32. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark SAA containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
33. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(2) [40 C.F.R. § 262.34(c)(2)], which is a condition of the SAA Permit Exemption, a generator who accumulates either hazardous waste or acutely hazardous waste listed in § 261.33(e) in a SAA in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of 25 S.C. Code Ann. Regs. 61-79.262.34 [40 C.F.R. § 262.34(a)] or other applicable provisions.
34. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.9 [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.
35. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)], a SQHUW must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
36. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of such lamps clearly with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)”.
37. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.15(c) [40 C.F.R. § 273.15(c)], a SQHUW must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

38. Respondent is a “person” as defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].

39. Respondent is the “owner/operator” of a “facility” located at 145 Wood Street, Estill, South Carolina, 29918, as those terms are defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
40. Respondent is a “generator” of “hazardous waste” as those terms are defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10] and 25 S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3].
41. Respondent manufactures a wide variety of centrifugally formed fiberglass resin based composite decorative and functional lighting and distribution poles.
42. The Facility is a LQG of hazardous waste as well as a SQHUW. Hazardous wastes managed at the Facility are primarily generated from manufacturing of fiberglass resin based lighting poles and painting activities, while universal hazardous wastes managed at the Facility are comprised of compact fluorescent lamps.
43. On September 15, 2016, the EPA and South Carolina Department of Health and Environmental Control (SC DHEC) conducted a RCRA compliance evaluation inspection (CEI) at the facility. The EPA’s findings of the CEI were documented in a report the EPA mailed to Respondent, dated February 16, 2017.
44. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the satellite accumulation containers holding hazardous waste were not closed properly when waste was not being added or removed:
  - a. The inspectors observed a 5-gallon hazardous waste container open near the injection gun #4 area.
  - b. The inspectors observed one 55-gallon container used for collection of hazardous waste (D001) at the end of the casting area. The drum had a covered funnel and a ball valve attached to the lid. The ball valve was observed to be in the open position.
  - c. The inspectors observed a 3-gallon bucket containing hazardous waste rags in the paint prep area.
  - d. The inspectors observed one pail containing hazardous waste (D001) that was not closed properly in the manual paint room.
  - e. The inspectors observed one open 5-gallon bucket containing spent solvent (D001) in the automated paint unit.
  - f. The inspectors observed several 5-gallon bucket that were open in the manual paint booth area containing hazardous waste (D001).
  - g. The inspectors observed one open 55-gallon container containing hazardous waste (D001) in the acetone recycling area.
  - h. The inspectors observed an open 5-gallon bucket containing a solid hazardous waste in the maintenance shop.
45. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in 25 S.C. Code Ann. Regs. R.61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)], by not complying with the container management requirements to keep its containers closed except when it is necessary to add or

remove waste as required by 25 S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)].

46. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the satellite accumulation containers holding hazardous waste were not labeled with words “Hazardous Waste” or with other words that identify the content of the container(s):
- a. The inspectors observed one unlabeled 5-gallon hazardous waste container near the injection gun #4 area.
  - b. The inspectors observed one unlabeled 3-gallon bucket containing hazardous waste rags at the paint prep area.
  - c. The inspectors observed one unlabeled 5-gallon bucket containing spent solvent (D001) in the automated paint unit.
  - d. The inspectors observed several unlabeled 5-gallon buckets in the manual paint booth area containing hazardous waste (D001).
  - e. The inspectors observed two unlabeled 55-gallon container containing hazardous waste (D001) in the acetone recycling area.
47. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption by not complying with the labeling requirements of 25 S.C. Code Ann. Regs. R.61-79.262.34(c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii)].
48. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had failed to properly label a hazardous waste container stored in the less-than 90-day storage area with the words “Hazardous Waste.”
49. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. R.61-79.262.34(a)(3) [40 C.F.R. § 262.34(a)(3)].
50. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had failed to maintain adequate aisle space in the storage area to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment. The inspectors had difficulty accessing the containers to check for leaking containers, labels and accumulation start dates.
51. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to maintain a condition of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. R.61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], by not complying with the aisle space requirements of 25 S.C. Code Ann. Regs. 61-79.265.35 [40 C.F.R. § 265.35].



52. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had failed to properly close the boxes containing universal waste lamps stored in the storage building.
53. The EPA therefore alleges Respondent violated 25 S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)], by failing to manage spent universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
54. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had failed to label the boxes containing universal waste lamps stored in the storage building.
55. The EPA therefore alleges Respondent violated 25 S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)], by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)”.
56. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had failed to mark or label the boxes containing universal waste lamps with the earliest date it became a waste or was received.
57. The EPA therefore alleges Respondent violated 25 S.C. Code Ann. Regs. 61-79.273.15(c) [40 C.F.R. § 273.15(c)], by failing to demonstrate the length of time that the universal waste had been accumulated from the date that the universal waste became a waste or was received.
58. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had failed to conduct weekly inspection of containers, used to store hazardous waste in December of 2015.
59. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. R.61-79.262.34(a)(1)(i) [40 C.F.R. § 262.34(a)(1)(i)], by not complying with the inspection requirements of SC. Code Ann. R.61-79.265.174 [40 C.F.R. § 265.174].
60. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had failed to have a contingency plan that describes arrangements agreed to by local police departments, fire departments, hospitals, contractors and State and local emergency response teams to coordinate emergency services. The plan failed to include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment) where this equipment is required. The plan did not include the location and physical description of each item on the list and a brief outline of its capabilities. In addition, the plan failed to include an evacuation plan for the facility personnel where there is a possibility that evacuation could be necessary.
61. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. §

