

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
)  
Veolia ES Technical Solutions LLC )  
342 Marpan Lane )  
Tallahassee, Florida 32305 )  
EPA ID No.: FL0 000 207 449 )  
)  
Respondent )  
\_\_\_\_\_ )

DOCKET NO.: RCRA-04-2016-4010(b)  
  
Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act  
42 U.S.C. § 6928(a)

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**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 Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at Rule 62-730 *et seq.* of the Florida Administrative Code Annotated (Fla. Admin. Code Ann.) [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270]. 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 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Fla. Admin. Code Ann. r. 62-730 *et seq.* [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.

HEARINGS OFFICE  
2016 JUL 18 PM 1:01

## 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 Veolia ES Technical Solutions LLC, a limited liability company that is organized under the laws of the State of Delaware, and is registered to do business in the State of Florida. Respondent is the owner and operator of a permitted hazardous waste treatment, storage, and disposal facility located at 342 Marpan Lane, Tallahassee, Florida (the Facility).

## III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (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 Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 *et seq.* and Fla. Admin. Code Ann. r. 62-730 *et seq.*
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. Florida 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. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [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 Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [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 Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin.

Code Ann. r. 62-730.180(2) (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [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 Fla. Admin. Code Ann. r. 62-730.020(1) [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.”
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person,” includes a corporation, and is defined as “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.”
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is defined as 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.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “container” is defined as “any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.”
18. Pursuant to Fla. Admin. Code Ann. r. 62-737.200 [40 C.F.R. § 273.9], “universal waste lamp” or “lamps” means any mercury-containing lamp that is also characteristically hazardous for mercury under 40 C.F.R. § 261.24 and is being managed in accordance with this chapter.
19. Pursuant to Fla. Admin. Code Ann. r. 62-737.200(28) [40 C.F.R. § 273.9], a “universal waste lamp or device destination facility” or “lamp or device destination facility” means a mercury recovery or reclamation facility permitted by the Florida Department of Environmental Protection (FDEP) or an out-of-state recycling facility permitted by another state for the processing of universal waste lamps or devices and the ultimate recovery and reclamation of the mercury they contain, and one that meets the applicability requirements for a destination facility under 40 C.F.R. § 273.60.
20. Pursuant to Fla. Admin. Code Ann. r. 62-737.200 [40 C.F.R. § 273.9], a Large Quantity Handler of Universal Waste (LQHUU) is a universal waste handler who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
21. Pursuant Fla. Admin. Code Ann. r. 62-737.200 [40 C.F.R. § 273.33(d)(1)], a LQHUU must manage universal waste lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages

must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

22. On February 3, 2012, FDEP issued RCRA Hazardous Waste Permit Number 0071455-HO-011 to Respondent for operation of a mercury containing lamps and devices storage and mercury recovery and reclamation facility located at 342 Marpan Lane, Tallahassee, Florida, 32305.
23. Pursuant to Hazardous Waste Permit Number 0071455-HO-011, Condition I.23., the “Permittee shall comply with those sections of 40 C.F.R. Part 124 specified in subsection Fla. Admin. Code Ann. r. 62-730.200(3), 40 C.F.R. Parts 260 through 268, and 40 C.F.R. Part 270 as adopted in Fla. Admin. Code Ann. r. 62-730, until released from post-closure care requirements and all facility-wide corrective action requirements.”
24. Pursuant to Hazardous Waste Permit Number 0071455-HO-011, Condition I.27.e., the Permittee shall maintain aisle space as required by Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.35].
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.35], the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

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

26. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
27. Respondent is the “owner/operator” of a “facility” located at 342 Marpan Lane, Tallahassee, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
28. Respondent is a “Large Quantity Handler of Universal Waste” as those terms are defined in Fla. Admin. Code Ann. r. 62-737.400 [40 C.F.R. § 273.32(a)(1)].
29. Respondent operates a permitted mercury containing lamp and device storage, recovery and reclamation facility.
30. On December 17, 2015, the EPA and FDEP conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The findings of the CEI were documented in a report mailed to Respondent dated April 11, 2016.
31. During the December 17, 2015, RCRA CEI, the EPA and FDEP observed several boxes of universal waste lamps that were not properly closed.
32. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-737.200 [40 C.F.R. § 273.33(d)(1)], by failing to close containers and packages in a way that prevents releases of any universal waste or component of a universal waste to the environment.

