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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TX
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

United States Department of Veterans Affairs
Overton Brooks VA Medical Center

Consent Agreement and Final Order
USEPA Docket No. RCRA-06-2023-0907

RESPONDENT

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CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, United States Department of Veterans Affairs Overton Brooks VA Medical Center ("Respondent" or "Overton Brooks VA Medical Center") and concerns the Overton Brooks VA Medical Center located at 1510 E Stoner Ave Shreveport, LA 71101 ("Facility").
2. Notice of this action has been given to the State of Louisiana, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).
3. For the purpose of this CAFO, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Respondent explicitly waives any right to contest the allegations or to appeal the proposed final order contained in this CAFO and waives all defenses that have been raised or could have been raised to the claim set forth in the CAFO.

5. The CAFO resolves only those violations which are alleged herein.
6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.

II. JURISDICTION

7. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is the United States Department of Veterans Affairs, a department, agency, or instrumentality of the United States Government doing business in the State of Louisiana. Respondent is the owner and operator of the Overton Brooks VA Medical Center located at 1510 E Stoner Ave Shreveport, LA 71101.

10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and Title 33 of the Louisiana Administrative Code("LAC") LAC 33: V.109 1¹, [40 C.F.R. § 260.10].
11. The Facility is a teaching hospital which provides health care services and conducts medical research.
12. The Overton Brooks VA Medical Center Facility is a "facility" within the meaning of LAC 33: V.109, [40 C.F.R. § 260.10].
13. During the period from January through November 2022, EPA conducted a RCRA record review of the Overton Brooks VA Medical Center Facility's activities as a generator of hazardous waste including a review of the information voluntarily provided to EPA by Respondent (the "Investigation").
14. During the Investigation, EPA discovered that Respondent, at a minimum, generated and offered for transport and treatment, hazardous waste having the:
 - A. Characteristic of Ignitability: D001 (Ignitability); D002 (Corrosivity)
 - B. Characteristic for multiple toxicity waste: D007 (Chromium); D008 (Lead); D009 (Mercury); D010 (Selenium); D011 (Silver); D018 (Benzene); D022 (Chloroform); D024 (m-Cresol); D026 (Cresol); D035 (Methyl ethyl ketone)
 - C. F002; F003; F005

¹ On January 24, 1985, the State of Louisiana received final authorization for its base Hazardous Waste Management Program (50 FR 3348). Subsequent revisions have been made to the Louisiana Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order are to the "EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated November 2015, incorporated by reference under 40 C.F.R. § 272. 951(c)(1)(i) effective on December 26, 2018. 83 Fed. Reg. 66143 (December 26, 2018); 40 C.F.R. 272. 951: Louisiana State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Louisiana's published version. The corresponding C.F.R. citations are also provided.

- D. P001 (Warfarin, & salts, when > 0.3%); P008 (4-Aminopyridine); P012 (Arsenic trioxide); P075 (Nicotine, & salts); P087 (Osmium tetroxide)
 - E. U103 (Dimethyl sulfate); U151 (Mercury)
15. The waste streams identified in Paragraph 14 are "hazardous waste" as defined in LAC 33:V.4901.B &F, and 4903.E, [40 C.F.R. §§ 261.21, 261.22, 261.24, and 261.33].
 16. From the Investigation, EPA determined that during 2018, 2019 and 2020 Overton Brooks VA Medical Center generated hazardous waste streams which are characteristic of Ignitability: and Toxicity: D007 (Chromium), D010 (Selenium), D011 (Silver), D018 (Benzene), D022 (Chloroform), D024 (m-Cresol), D026 (Cresol) and Listed waste: P001 (Warfarin, & salts, when >0.3%), P008 (4-Aminopyridine), P012 (Arsenic trioxide) and P075 (Nicotine, & salts) as identified in Paragraph 14 which were not listed in their notice of registration, pursuant to LAC 33:V.1105.B, [42U.S.C. § 6930(a)], a generator must notify the Office of Environmental Services within seven days if any of the information submitted in the application for the identification number changes.
 17. Respondent is a "generator" of "hazardous waste" as those terms are defined in LAC 33:V.109, [40 C.F.R. § 260.10].
 18. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in Title 33 of LAC Part V, Chapters 1 through 51, [40 C.F.R Part 262 and/or 270].
 19. EPA submitted to Respondent on March 04, 2022, a Notice of Potential Violation and Opportunity to Confer ("Notice"). In a conference call on March 18, 2022, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondents to submit additional information or materials.