6925] by storing hazardous waste without a permit or interim status because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], by not complying with the contingency plan requirements of 25 S.C. Code Ann. R.61-79.265.52(c)(e)(f) [40 C.F.R. § 265.52(c)(e) and (f)].

62. At the time of the September 15, 2016, RCRA CEI, SC DHEC and the EPA observed that the Respondent had accumulated hazardous waste in excess of 55 gallons for greater than three days at or near point of generation in a SAA and had not marked the accumulation start date on the containers of hazardous waste.
63. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in 25 S.C. Code Ann. Regs. 61-79.262.34(c)(2) [40 C.F.R. § 262.34(c)(2)], by accumulating hazardous waste in excess of 55 gallons at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of 25 S.C. Code Ann. Regs. 61-79.262.34 [40 C.F.R. § 262.34] or other applicable provisions.

## V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

64. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
65. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
66. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
67. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
68. Respondent 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 EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
69. Respondent 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 CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
70. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.

71. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
72. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
73. Each party will pay its own costs and attorneys' fees.

## VI. PAYMENT OF CIVIL PENALTY

74. Respondent consents to the payment of a civil penalty in the amount of FOURTEEN THOUSAND DOLLARS (\$14,000.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
75. 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

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  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1818

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"

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: John Schmid, (202) 874-7026  
REX (Remittance Express): 1-866-234-5681

76. Respondent shall submit a copy of the payment to the following individuals:

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

And to:

Raj Aiyar, Environmental Engineer  
Hazardous Waste Compliance and Enforcement Section  
Enforcement and Compliance Branch  
RCR Division, US EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

77. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required 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. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. 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 six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

78. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

#### **VII. PARTIES BOUND**

79. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
80. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
81. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

#### **VIII. RESERVATION OF RIGHTS**

82. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
83. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
84. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

#### **IX. OTHER APPLICABLE LAWS**

85. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

## **X. SERVICE OF DOCUMENTS**

86. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in this proceeding:

Joan Redleaf Durbin  
Senior Attorney  
Office of RCRA/CERCLA Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9544

A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Eric Haddad  
General Manager  
Valmont Composite Structures  
19845 US Highway 76  
Newberry, South Carolina 29108

## **XI. SEVERABILITY**

87. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO 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 CA/FO shall remain in force and shall not be affected thereby.

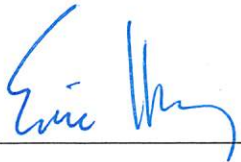
## **XII. EFFECTIVE DATE**

88. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

*In the matter of Docket No. RCRA-04-2017-4004(b):*

**AGREED AND CONSENTED TO:**

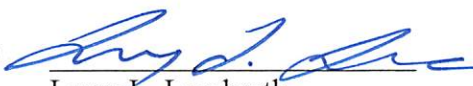
**Valmont Composite Structures**

By: 

Dated: 8/29/17

Mr. Eric Haddad  
General Manager

**United States Environmental Protection Agency**

By:  Dated: 09/06/17  
Larry L. Lamberth  
Chief, Enforcement and Compliance Branch  
Resource Conservation and Restoration Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2017-4004(b)
	)	
Valmont Composite Structures	)	
145 Wood Street	)	Proceeding Under Section 3008(a) of the
Estill, South Carolina	)	Resource Conservation and Recovery Act,
EPA ID No.: SCD 987 589 188	)	42 U.S.C. § 6928(a)
	)	
Respondent	)	
_____	)	

**FINAL ORDER**

The foregoing Consent Agreement is 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 Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 13<sup>th</sup> day of September, 2017.

BY: Tanya Floyd  
Tanya Floyd  
Regional Judicial Officer  
EPA Region 4



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the matter of Valmont Composite Structures, Docket Number: RCRA-04-2017-4004(b), and have served the parties listed below in the manner indicated:

Joan Redleaf Durbin  
Senior Attorney  
Office of RCRA/CERCLA Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

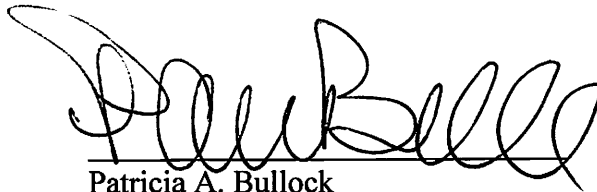
Quantindra Smith  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Eric Haddad  
General Manager  
Valmont Composite Structures  
19845 US Highway 76  
Newberry, South Carolina 29108

(Via Certified Mail - Return Receipt Requested)

Date: 9-13-17



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511