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1 UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY
3 REGION IX
4 75 HAWTHORNE STREET
5 SAN FRANCISCO, CA 94105

US EPA - REGION IX
HEARING CLERK

5	IN THE MATTER OF:)	Docket No. TSCA-09-2013-0004
6	Veolia ES Technical Solutions,)	CONSENT AGREEMENT
7	L.L.C.,)	AND FINAL ORDER
8	Respondent.)	

10 I. CONSENT AGREEMENT

11 Complainant, the Director of the Enforcement Division,
12 United States Environmental Protection Agency ("EPA"), Region IX
13 and Respondent, Veolia ES Technical Solutions, L.L.C., seek to
14 settle this case initiated against Respondent under Section 16(a)
15 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §
16 2615(a), and consent to the entry of this Consent Agreement and
17 Final Order ("CAFO").

18 A. AUTHORITY

19 1. EPA initiated this civil administrative proceeding for
20 the assessment of a civil penalty under TSCA pursuant to Section
21 16(a) of TSCA, 15 U.S.C. § 2615(a), by issuing a Complaint and
22 Notice of Opportunity for Hearing ("Complaint") against
23 Respondent on April 30, 2013 in accordance with the Consolidated
24 Rules of Practice Governing the Administrative Assessment of
25 Civil Penalties and the Revocation/Termination or Suspension of
26 Permits at 40 C.F.R. Part 22.

27 2. The Complaint alleges that Respondent violated Section
28 15 of TSCA by violating implementing regulations governing the

1 use, manufacture, processing, distribution, and disposal of
2 polychlorinated biphenyls ("PCBs") at 40 C.F.R. Part 761.

3 3. EPA and Respondent have agreed to resolve this civil
4 administrative proceeding by executing this CAFO pursuant to 40
5 C.F.R. § 22.18(b).

6 B. RESPONDENTS' ADMISSIONS

7 4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the
8 purpose of this proceeding, Respondent (i) admits that EPA has
9 jurisdiction over the subject matter of this CAFO and over
10 Respondent; (ii) neither admits nor denies the specific factual
11 allegations contained in the Complaint; (iii) consents to any and
12 all conditions specified in this CAFO and to the assessment of
13 the civil administrative penalty under Section C of this CAFO;
14 (iv) waives any right to contest the allegations contained in the
15 Complaint; and (v) waives the right to appeal the proposed final
16 order contained in this CAFO.

17 C. CIVIL ADMINISTRATIVE PENALTY

18 5. Respondent agrees to the assessment of a penalty in the
19 amount of NINETY-FIVE THOUSAND DOLLARS (\$95,000) as final
20 settlement of the civil claims against Respondent arising under
21 TSCA, as alleged in the Complaint.

22 6. Respondent shall pay the assessed penalty no later than
23 thirty (30) days after the effective date of the CAFO.

24 The assessed penalty shall be paid by **certified or cashier's**
25 **check**, payable to "Treasurer, United States of America," or paid
26

1 by one of the other methods listed below and sent as follows:

2 Regular Mail:

3 U.S. Environmental Protection Agency
4 Fines and Penalties
5 Cincinnati Finance Center
6 PO Box 979077
7 St. Louis, MO 63197-9000

8 Wire Transfers:

9 Wire transfers must be sent directly to the Federal Reserve Bank
10 in New York City with the following information:

11 Federal Reserve Bank of New York
12 ABA = 021030004
13 Account = 68010727
14 SWIFT address = FRNYUS33
15 33 Liberty Street
16 New York, NY 10045
17 Field Tag 4200 of the Fedwire message should read "D 68010727
18 Environmental Protection Agency"

19 Overnight Mail:

20 U.S. Bank
21 1005 Convention Plaza
22 Mail Station SL-MO-C2GL
23 ATTN Box 979077
24 St. Louis, MO 63101

25 ACH (also known as REX or remittance express):

26 Automated Clearinghouse (ACH) for receiving US currency
27 PNC Bank
28 808 17th Street, NW
Washington, DC 20074
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 31006
CTX Format

29 On Line Payment:

30 This payment option can be accessed from the information below:

31 www.pay.gov
32 Enter "sf01.1" in the search field
33 Open form and complete required fields

34 In the Matter of Veolia ES
35 Technical Solutions, L.L.C.,
36 Docket No. TSCA-09-2013-0004

1 If clarification regarding a particular method of payment
2 remittance is needed, contact the EPA Cincinnati Finance Center
3 at 513-487-2091.

