

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. TSCA-05-2025-0016
)	
People's Cooperative Services)	Proceeding to Assess a Civil Penalty
Oronoco, MN,)	Under Section 16(a) of the Toxic
)	Substances Control Act,
)	15 U.S.C. § 2615(a)
Respondent.)	
_____)	

Consent Agreement and Final Order**Preliminary Statement**

1. This is a civil administrative action commenced and concluded pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and Sections 22.1(a)(5), 22.13(b), 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1(a)(5), 22.13(b), and 22.18(b)(2) and (3).

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is People's Cooperative Services (Respondent), an electric cooperative operating under the laws of the State of Minnesota, with a place of business at 1775 Lake Shady Ave S, Oronoco, MN 55960.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the

adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

Statutory and Regulatory Background

9. Section 6(e)(1) of TSCA, 15 U.S.C. § 2605(e)(1), required EPA to promulgate regulations that prescribed methods for the disposal of polychlorinated biphenyls (PCBs), and that required PCBs to be marked with clear and adequate warnings, and instructions with respect to their processing, distribution in commerce, use, or disposal or with respect to any combination of such activities. The Polychlorinated Biphenyls Disposal and Marking regulations were lawfully promulgated pursuant to Section 6(e)(1) of TSCA, 15 U.S.C. § 2605(e)(1), on February 17, 1978 (43 Fed. Reg. 7150). The PCB Manufacturing, Processing, Distribution in Commerce and Use regulations (PCB regulations) were lawfully promulgated on May 31, 1979 (44 Fed. Reg. 31514) and incorporated the disposal and marking regulations. The PCB regulations were subsequently amended and partially re-codified at 40 C.F.R. Part 761.

10. 40 C.F.R. § 761.1(b)(1) states in part that the PCB regulations at 40 C.F.R. Part 761

apply to all persons who use or dispose of PCBs or PCB Items; and that substances regulated by 40 C.F.R. Part 761 include, inter alia, dielectric fluids, oils, waste oils, sludges, slurries, sediments, soils, materials containing PCBs as a result of spills, and other chemical substances or combinations of substances.

11. The PCB regulations define the term “PCB Waste” to include those PCBs and PCB Items that are subject to the disposal requirements of 40 C.F.R. Part 761, Subpart D. 40 C.F.R. § 761.3.

12. The PCB regulations define the term “person” to include any natural or judicial person including any individual, corporation, partnership, or association; any State or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 761.3.

13. The PCB regulations define the term “facility” to mean all contiguous land, and structures, other appurtenances, and improvements on the land, used for the treatment, storage, or disposal of PCB waste. A facility may consist of one or more treatment, storage, or disposal units. 40 C.F.R. § 761.3.

14. The PCB regulations define the term “disposal” to mean to intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB items, including spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items. 40 C.F.R. § 761.3.

15. The PCB regulations define the term “PCB Item” to mean, inter alia, any PCB Article or PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs. 40 C.F.R. § 761.3.

16. The PCB regulations define the term “PCB Article” to mean any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. “PCB Article” includes, inter alia, transformers. 40 C.F.R. § 761.3.

17. The PCB regulations define the term “Generator of PCB waste” to mean any person whose act or process produces PCBs that are subject to the disposal requirements of 40 C.F.R. Part 761, Subpart D, or whose act first causes PCBs or PCB Items to become subject to the disposal requirements of 40 C.F.R. Part 761, Subpart D, or who has physical control over the PCBs when a decision is made that the use of the PCBs has been terminated and therefore is subject to the disposal requirements of 40 C.F.R. Part 761, Subpart D. Unless another provision of this part specifically requires a site-specific meaning, “generator of PCB waste” includes all of the sites of PCB waste generation owned or operated by the person who generates PCB waste. 40 C.F.R. § 761.3.

18. Section 15(1) of TSCA, 15 U.S.C. § 2614(1), states, in part, that it is unlawful for any person to fail or refuse to comply with any requirement of TSCA or any rule promulgated under TSCA.

