



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUN 17 2014

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Richard Grubb  
Director of Engineering and Operations  
Mountain Electric Cooperative  
604 South Church Street  
Mountain City, Tennessee 37683

Re: Consent Agreement and Final Order - Docket No. TSCA-04-2014-2906(b)  
Mountain Electric Cooperative

Dear Mr. Grubb:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and payment of the civil penalty is to be paid within thirty (30) calendar days of the effective date of the CA/FO.

If you have any questions, please feel free to contact Paula A. Whiting, of my staff, at (404) 562-9277.

Sincerely,

A handwritten signature in blue ink that reads "CÉSAR A. ZAPATA".

César A. Zapata  
Chief, RCRA and OPA Enforcement and  
Compliance Branch  
RCRA Division

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

RECEIVED  
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HEARING CLERK

In the Matter of: )  
)  
Mountain Electric Cooperative )  
604 South Church Street )  
Mountain City, Tennessee 37683 )  
)  
Respondent )  
\_\_\_\_\_ )

Docket No. TSCA-04-2014-2906(b)

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource Conservation and Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Mountain Electric Cooperative.
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has delegated this authority to the Director of the Resource Conservation and Recovery Act (RCRA) Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRA Division has the authority to commence an enforcement Action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondent.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations in 40 C.F.R. Part 761, pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Paula A. Whiting  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960  
(404) 562-9277

## **III. Specific Allegations**

6. Respondent is a user of PCB Items operating in the State of Tennessee and is a “person” as defined in 40 C.F.R. § 761.3.
7. On or about September 21, 2010, an inspection was conducted by a representative of the Tennessee Department of Environmental Control (TDEC) at the Respondent’s facility located at 604 South Church Street, in Mountain City, Tennessee, to determine compliance with the PCB regulations..

8. 40 C.F.R. § 761.180(a)(2) states any facility other than a commercial storer or disposer of PCB waste, that uses or stores at any one time at least 45 kilograms (99.4 lbs) of PCBs contained in PCB container(s), or one or more PCB Transformers, or 50 or more PCB Large High and 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 (ADLs) of the disposition of PCBs and PCB items. During the September 21, 2010, inspection, the inspectors observed that records not available at the time of inspection included annual document logs (ADLs), certificates of destruction (CDs), PCB storage area monthly inspection logs, in/out log for the bulk waste oil tank, and the Spill Prevention Control and Countermeasure plan (SPCC). Therefore, the Respondent violated 40 C.F.R. § 761.180(a)(2).
9. 40 C.F.R. § 761.205(f) states when a facility has previously notified the EPA of its PCB waste handling activities using EPA Form 7710-53 and those activities change, the facility must resubmit EPA Form 7710-53 to reflect those changes no later than 30 days from when a change is made. Examples of when a PCB waste handler must re-notify the Agency include, but are not limited to the following: the company changes location of the facility; or the company had notified solely as engaging in a certain type of PCB waste handling activity and now wishes to engage in another PCB waste activity (e.g., previously only commercially stored PCB waste and now wishes to transport PCB waste). During the September 21, 2010, inspection, the inspectors observed that a Notification of PCB activity was submitted to the EPA in 1990 for the facility location of 604 South Church Street in Mountain City, TN. However, the facility's PCB Storage for Disposal area is located within Respondent's warehouse at 1130 South Shady Street, and a notification was not provided for this area. Therefore, the Respondent violated 40 C.F.R. § 761.205(f).

#### **IV. Consent Agreement**

10. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
11. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the

proposed final order accompanying the consent agreement.

12. For the purposes of achieving a resolution by settlement, Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
13. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of the PCB regulations at 40 C.F.R. Part 761.
14. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
15. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

#### **V. Final Order**

16. Respondent is assessed a civil penalty of SEVEN THOUSAND TWO HUNDRED THIRTY-FOUR DOLLARS (\$7,234.00), which shall be paid within 30 days from the effective date of this CAFO.
17. Respondent shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondent shall send the check to the following address:

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

**The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

For payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1818

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 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."**

18. At the time of payment, Respondent shall send a written statement that the payment has been made in accordance with this CAFO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer) to each of the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960;

Paula A. Whiting  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

and

Saundi Wilson  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

19. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
20. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
21. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
22. This CAFO shall be binding upon the Respondent, its successors and assigns.
23. Each undersigned representative of the parties y to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

24. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional

Hearing Clerk.

**AGREED AND CONSENTED TO:**

**Respondent:** Mountain Electric Cooperative  
**Docket No.:** TSCA-04-2014-2906(b)

By: Joseph A. Thacker III (Signature) Date: 5/1/2014

v Name: Joseph A. Thacker, III (Typed or Printed)

Title: General Manager (Typed or Printed)

**Complainant:** U.S. Environmental Protection Agency

By: G. Alan Farmer (Signature) Date: 5/21/14  
G. Alan Farmer, Director  
RCRA Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 17 day of June, 2014.

By: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Mountain Electric Cooperative Docket Number: TSCA-04-2014-2906(b) to the addressees listed below.

via Certified Mail, Return Receipt Requested

Mr. Richard Grubb  
Director of Engineering and Operations  
Mountain Electric Cooperative  
604 South Church Street  
Mountain City, Tennessee 37683

via EPA's internal mail

Robert Caplan  
Senior Attorney  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

via EPA's internal mail

Tammye Cross  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

Date:

6-19-14



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303