

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for William D. Chin 6/28/13
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2012-0078

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Springfield Housing Authority
25 Saab Court
Springfield, MA 01104

Total Dollar Amount of Receivable \$ 5,500 Due Date: 7/28/13

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1ST \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of:)
)
Springfield Housing Authority)
25 Saab Court)
Springfield, Massachusetts 01104)
)
Respondent)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
15 U.S.C. § 2615(a).)
)

Docket No.
TSCA-01-2012-0078

CONSENT AGREEMENT
AND FINAL ORDER

REGIONAL HEARING CLERK
EPA OFFICE

2013 JUN 28 AM 10:09

RECEIVED

CONSENT AGREEMENT

Introduction

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), and in accordance with 40 C.F.R. § 22.18 of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules of Practice”). This CAFO is entered into concurrent with a parallel agreement between Respondent and the U.S. Department of Housing and Urban Development (“HUD”).

2. Complainant, the United States Environmental Protection Agency (“EPA”), Region 1, initiated this proceeding against Respondent, the Springfield Housing Authority (“SHA”) by issuing a Complaint and Notice of Opportunity for Hearing (“Complaint”), pursuant to Section 16(a) of TSCA on August 9, 2012.

3. The complete factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint.

Definitions

4. Unless otherwise expressly provided herein, terms used in the text of this CAFO have the same meaning as 42 U.S.C. § 4851b, Section 1018, and the regulations at 24 C.F.R. Part 35. Whenever the terms listed below are used in this CAFO the following definitions apply:

“Clearance Examination” shall mean an activity conducted after Lead-Based Paint abatement activities, pursuant to Chapter 15 of the HUD Guidelines, have been performed to determine that the Lead-Based Paint abatement activities are complete and that no settled dust-lead hazards exist in the dwelling unit, soil, or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples. The appropriate clearance standards shall be the more restrictive of those set by the jurisdiction where the property is located or by Section 403 of the Toxic Substances Control Act (“TSCA”) and its implementing regulations, 40 C.F.R. §§ 745.227(e)(8)-(9).

“Day” shall mean a calendar day. In computing any period of time under this CAFO, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the date this CAFO is filed with the Regional Hearing Clerk.

“Elevated Blood-Lead Level” shall mean a blood-lead concentration equal to or greater than ten (10) micrograms per deciliter ($\mu\text{g}/\text{dl}$) as measured through a venous blood lead test.

“HUD Guidelines” shall mean the edition of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing in effect on the day the work required in the Supplemental Environmental Project (“SEP”) Scope of Work (Attachment #1, hereinafter referred to as “Scope of Work”) of this CAFO is conducted, pursuant to this CAFO.

“Interest” shall mean interest pursuant to 28 U.S.C. § 1961.

“Lead Abatement Supervisor” shall mean any Lead Abatement Supervisor, Licensed Project Planner/Designer or equivalent licensed by EPA or an authorized state to perform lead abatement and mitigation, and supervise lead abatement workers who perform lead abatement and mitigation as defined in 40 C.F.R. § 745.226 or the applicable state law and/or regulations.

“Lead-Based Paint” shall mean paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5 percent by weight. If housing subject to this CAFO is located in a jurisdiction with a more stringent definition of Lead-Based Paint or safety standard, “Lead-Based Paint,” as used herein, shall mean paint or other surface coatings that meet the more stringent standard.

“Lead-Based Paint Free” shall mean housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5 percent by weight. If housing subject to this Agreement is located in a jurisdiction with a more stringent definition of Lead-Based Paint or safety

standard, "Lead-Based Paint Free," as used herein, shall mean housing that meets the more stringent standard.

"Month" shall mean thirty (30) consecutive days.

"Paragraph" shall mean a portion of this CAFO identified by an Arabic numeral or an upper or lower case letter.

"Respondent" shall mean Springfield Housing Authority.

"Section" shall mean a portion of this CAFO identified by a roman numeral.

"Section 1018" shall mean Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d.

"Subject Property/ies" shall mean the property/ies listed as the "Subject Properties" in the Scope of Work (Attachment #1) of this CAFO.

"Submit" shall mean to dispatch via first class United States mail or other delivery service of demonstrated reliability and equivalent or better speed.

"Year of First Construction" shall mean the year the first building on the property was constructed if the Subject Property has multiple buildings with different years of construction.

Terms of Settlement

5. The provisions of this CAFO shall apply to and be binding on Respondent, its officers, directors, successors and assigns.

6. Respondent agrees that EPA has jurisdiction over the subject matter alleged in this CAFO, and hereby waives any defenses it might have as to jurisdiction and venue.

7. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding, and hereby waives the right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

8. Respondent hereby waives its right to appeal the Final Order accompanying this Consent Agreement.

9. Without admitting or denying the specific factual allegations contained in the Complaint, Respondent consents to the terms and issuance of this CAFO, including the performance of the Supplemental Environmental Project ("SEP") described herein, and consents for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

10. Respondent certifies by the signing of this CAFO that it is presently in compliance with Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Lead Act"), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled "Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property" (the "Disclosure Rule"), as set forth at 40 C.F.R. Part 745, Subpart F.

11. No later than November 15, 2013, Respondent shall Submit to EPA and HUD copies of two (2) leases or lease renewals and associated lead disclosure forms that Respondent has entered into since May 1, 2013, for each pre-1978 residential property/development that Respondent owns and/or manages that is subject to the Disclosure Rule and has not been certified as Lead-Based Paint Free. Respondent shall Submit the copies of the leases and associated lead disclosure forms required by this CAFO in accordance with the provisions set forth in Paragraph 26 below. If by

November 15, 2013, Respondent has not entered into at least two leases or lease renewals since May 1, 2013, for each such property/development, Respondent shall Submit a written notification to EPA and HUD specifically stating so and if applicable, a copy of the one such lease or lease renewal and associated lead disclosure form. The notification shall include the certification language provided in Paragraph 27 of the CAFO. If Respondent's notification is deemed adequate by EPA and HUD, Respondent shall not be required to Submit any further copies of leases or lease renewals and associated lead disclosure forms for the particular property/development.

12. After consideration of the nature of the violations alleged in this CAFO, Respondent's agreement to perform the SEP described herein, and other relevant factors, Complainant has determined that it is fair and proper that Respondent pay a civil penalty in the amount of \$5,500 in settlement of this matter. Respondent will also pay a civil penalty in the amount of \$5,500 to HUD in settlement of this matter under HUD's parallel settlement agreement.

Penalty Payment

13. Respondent shall pay the civil penalty set forth in this CAFO, \$5,500, no later than thirty (30) days after the Effective Date of this CAFO.

14. This CAFO shall be effective on the date it is filed with the Regional Hearing Clerk.

15. Respondent shall make the penalty payment by Submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall note the case name ("In the Matter of: Springfield Housing Authority") and the docket number ("TSCA-01-2012-0078") of this action on the payment check and in an accompanying cover letter, and shall provide copies of the check and the cover letter to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

and

William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912

16. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on the civil penalty if it is not paid as set forth in this CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will also be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six percent per year

compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after final payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day that payment is due.

17. The civil penalty set forth in this CAFO, and any interest, non-payment penalties, and/or other charges assessed in this matter shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

Description of SEP

18. Respondent shall complete the following SEP, which the parties agree is intended to secure significant environmental protection and improvements.

19. To address Lead-Based Paint at its properties, Respondent shall perform four Lead-Based Paint abatement (removal/replacement) projects at its properties, in accordance with the provisions of this CAFO. The SEP is further described in the scope of work ("Scope of Work" or "SOW"), attached hereto as Attachment #1, which is incorporated herein by reference and enforceable under this CAFO.

20. The SEP shall be completed no later than June 30, 2015. Respondent shall complete all of the work outlined in the Scope of Work (Attachment #1) and shall spend at least \$49,500 to complete the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report, as described in the Scope of Work (Attachment #1).

21. Respondent certifies that it is not a party to any open federal or state financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after

reasonable inquiry, there is no such open federal or state financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal or state financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal or state financial assistance transaction" refers to a grant, cooperative agreement, loan, federally or state-guaranteed loan guarantee or other mechanism for providing federal or state financial assistance whose performance period has not yet expired. Respondent also certifies that it will not apply in the future for any federal or state grant, cooperative agreement, loan, federally- or state-guaranteed loan guarantee or other mechanism for providing federal or state assistance to fund the same activity as the SEP.

22. Respondent certifies that, as of the date of its execution of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement or grant (except for the HUD parallel agreement), as injunctive relief in this or any other action, or to comply with any state or local requirement (including any lead abatement order). Respondent also certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP (except for the HUD parallel agreement).

SEP Reports – Periodic and Completion

23. Respondent shall Submit SEP Periodic Reports describing the progress of the SEP as set forth specifically in the Scope of Work (Attachment #1).

24. Respondent shall Submit a SEP Completion Report as set forth specifically in the Scope of Work (Attachment #1).

25. Respondent agrees that failure to Submit any of the SEP Reports required by this CAFO shall be deemed a violation of this CAFO, and Respondent shall become liable for stipulated penalties as described below in Paragraph 32.