3 In addition, a copy of the check or notification that the payment
4 has been made by one of the other methods listed above, including
5 proof of the date payment was made, shall be sent with a
6 transmittal letter indicating Respondent's name, the case title,
7 and the docket number to:

8 a) Regional Hearing Clerk (ORC-1)
9 Office of Regional Counsel
10 U.S. Environmental Protection Agency, Region IX
11 75 Hawthorne Street
12 San Francisco, California 94105

11 b) Chris Rollins
12 Waste Enforcement Office (ENF-2-2)
13 Enforcement Division
14 U.S. Environmental Protection Agency, Region IX
15 75 Hawthorne Street
16 San Francisco, California 94105

14 7. Payment of the above civil administrative penalty shall
15 not be used by Respondent or any other person as a tax deduction
16 from Respondent's federal, state, or local taxes.

17 8. If Respondent fails to pay the assessed civil
18 administrative penalty specified in Paragraph 5 by the deadline
19 specified in Paragraph 6 of this CAFO, Respondent shall pay to
20 EPA the stipulated penalty of \$1,500 per day for each day payment
21 is late in addition to the assessed penalty. Stipulated
22 penalties shall accrue until such time as the assessed penalty
23 and all accrued stipulated penalties are paid and shall become
24 due and payable upon written request by EPA. In addition,
25 failure to pay the civil administrative penalty by the deadline
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1 specified in Paragraph 6 may lead to any or all of the following
2 actions:

3 a. The debt being referred to a credit reporting agency, a
4 collection agency, or to the Department of Justice for filing of
5 a collection action in the appropriate United States District
6 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such
7 collection action, the validity, amount, and appropriateness of
8 the assessed penalty and of this CAFO shall not be subject to
9 review.

10 b. The debt being collected by administrative offset (i.e., the
11 withholding of money payable by the United States to, or held by
12 the United States for, a person to satisfy the debt the person
13 owes the Government), which includes, but is not limited to,
14 referral to the Internal Revenue Service for offset against
15 income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

16 c. EPA may (i) suspend or revoke Respondent's licenses or other
17 privileges; or (ii) suspend or disqualify Respondent from doing
18 business with EPA or engaging in programs EPA sponsors or funds.
19 40 C.F.R. § 13.17.

20 d. In accordance with the Debt Collection Act of 1982 and 40
21 C.F.R. Part 13 interest, penalties charges, and administrative
22 costs will be assessed against the outstanding amount that
23 Respondent owes to EPA for Respondent's failure to pay the civil
24 administrative penalty by the deadline specified in Paragraph 6.
25 Interest will be assessed at an annual rate that is equal to the
26

1 rate of current value of funds to the United States Treasury
2 (i.e., the Treasury tax and loan account rate) as prescribed and
3 published by the Secretary of the Treasury in the Federal
4 Register and the Treasury Fiscal Requirements Manual Bulletins.
5 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed
6 monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).
7 Administrative costs for handling and collecting Respondent's
8 overdue debt will be based on either actual or average cost
9 incurred, and will include both direct and indirect costs. 40
10 C.F.R. § 13.11(b). In addition, if this matter is referred to
11 another department or agency (e.g., the Department of Justice,
12 the Internal Revenue Service), that department or agency may
13 assess its own administrative costs, in addition to EPA's
14 administrative costs, for handling and collecting Respondents'
15 overdue debt.

16 D. RESPONDENT'S CERTIFICATION

17 9. In executing this CAFO, Respondent certifies that it is
18 now in compliance with 40 C.F.R. Part 761 at its facility located
19 in Phoenix, Arizona.

20 E. RETENTION OF RIGHTS

21 10. In accordance with 40 C.F.R. § 22.18(c), this CAFO
22 only resolves Respondent's liability for federal civil penalties
23 for the violation and facts specifically alleged in the
24 Complaint. Nothing in this CAFO is intended to or shall be
25 construed to resolve (i) any civil liability for violations of
26

1 any provision of any federal, state, or local law, statute,
2 regulation, rule, ordinance, or permit not specifically alleged
3 in the Complaint; or (ii) any criminal liability. EPA
4 specifically reserves any and all authorities, rights, and
5 remedies available to it (including, but not limited to,
6 injunctive or other equitable relief or criminal sanctions) to
7 address any violation of this CAFO or any violation not
8 specifically alleged in the Complaint.

9 11. This CAFO does not exempt, relieve, modify, or affect
10 in any way Respondent's duty to comply with all applicable
11 federal, state, and local laws, regulations, rules, ordinances,
12 and permits.

13 F. ATTORNEYS' FEES AND COSTS

14 12. Except as set forth in Paragraph 8(c) above, each party
15 shall bear its own costs, fees, and disbursements incurred in
16 this action.

