



September 25, 2023

Veolia ES Technical Solutions, LLC **Re: Veolia ES Technical Solutions, LLC**
4301 Infirmary Road **Director's Final Findings and Orders (DFFO)**
West Carrolton, OH 45449 **RCRA C - Hazardous Waste**
Montgomery County
OHD093945293

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Veolia ES Technical Solutions, LLC.

Enclosed is the invoice for the total penalty amount of \$16,160.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Sarah Miles at (614) 644-3037.

Sincerely,

Mitchell Mathews

Mitchell Mathews, Environmental Manager
Division of Environmental Response and Revitalization

Enclosure

ec: William Narotski, DERR, CO
Tammy Heffelfinger, DERR, CO
George Strobel, DERR, SWDO
Cathy Altman, DERR, SWDO
Randall Kirkland, DERR, SWDO
Sarah Miles, Legal
James Harrison, Veolia ES Technical Solutions, LLC

located at 4301 Infirmary Road, West Carrollton, Montgomery County, Ohio (Facility), where it receives hazardous waste and non-hazardous waste from generators. The Facility is assigned U.S. EPA identification number OHD093945293. On December 31, 2013, Respondent renewed its hazardous waste facility installation and operation permit (Permit) for treatment (reclamation of spent solvents and fuel blending) and storage of hazardous waste at the Facility. Respondent's permit is currently due for renewal by July 4, 2023.

3. On July 29, 2019, Ohio EPA issued Director's Final Findings and Orders (2019 DFFOs) which required Respondent, inter alia, to implement a non-hazardous waste analysis plan (NWAP) to ensure non-conforming containers of waste which exhibit hazardous waste characteristics or contain PCBs are properly managed in lieu of Respondent submitting an application for a hazardous waste facility installation and operation permit.
4. On November 22, 2021, Respondent received two, 55-gallon containers of waste into its non-hazardous waste program. Respondent sampled the waste in the containers on November 27, 2021, and moved the containers into a non-permitted area. After receiving the sampling results indicating that the waste exhibited the characteristic of ignitability (D001), as defined in OAC rule 3745-51-21, Respondent allowed the containers to remain in the non-permitted area.
5. On March 7, 2022, Respondent received one, 55-gallon container of zinc bath solution into its non-hazardous waste program. Respondent sampled the waste on March 8, 2022, determined that it exhibited the characteristic of corrosivity (D002) as defined in OAC rule 3745-51-22, and stored the container of corrosive hazardous waste in an unpermitted area at the Facility.
6. Respondent completed an Unmanifested Waste Report (UWR) on March 10, 2022, certifying the container of corrosive hazardous waste referenced in Finding No. 5 of these Orders was in a permitted storage area and would be transported to a permitted hazardous waste treatment, storage, disposal facility (TSDF) for management.
7. On March 18, 2022, under bill of lading (ZZ00947004), the container of corrosive hazardous waste referenced in Finding No. 5. of these Orders was transported off-site to a permitted hazardous waste facility as a non-hazardous waste where it was mixed with other wastes and transported as non-hazardous waste to a waste to energy facility for disposal. Ohio EPA received the UWR for this waste on March 24, 2022.
8. On April 15, 2022, the waste referenced in Finding No. 4. of these Orders was

resampled, confirming the waste exhibited the characteristic of ignitability (D001), however the containers continued to remain in the unpermitted area.

9. On April 20, 2022, Respondent created a UWR certifying the containers of ignitable hazardous waste referenced in Findings Nos. 4. and 8. of these Orders were in a permitted storage area and would be transported to a permitted TSDF for management; this UWR was received by Ohio EPA on April 26, 2022.
10. On May 1, 2022, after being stored for at least 155 days in a non-permitted area, the containers of ignitable hazardous waste referenced in Findings Nos. 4., 8., and 9. of these Orders were transported off-site for disposal as non-hazardous waste on a non-hazardous bill of lading (ZZ00940715) to a 10-day transfer facility, where the ignitable hazardous waste was mixed with non-hazardous waste prior to transportation to a solid waste landfill not authorized to accept hazardous waste.
11. On June 30, 2022, Respondent contacted Ohio EPA by phone to report non-compliance events as required under permit requirement A.20(B) and OAC rule 3745-50-58(L)(6). Respondent reported that the three containers of characteristically hazardous waste, described in Findings Nos. 4., 5., 6., 7., 8., 9., and 10. of these Orders, were transported to a permitted hazardous waste facility on non-hazardous bills of lading. Respondent also reported the non-compliance events to the permitted receiving facility.
12. Respondent provided Ohio EPA with a written notification of the noncompliance events referenced in Finding No. 11. of these Orders on July 25, 2022, and additional information about these events requested by Ohio EPA on August 3, August 30, and September 8, 2022.
13. As a result of the information provided by Respondent as referenced in Finding No. 12. of these Orders, Ohio EPA determined that Respondent, *inter alia*:
 - a. Stored hazardous waste in an unpermitted area of the Facility, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Specifically, Respondent stored hazardous waste in two unpermitted non-hazardous waste storage areas, the non-hazardous storage building and the trailer staging area between the non-hazardous storage building and the permitted storage building, establishing these areas as hazardous waste management units;
 - b. Failed to comply with the permit, in violation of Permit Condition A.5. and OAC rule 3745-50-58(A), when Respondent stored three characteristically

hazardous waste containers in unpermitted storage areas and transported the containers off-site as non-hazardous waste.