26. Respondent shall Submit, by first class mail or overnight delivery, the SEP Reports required by this CAFO to:

Molly Magoon
Environmental Protection Specialist
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: OES05-4
Boston, MA 02109-3912

William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square – Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912

and

Robert F. Weisberg
Director, Lead Programs Enforcement Division
U.S. Department of Housing and Urban Development
Office of Healthy Homes and Lead Hazard Control
451 7th Street, SW Room 8236
Washington, DC 20410

The date of submission of each required SEP Report shall be deemed the date on which such information is postmarked by the U.S. Postal Service, or delivered to an overnight delivery carrier.

27. Respondent shall maintain legible copies of documentation of the relevant and pertinent supporting evidence for any and all SEP Reports submitted to Complainant

pursuant to this CAFO for five (5) years following such submission, and Respondent shall provide documentation to Complainant within ten (10) business days of receipt of a request for such information. In all documents or reports submitted to Complainant pursuant to this CAFO, Respondent shall, by and through an authorized official, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

28. Following receipt of any SEP Report required by this CAFO, Complainant, in cooperation with HUD, will do one of the following: (i) accept the SEP Report; or (ii) reject the SEP Report, notify Respondent, in writing, of deficiencies in the SEP Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies.

29. If Complainant, in cooperation with HUD, elects to exercise option (ii) above, Complainant shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. Complainant and Respondent shall have an additional thirty (30) days from the receipt by Complainant of the notification of objection to reach an agreement on the issues in dispute. If agreement cannot be reached on any such issue within this thirty (30) day period, Complainant shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by Complainant as a result of any such deficiency or failure to comply with the terms of this

CAFO. In the event the SEP is not completed as contemplated herein, stipulated penalties shall be due and payable by Respondent to the United States in accordance with Paragraph 32 below.

30. HUD, EPA and their representatives, contractors, consultants, and attorneys shall have the right of entry into and upon offices of Respondent where lead disclosure forms and/or Lead-Based Paint records or reports are kept, and all Subject Properties owned or controlled by Respondent, at all reasonable times, upon proper presentation of credentials, for the purposes of:

- a. Monitoring the progress of activities required by this CAFO;
- b. Verifying any data or information required to be submitted pursuant to this CAFO;
- c. Obtaining samples and, upon request, splits of any samples taken by Respondent or its consultants (upon request, Respondent will be provided with splits of all samples taken by HUD or EPA); and
- d. Otherwise assessing Respondent's compliance with this CAFO.

31. This CAFO in no way limits or affects any right of entry and inspection held by the United States, HUD, EPA, any State in which the property is located, or any city in which the property is located pursuant to applicable Federal, state or local laws, regulations, or permits.

Stipulated Penalties

32. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO, including the submission of the requested copies of leases and associated lead paint disclosure forms, the payment of the penalty, the performance of the

SEP, the filing of any SEP Report, and to the extent that the actual expenditures for the SEP do not equal or exceed the expected cost of the SEP, Respondent shall be liable for stipulated penalties in accordance with the provisions set forth below:

a. If Respondent fails to pay the penalty in accordance with Paragraph 13 above, Respondent shall pay a stipulated penalty to the United States of \$400 per day for each day that the penalty is deemed unpaid or late.

b. If Respondent fails to Submit the copies of recent leases and associated lead disclosure forms as required by Paragraph 11 above, Respondent shall pay a stipulated penalty to the United States of \$200 per day for each day until the copies are Submitted or for each day any lead disclosure form is deemed inadequate.

c. If Respondent fails to complete any Lead-Based Paint abatement work or any clearance examinations, or to conduct O&M as described in the Scope of Work (Attachment #1) and in accordance with the deadlines set forth in this CAFO and the Scope of Work (Attachment #1), Respondent shall pay a stipulated penalty to the United States of \$400 per day per violation per each unit/area until the Lead-Based Paint abatement work, clearance examinations, and/or O&M is completed. If any Lead-Based Paint abatement work fails because of Respondent's failure to follow the Abatement Plan or HUD Guidelines as described in the Scope of Work (Attachment #1), the Subject Property/ies shall not be considered abated or treated in accordance with this CAFO and stipulated penalties shall accrue.

d. If the SEP is satisfactorily completed, but Respondent spent less than the amount of money originally required to be spent for the SEP (in other words, less than \$49,500), Respondent shall pay a stipulated penalty to the United States in the amount of

one dollar for each dollar less than the amount of money originally required to be spent for the SEP, plus interest accrued from the Effective Date of this CAFO.

e. If Respondent fails to Submit any information or report (including, but not limited to, the Abatement Plan, the O&M Plan, any Clearance Report, and any SEP Report) to the United States in accordance with the requirements and/or deadlines set forth in this CAFO and the Scope Of Work (Attachment #1), Respondent shall pay a stipulated penalty to the United States of \$200 per day for each day each submission is deemed inadequate or late.

33. The determination of whether the SEP or any SEP Report has been satisfactorily and/or timely completed or submitted shall be in the sole discretion of EPA and HUD.