17 G. EFFECTIVE DATE

18 13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and
19 22.31(b), this CAFO shall be effective on the date that the final
20 order contained in this CAFO, having been approved and issued by
21 either the Regional Judicial Officer or Regional Administrator,
22 is filed.

23 H. BINDING EFFECT

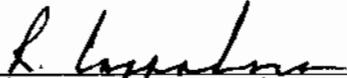
24 14. The undersigned representative of Complainant and the
25 undersigned representative of Respondent each certifies that he
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1 or she is fully authorized to enter into the terms and conditions
2 of this CAFO and to bind the party he or she represents to this
3 CAFO.

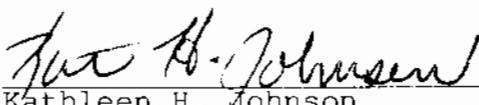
4 15. This Consent Agreement constitutes the entire agreement
5 between the parties resolving this matter arising under TSCA.

6 16. The provisions of this CAFO shall be binding on
7 Respondent and its successors and assigns.

8
9 FOR RESPONDENT, VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.

10 Date: 9/9/13 By: 
11 Robert E. Cappadona
12 Vice President of Service Operations
13 VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.

14 FOR COMPLAINANT, EPA REGION IX

15
16 Date: 9/26/13 By: 
17 Kathleen H. Johnson
18 Director, Enforcement Division
19 U.S. ENVIRONMENTAL PROTECTION
20 AGENCY, REGION IX

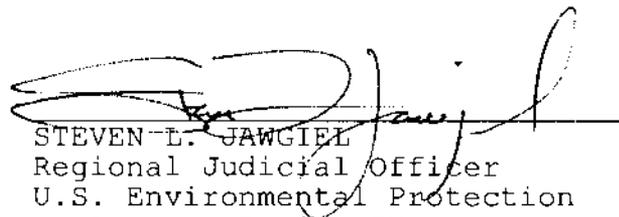
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II. FINAL ORDER

Complainant and Respondent, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2013-0004) be entered, and that Respondent shall pay a civil administrative penalty in the amount of NINETY-FIVE THOUSAND DOLLARS (\$95,000) and comply with the terms and conditions set forth in the Consent Agreement.

09/27/13
DATE


STEVEN L. JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of VEOLIA ES TECHNICAL SOLUTIONS, LLC (**Docket No: TSCA-09-2013-0004**) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

Mr. Wayne R. Bulsiewicz
Veolia ES Technical Solutions, LLC
5736 W. Jefferson Street
Phoenix, AZ 85043

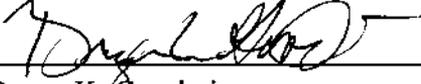
CERTIFIED MAIL NUMBER: 7000 0520 0021 6109 1604

A copy was mailed via REGULAR MAIL to:

Greig R. Seidor
Chief Legal Officer
Veolia ES Technical Solutions, LLC
P.O. Box 1238
Sheffield, MA 01257

And an additional copy was hand-delivered to the following U.S. EPA attorney:

Carol Bussey
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

Date 9/30/13



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, CA 94105

<http://www.epa.gov/region9/waste/enforcement/index.html>

Certified Mail No.: 7000 0520 0021 6109 1604
Return Receipt Requested

SEP 30 2013

Wayne R. Bulsiewicz
Veolia ES Technical Solutions, LLC
5736 W. Jefferson Street
Phoenix, AZ 85043

Re: Consent Agreement and Final Order In the Matter of
Veolia ES Technical Solutions, LLC

Dear Mr. Bulsiewicz:

Please find enclosed the final executed Consent Agreement and Final Order (CA/FO) negotiated between the United States Environmental Protection Agency, Region IX (EPA), and Veolia ES Technical Solutions, LLC (Veolia).

This CA/FO sets out the terms for resolution of the Toxic Substances Control Act (TSCA) administrative civil penalty action against Veolia for alleged violations of the polychlorinated biphenyls (PCBs) requirements. Specifically, Veolia failed to properly mark, use and dispose of PCBs as required under 40 C.F.R. Part 761.

Veolia's full compliance with the payment terms of this CA/FO and completion of all tasks in accordance with the terms of this CA/FO will close this case. If you have any questions regarding the PCB regulations governing your operations or the rules which govern the proceedings terminated by the enclosed document, please contact Christopher Rollins of my staff at (415) 947-4166, or Carol Bussey, in the Office of Regional Counsel, at (415) 972-3950.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen H. Johnson".

Kathleen H. Johnson, Director
Enforcement Division

Enclosure