



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUL 05 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Joe Avant, Director
Department of Occupational Safety and Health Programs
Medical University of South Carolina
P.O. Box 250818
Charleston, South Carolina 29425

RE: Medical University of South Carolina (EPA ID#: SCD 069 316 271)
Consent Agreement and Final Order
Docket No.: TSCA-04-2012-2908(b)

Dear Mr. Avant:

Enclosed please find a copy of the Consent Agreement and Final Order (CAFO) in the above-referenced matter resulting from settlement discussions between EPA and the Medical University of South Carolina. Please have the CAFO signed where indicated and return the **original signed** document to EPA within fifteen (15) days to the following person:

Javier Garcia, Environmental Engineer
ROECB-RCRA Division
U.S. EPA
AFC - Tower Building - 10th floor
61 Forsyth Street
Atlanta, GA 30303

Upon our receipt of the CAFO, EPA's RCRA Division Director will sign it and forward it to the Regional Judicial Officer for approval. Upon final approval, the Regional Hearing Clerk will file the CAFO and mail you a copy. The CAFO will become effective on the date it is filed with the Regional Hearing Clerk, and the penalty due date is calculated from that time.

If you have any questions, please feel free to contact Mr. Garcia, of my staff, at (404) 562-8616. Legal questions should be directed to Robert Caplan, EPA Senior Attorney, at (404) 562-9520.

Sincerely,

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

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Medical University of South Carolina)
19 Hagood Avenue, Room 908)
Charleston, South Carolina 29425)
)
EPA ID#: SCD 069 316 271)
)
Respondent.)
_____)

Docket No. TSCA-04-2012-2908(b)

RECEIVED
EPA REGION IV
2012 JUL -5 AM 10:46
HEARING CLERK

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 Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is the Medical University of South Carolina in Charleston, South Carolina.

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 redelegated 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 Respondents.

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. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, 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 \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and 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 EPA in this proceeding:

Javier García
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
(404) 562-8616

III. Specific Allegations

6. Respondent is a Generator of PCB Waste operating in the State of South Carolina and is a "person" as defined in 40 C.F.R. § 761.3.

7. On March 9, 2011, EPA conducted an inspection at Respondent's facility in Charleston, South Carolina, to determine compliance with the PCB regulations.

8. During the inspection, EPA observed that Respondent had generated and stored PCB containing ballasts and PCB waste from research activities.

9. A review of the EPA's database for PCB handlers indicated that MUSC failed to complete and file EPA Form 7710-53 with the EPA by April 4, 1990. MUSC filed EPA Form 7710-53 with the EPA on or about March 16, 2011.

10. Pursuant to 40 C.F.R. § 761.205(b), generators, commercial storers, transporters, and disposers of PCB waste who have previously notified the EPA or a State of hazardous waste activities under RCRA, shall notify EPA of their PCB waste activities under 40 C.F.R. Part 761, by filing EPA Form 7710-53 with the EPA by no later than April 4, 1990.

11. Based on the inspection, the EPA has determined that MUSC has violated Section 15 of TSCA, 15 U.S.C. § 2614 and 40 C.F.R. § 761.205(b) as a result of its failure to notify EPA of its PCB waste activities regulated under 40 C.F.R Part 761.

IV. Consent Agreement

12. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
13. 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.
14. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
15. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
16. 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.
17. 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

18. Respondent is assessed a civil penalty of FOUR THOUSAND – ONE HUNDRED-NINETY TWO DOLLARS (\$4,192), which shall be paid within 30 days from the effective date of this CAFO.
19. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America." Payment made through the U.S. Postal Service shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 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. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson (314) 418-4087

20. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, 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;

Javier García
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960;

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960.

21. 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.

22. 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.

23. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

24. This CAFO shall be binding upon the Respondent, its successors and assigns.

25. Each undersigned representative of the parties 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.

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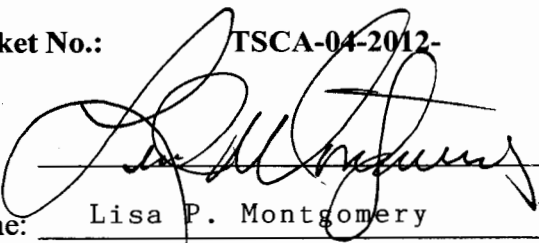
VI. Effective Date

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

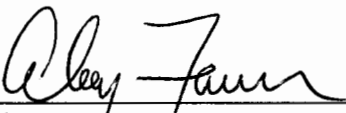
AGREED AND CONSENTED TO:

Respondent: Medical University of South Carolina
EPA ID#: SCD 069 316 271

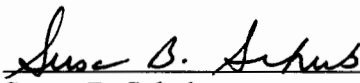
Docket No.: TSCA-04-2012-

By:  (Signature) Date: June 19, 2012
Name: Lisa P. Montgomery (Typed or Printed)
Title: Executive VP for Finance & Operations (Typed or Printed)

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


By:  Date: 6/28/12
G. Alan Farmer
Director
RCRA Division
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 2nd day of July, 2012.

By: 
Susan B. Schub
Regional Judicial Officer

**OFFICE OF THE
GENERAL COUNSEL
MUSC/MUHA**

- APPROVED AS TO FORM -

By: 
Date: 6/19/12

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Medical University of South Carolina, Docket Number: TSCA-04-2012-2908(b), to the addressees listed below.

Wayne Brannan, Director
University Risk Management
Medical University of South Carolina
MSC 184
Charleston, South Carolina 29425

(via Certified Mail, Return Requested)

Javier Garcia
RCRA and OPA Enforcement and
Compliance Branch
U.S. EPA - Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

(via the EPA internal mail)

Quatindra Smith
RCRA and OPA Enforcement and
Compliance Branch
U.S. EPA - Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

(via the EPA internal mail)

Robert Caplan
Senior Attorney
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(via the EPA internal mail)

Date: 7-5-12



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9686