Factual Allegations and Alleged Violations

19. Respondent is a “person” as defined by 40 C.F.R. § 761.3.

20. Respondent is the “owner” or “operator” of the facility at 1775 Lake Shady Ave S, Oronoco, MN 55960.

21. Respondent generated and shipped offsite for disposal PCBs or PCB Items and is subject to the requirements and prohibitions set forth at 40 C.F.R. Part 761.

22. Respondent is a “generator of PCB waste” as defined by 40 C.F.R. § 761.3.

23. On September 15, 2020, a representative of the Minnesota Pollution Control Agency

(MPCA) inspected the Respondent's Oronoco, MN facility.

24. On March 12, 2024, representatives of the U.S. EPA and MPCA inspected the Respondent's Oronoco, MN facility.

Count 1

25. Complainant incorporates paragraphs 1 through 24 of the CAFO as if set forth in this paragraph.

26. A generator who transfers or offers for transport PCB waste for off-site disposal must prepare a manifest on EPA Form 8700-22 and, if necessary, a continuation sheet, as set forth in 40 C.F.R. § 761.207(a).

27. At the time of the September 15, 2020 inspection, Respondent had previously generated PCB Waste and shipped it off site for disposal.

28. At the September 15, 2020 inspection, the facility had not created, and was unable to provide, manifests for five (5) PCB-contaminated transformers shipped off site on September 10, 2020.

29. Respondent's failures to prepare and provide the manifests constitute violations of 40 C.F.R. § 761.207(a).

Count 2

30. Complainant incorporates paragraphs 1 through 24 of the CAFO as if set forth in this paragraph.

31. For manifests prepared on EPA Form 8700-22, as required by 40 C.F.R. § 761.207(a), the generator must specify, inter alia, for each PCB Transformer: the date of removal from service for disposal and the weight in kilograms of the PCB Waste in each PCB Transformer. 40 C.F.R. § 761.207(a)(2).

32. For manifests prepared on EPA Form 8700-22, as required by 40 C.F.R. § 761.207(a), the generator must specify, inter alia, for each PCB Container and each other PCB Item: the earliest date of removal from service for disposal and the weight in kilograms of the PCB Waste contained therein. 40 C.F.R. § 761.207(a)(5) and (6).

33. At the time of the September 15, 2020 inspection and the March 12, 2024 inspection, Respondent had previously generated PCB Waste and shipped it off site for disposal.

34. Review of documents determined that Respondent did not include all required information on eighteen (18) manifests shipping PCB Transformers, Containers, and other Items. Between December 2020 and February 2024, Respondent failed to specify the individual weights in kilograms of each PCB Waste on eighteen manifests. For seven (7) of those manifests, Respondent failed to specify the date removed from service for disposal of PCB Waste.

35. Respondent's failures to include all necessary information on manifests constitute violations of 40 C.F.R. § 761.207(a)(2), (5), and (6).

Count 3

36. Complainant incorporates paragraphs 1 through 24 of the CAFO as if set forth in this paragraph.

37. Beginning February 5, 1990, each owner or operator of a facility, other than a commercial storer or a disposer of PCB waste, using or storing at any one time at least 45 kilograms (99.4 pounds) of PCBs contained in PCB Container(s), or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors shall develop and maintain at the facility, or a central facility provided they are maintained at that facility, all annual records and the written annual document log of the disposition of PCBs and PCB Items. 40 C.F.R. § 761.180(a).

38. The annual document log shall include, inter alia, the total number by specific type of PCB Articles and the total weight in kilograms of PCBs in PCB Articles, the total number of PCB Article Containers and total weight in kilograms of the contents of PCB Article Containers, the total number of PCB Containers and the total weight in kilograms of the contents of PCB Containers, and the total weight in kilograms of bulk PCB waste that was placed into storage for disposal or disposed during the calendar year. 40 C.F.R. § 761.180(a)(2)(iii).

39. At the time of the March 12, 2024 inspection, Respondent had previously generated PCB Waste and had stored at one time at least 45 kilograms of PCBs contained in PCB Containers, or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors.