Claims i. Notification Requirements

20. The allegations in Paragraphs 1-20 are re-alleged and incorporated herein by reference.
21. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with EPA or the authorized state a notification stating the location and general description of such activity and the identified characteristic or listed hazardous waste handled by such person. No identified characteristic or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless notification has been given as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).
22. Respondent did not file with EPA or Louisiana an adequate and timely notification of its hazardous waste activities at the Overton Brooks VA Medical Center facility during the period from 2018 to 2020 in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claims ii. Failure to Operate within Its Stated Generator Status

23. The allegations in Paragraphs 1-20 are realleged and incorporated herein by reference.
24. During the Investigation, EPA determined that the Overton Brooks VA Medical Center Facility operated as a Very Small Quantity Generator (VSQG) from 2005 until it declared its generator status as a Small Quantity Generator (SQG) in 2019.
25. Pursuant to 40 C.F.R. § 261.5(b), as long as a VSQG complies with the applicable requirement under 40 C.F.R. §§ 261.5 (e), (f), (g) and (j), the generator's hazardous waste is not subject to regulation under 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.

26. During the Investigation, EPA found that Overton Brooks VA Medical Center failed to meet the requirements under 40 C.F.R. § 265.37 for arrangements with local authorities in 2019, 2020, and 2021, in violation of one or more of the requirements for SQGs under LAC 33: V.1109.E, 40 C.F.R. Part 262 through 268 and 270.

IV. COMPLIANCE ORDER

27. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within 60 calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:
28. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the Overton Brooks VA Medical Center Facility and within the prescribed time period and that the appropriate arrangements with local authorities have been made by the facility in compliance with violations referenced herein.
29. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of the certification of compliance required by this CAFO shall be sent to the following:

U.S. EPA, Region 6
1201 Elm Street, Suite 500
Enforcement and Compliance Assurance Division (ECDSR)

ATTN: Sandesh Thapa
Dallas, Texas 75270-2102

Where possible, notice shall be sent electronically by email or facsimile to Enforcement Officer Sandesh Thapa, respectively at thapa.sandesh@epa.gov or at 214-665-2265.

V. TERMS OF SETTLEMENT

A. Penalty Provisions

30. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of forty-five thousand dollars, (\$45,000).
31. The penalty shall be paid within sixty (60) calendar days of the effective date of this CAFO and made payable to the Treasurer United States.
32. The following are Respondent's options for transmitting the penalties: Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail, the check should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (In the Matter of Overton Brooks VA Medical Center, Docket No. RCRA-06-2023-0907 shall be clearly documented on or within the chosen method of payment to ensure proper credit.

33. The Respondent shall send a simultaneous notice of such payment to the following:

U.S. EPA, Region 6
1201 Elm Street, Suite 500
Enforcement and Compliance Assurance Division (ECDSR)
ATTN: Sandesh Thapa
Dallas, Texas 75270-2102

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

34. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
35. Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty

charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent.31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

36. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Full Final Satisfaction

37. This CAFO constitutes a settlement by EPA of all claims for civil penalties for the specific violations alleged in this CAFO. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to specific violations alleged herein, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO. Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 38. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

D. Anti-Deficiency Act

38. Respondent shall seek all existing funds to meet the requirements of the CAFO. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, the applicable regulations thereunder, or with this CAFO.

Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

E. Effective Date of Settlement

39. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

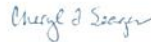
Date: _____

**RICHARD
CROCKETT**

Digitally signed by RICHARD
CROCKETT
Date: 2023.01.24 11:36:20 -06'00'

Overton Brooks VA Medical Center

FOR THE COMPLAINANT:



Digitally signed by Seager, Cheryl
Date: 2023.01.24 16:21:52 -06'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA Region 6

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

THOMAS RUCKI

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government, ou=Environmental
Protection Agency, cn=THOMAS RUCKI,
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Date: 2023.01.25 09:45:08 -05'00'

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

mcdonald.ashley@epa.gov

Copy via Email to Respondent:

Paul.Celi@va.gov

keith.Rogers4@va.gov

Michelle.Degrandi@va.gov

Ms. Lori Jackson
Paralegal