33. During the December 17, 2015, RCRA CEI, the EPA and FDEP observed that the universal waste lamp storage area lacked aisle space, as boxes of universal waste were not spaced out in a way to allow for the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operation in an emergency.
34. The EPA therefore alleges that Respondent violated Hazardous Waste Permit Number 0071455-HO-011, Condition I.27.e., the Permittee shall maintain aisle space as required by Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.35].
35. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.35], by failing to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operation in an emergency.

## V. TERMS OF AGREEMENT

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

36. 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.
37. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
38. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
39. 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.*
40. 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.
41. 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.
42. 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.
43. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.

44. 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.
45. Each party will pay its own costs and attorneys' fees.

## VI. PAYMENT OF CIVIL PENALTY

46. Respondent consents to the payment of a civil penalty in the amount of EIGHT THOUSAND SEVEN HUNDRED DOLLARS (\$8,700.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
47. 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: Craig Steffen, (513) 487-2091  
REX (Remittance Express): 1-866-234-5681

48. 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 Section  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
US EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

49. 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 or, if paying in installments, not paid in accordance with the installment schedule provided above. 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).

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

## **VII. PARTIES BOUND**

51. 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.
52. 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.
53. 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**

54. 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.
55. 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.
56. 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**

57. 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**

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

Joan Redleaf Durbin  
Associate Regional Counsel  
Office of RCRA, OPA and UST Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9544

59. 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:

Kevin D. Shaver, General Manager  
Veolia North America  
342 Marpan Lane  
Tallahassee, Florida 32305

## **XI. SEVERABILITY**

60. 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**

61. 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 Veolia ES Technical Solutions L.L.C., Docket No. RCRA-04-2016-4010(b):*

**AGREED AND CONSENTED TO:**

**Veolia ES Technical Solutions LLC**

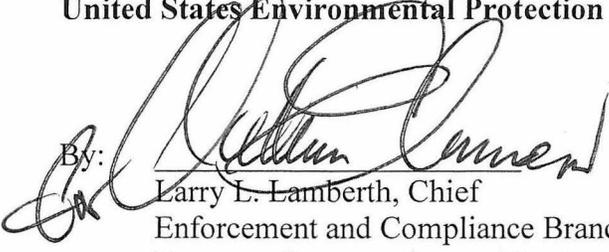
By:

  
Kevin D. Shaver, General Manager  
Veolia North America

Dated: July 5, 2016

**United States Environmental Protection Agency**

By:

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

Dated: 7/12/2016

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: ) DOCKET NO.: RCRA-04-2016-4010(b)  
)  
Veolia ES Technical Solutions LLC )  
342 Marpan Lane )  
Tallahassee, Florida 32305 ) Proceeding Under Section 3008(a) of the  
) Resource Conservation and Recovery Act,  
EPA ID No.:FL0 000 207 449 ) 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 14<sup>th</sup> day of July, 2016.

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

**CERTIFICATE OF SERVICE**

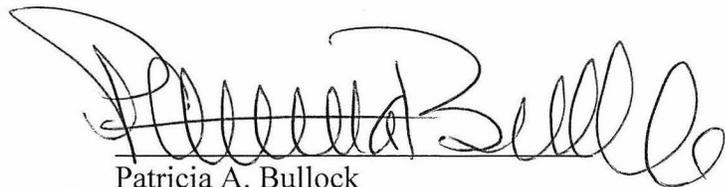
I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Veolia ES Technical Solutions LLC, Docket Number: RCRA-04-2016-4010(b), and have served the parties listed below in the manner indicated:

Joan Redleaf Durbin (Via EPA's electronic mail)  
Associate Regional Counsel  
Office of RCRA, OPA and UST Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA's electronic mail)  
RCRA and OPA Enforcement and Compliance Branch  
RCR Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Kevin D. Shaver, General Manager (Via Certified Mail - Return Receipt Requested)  
Veolia ES Technical Solutions, L.L.C.  
342 Marpan Lane  
Tallahassee, Florida 32305

Date: 7-14-16



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