40. At the March 12, 2024 inspection, review of documents determined that Respondent failed to record on the annual document log, for years 2020, 2021, and 2022, the total number of PCB Articles and the weight of PCBs in PCB Articles that were removed from service for disposal, and placed in storage, but not yet manifested and disposed of, during the calendar year.

41. Respondent's failures to accurately specify inventory of PCB materials placed into storage for disposal during calendar years 2020, 2021, and 2022 constitute violations of 40 C.F.R. § 761.180(a)(2)(iii).

Count 4

42. Complainant incorporates paragraphs 1 through 24 of the CAFO as if set forth in this paragraph.

43. Except as provided in 40 C.F.R. § 761.65(b)(2), (c)(1), (c)(7), (c)(9), and (c)(10), owners or operators of any facilities used for the storage of PCBs and PCB Items designated for disposal must store PCB Containers in an area that provides a containment volume equal to at

least two times the internal volume of the largest PCB Container or 25 percent of the total internal volume of all PCB containers stored there, whichever is greater, with no drain valves, floor drains, expansion joints, sewer lines, or other openings that would permit liquids to flow from the curbed area. 40 C.F.R. § 761.65(b) and (c).

44. At the time of the March 12, 2024 inspection, Respondent had previously stored and disposed of PCB-contaminated transformers.

45. At the March 12, 2024 inspection, a 55-gallon drum containing oil drained from PCB-contaminated transformers was in an area that did not meet the definition of a permanent storage for disposal area because the drum was stored on a rack without secondary containment, which would permit liquids to flow from the area.

46. Respondent's failure to properly store PCB Waste constitutes a violation of 40 C.F.R. § 761.65(b).

47. On January 23, 2025, U.S. EPA issued a Notice of Potential Violation and Opportunity to Confer to Respondent alleging certain violations of TSCA discovered during the inspection.

48. On February 17, 2025, Respondent submitted to U.S. EPA a written response to the Notice of Potential Violation and Opportunity to Confer.

Civil Penalty

49. Section 16(a) of TSCA, 40 C.F.R. § 761.1(d), and 40 C.F.R. Part 19 authorize the assessment of a civil penalty of up to \$49,772 per day for each violation of TSCA that occurred after November 2, 2015, where penalties were assessed on or after January 8, 2025.

50. Pursuant to Section 16(a)(2) of TSCA, 16 U.S.C. § 2615(a)(2), Complainant determined that an appropriate civil penalty to settle this action is \$14,553.00. In determining

the penalty amount, Complainant took into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. Complainant also considered U.S. EPA's "Polychlorinated Biphenyls (PCB) Penalty Policy," dated April 9, 1990.

51. Respondent agrees to pay a civil penalty in the amount of **\$14,553.00** ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

52. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

53. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, TSCA-05-2025-0016.
- b. Concurrently with any payment or within 24 hours of any payment,

Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Jaime Brown
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
brown.jaime.l@epa.gov and
R5LEcab@epa.gov

Robert Gustafson

Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
gustafson.robert@epa.gov

U.S. Environmental Protection
Agency Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

54. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts. If Respondent

fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

55. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

56. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

57. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

General Provisions

58. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: gustafson.robert@epa.gov (for Complainant), and gstevens@peoplesenergy.coop (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

59. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 1615(a), for the violations alleged in this CAFO.

60. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

61. This CAFO does not affect Respondent's responsibility to comply with TSCA and other applicable federal, state, local laws or permits.

- 62. Respondent certifies that it is complying fully with TSCA and the PCB regulations.
- 63. The terms of this CAFO bind Respondent, its successors, and assigns.
- 64. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
- 65. Each party agrees to bear its own costs and attorney's fees in this action.
- 66. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
People's Cooperative Services, MN
Docket No. TSCA-05-2025-0016

People's Cooperative Services, Respondent

8/14/25
Date


Mike Henke, CEO
People's Cooperative Services

In the Matter of:
People's Cooperative Services, MN
Docket No. TSCA-05-2025-0016

United States Environmental Protection Agency, Complainant

Carolyn Persoon
Acting Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

In the Matter of:
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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5