- c. Failed to prepare a hazardous waste manifest to transport hazardous waste for off-site treatment, storage, or disposal, in violation of OAC rule 3745-52-20(A) and Permit Condition B.24(a);
 - d. Failed to label hazardous waste according to US Department of Transportation requirements before offering hazardous wastes for transportation off-site, in violation of OAC rule 3745-52-31 and Permit Condition B.24(a);
 - e. Failed to mark each container of hazardous waste with the required words and information in accordance with 49 CFR 172.304, in violation of OAC rule 3745-52-32(B) and Permit Condition B.24(a); and
 - f. Failed to properly operate the Facility in violation of Permit Condition A.9. and OAC rule 3745-50-58(E), when it stored three characteristically hazardous waste containers in two unpermitted storage areas and transported the containers off-site as non-hazardous waste.
14. By letter dated September 15, 2022, Respondent was notified of the violations referenced in Finding No. 13. of these Orders.
 15. On January 18, 2023, Respondent provided Ohio EPA with copies of the bills of lading used to transport the characteristically hazardous waste referenced in Finding No. 11. of these Orders to the receiving facilities. Bill of Lading ZZ00940715 indicated that the containers of ignitable hazardous waste (D001) described in Finding No. 10. of these Orders were transported to a facility not authorized to receive hazardous waste.
 16. Based upon the information referenced in Findings Nos. 10. and 15. of these Orders, the Director has determined that Respondent, inter alia, caused hazardous waste to be transported to a facility that was not authorized to accept hazardous waste, in violation of ORC § 3734.02(F).
 17. On July 13, 2023, Respondent submitted a revised NWAP to include the following: (i.) ensure all containers accepted through the non-hazardous waste program are received in a permitted area; (ii.) Containers of waste will remain in a permitted area unless sampling demonstrates the wastes are non-hazardous; (iii.) All non-conforming containers of waste will remain in a permitted area, through the sampling and resampling process, unless the contents are confirmed to not exhibit characteristics of hazardous waste; (iv.) If any container has

contents that exhibit the characteristics of hazardous waste, the container will be relabeled (consolidated as) hazardous waste and managed in accordance with the hazardous waste rules to prevent mismanagement of wastes received at the Facility from off-site. Based on these revisions, the violations referenced in Findings Nos. 13.b. and 13.f. of these Orders were resolved.

18. The NWAP described in Finding No. 17. of these Orders is approved and all previous NWAPs approved pursuant to the 2019 DFFOs are superseded.
19. Because Ohio EPA observed no evidence of releases from the hazardous waste containers stored in non-permitted areas as described in Findings No. 10. of these Orders and this area is considered a waste management unit which will be subject to corrective action pursuant to Respondent's Permit, the Director has determined that hazardous waste closure of this area in accordance with OAC rules 3745-55-11 through 3745-55-20 is not required at this time.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall implement the NWAP as described in Finding No. 17. of these Orders upon the effective of the Orders.
2. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$16,160.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$16,160. The official check shall be submitted to Ohio EPA, PO Box 77005, Cleveland, Ohio 44194-7005, together with a letter identifying the Respondent. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance Assurance Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

Compliance with the above Orders will resolve all violations referenced in Findings Nos. 13. and 16. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Environmental Response and Revitalization acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a [e.g., corporate officer] who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents (except penalty payment checks) required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Environmental Response and Revitalization
401 East Fifth Street
Dayton, Ohio 45402
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
50 West Town Street
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

For electronic mail delivery, submit documents to the following email addresses:

Mitchell.Mathews@epa.ohio.gov

Randall.Kirkland@epa.ohio.gov

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to performing such corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Anne M Vogel

Anne M. Vogel
Director

IT IS SO AGREED:

Veolia ES Technical Solutions, LLC

James D Harrison

Signature

09-15-2023

Date

JAMES D HARRISON

Printed or Typed Name

GM-OHIO VALLEY

Title



Ohio EPA Invoice

Date Printed: September 25, 2023

Veolia ES Technical Solutions LLC
4301 Infirmiry Rd
West Carrollton, OH 45449

Receivable ID: 1585551
*Please include this Receivable ID with
all correspondence*

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|-----------------|--------------------|
| Due Date: | October 25, 2023 |
| Amount Due: | \$16,160.00 |
| Effective Date: | September 25, 2023 |

Revenue Description: DERR - Findings and Orders - Hazardous Waste Cleanup (FFOHW)

Program Name: RCRA C - Hazardous Waste

Reason: DFFO-Veolia ES Technical Solutions, LLC; Settlement of Ohio EPA civil penalties pursuant to ORC Chapter 3734.

How to Pay Fee Online:

1. Go to Ohio EPA's homepage: <https://epa.ohio.gov/>
2. In the "Featured Content" section locate the tile for the eBusiness Center and click.
3. On the right side of the screen click the blue "Launch" tile to enter the eBusiness Center.
4. To use the eBusiness center you will need an account. If you have an account, click the OH|ID icon in the light blue section on the left of the screen to log in.
5. If you do not have an account, the light blue section on the right of the screen has eBiz Help Wizard to assist with creating an account.
6. If you are paying your receivable with a credit card no PIN is required. If you plan to pay using a bank account and routing information you will need to request a PIN.

CUT OFF THIS STUB AND MAIL IT WITH YOUR CHECK. DO NOT MAIL TOP PORTION.

Pay to: Treasurer, State of Ohio. Please write the Revenue ID on your check. Please send this stub with your check. DO NOT SEND LETTERS OR OTHER FORMS.

Ohio EPA
PO Box 77005
Cleveland, OH 44194-7005

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|-----------------|-------------|
| Due Date: | 10/25/2023 |
| Revenue ID: | 1585551 |
| Amount Due | \$16,160.00 |
| Type Code: | FFOHW |
| Transaction ID: | |