34. Stipulated penalties shall accrue until such time as the original penalty, any Interest, and all accrued stipulated penalties are paid. Stipulated penalties shall accrue regardless of whether EPA or HUD has notified Respondent of the violation or made a demand for payment, but need only be paid upon demand. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this CAFO. Stipulated penalties and any interest due will be divided equally between EPA and HUD.

35. Respondent shall pay stipulated penalties plus any interest thereon within fifteen (15) days of receipt of written demand by Complainant for such penalties. The method of payment of stipulated penalties to EPA shall be in accordance with the provisions of Paragraph 15 herein. Payment of stipulated penalties to HUD shall be by certified or cashier's check payable to "Department of Housing and Urban Development." The certified or cashier's check shall be accompanied by a cover letter

identifying this CAFO and stating that payment is being made pursuant to this CAFO.

The cover letter and check shall be sent to the following address:

Bank of America
P.O. Box 198603
Atlanta, Georgia 30384

“Lead-Based Paint Disclosure Enforcement” should be clearly typed on the check.

Respondent’s adherence to this request will ensure proper credit is given when penalties are received. Electronic payments of penalties to HUD may also be made directly to the U.S. Treasury to HUD’s account as follows:

ABA routing number: 02103004
Receiver name: TREAS NYC
Account number: 86010300
Purpose: Lead-Based Paint Disclosure Enforcement

Respondent shall also send simultaneous notice of such payment, including a copy of the certified, cashier’s check or electronic payment to:

Director, Compliance Assistance and Enforcement Division
Office of Healthy Homes and Lead Hazard Control
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W., Room 8236
Washington, D.C. 20410-3000

Interest and late charges shall accrue and be paid as stated in Paragraph 16 herein.

Complainant may, in its sole discretion, elect not to seek stipulated penalties or to waive any portion of stipulated penalties that accrue pursuant to this CAFO.

Additional Provisions

36. Compliance with this CAFO, including payment of any penalties, interest, and/or other charges, shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and does not waive,

suspend, or modify the responsibility of Respondent to comply with such laws and regulations.

37. This CAFO constitutes a settlement by EPA of, and resolves Respondent's liability for Federal civil penalties pursuant to Section 16 of TSCA for, the violations alleged in the Complaint. Nothing in this CAFO shall prevent EPA from taking any necessary action to address conditions at Respondent's facility/facilities that may present an imminent and substantial endangerment to public health or the environment. Nor shall this CAFO be construed to, nor is it intended to operate in any way to, resolve any criminal liability or any other civil liability of Respondent.

38. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA or HUD to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

39. Any public statement, oral or written, in print, film, or other media, made by a representative of Respondent acting in his or her official capacity, on his, her or Respondent's initiative, making reference to the work performed, shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Department of Housing and Urban Development and the U.S. Environmental Protection Agency for violations of the Residential Lead-Based Paint Hazard Reduction Act, the Toxics Substances Control Act, and the Lead Disclosure Rule."

40. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of Federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any Federal, state or local permit.

41. If any event occurs which causes or may cause delays in the completion of the Lead-Based Paint abatement work detailed above or in the Scope Of Work (Attachment #1), Respondent shall notify EPA and HUD in writing not more than ten (10) business days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this Paragraph shall render this Paragraph void and of no effect as to the particular incident involved and constitute a waiver of Respondent's right to request an extension of their obligation under this CAFO based on such incident.

42. If the parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of the Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

43. In the event that EPA and HUD, in cooperation, do not agree that a delay in achieving compliance with the requirements of this CAFO has been or will be caused by circumstances beyond the control of Respondent, EPA and HUD will notify Respondent

in writing of their decision and any delays in the completion of the Lead-Based Paint abatement work shall not be excused.

44. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be a basis for changes in this CAFO or extensions of time. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

45. Except as described above in Paragraph 16, each party shall bear its own costs and fees in this proceeding, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

46. Each undersigned representative of a party to this CAFO certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to it.

THE UNDERSIGNED PARTIES enters into this CAFO for: *In the Matter of: Springfield Housing Authority*, Docket No. TSCA-01-2012-0078.

FOR SPRINGFIELD HOUSING AUTHORITY:



Name: William H. Abrashkin
Title: Executive Director
Springfield Housing Authority

June 24, 2013
Date

FOR U.S. EPA, REGION 1:

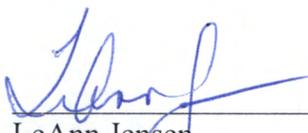


Joanna Jerison
Legal Enforcement Office Manager
Office of Environmental Stewardship
U.S. EPA, Region 1

6/20/13
Date

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

6/27/13

Date

**ATTACHMENT #1 to Consent Agreement and Final Order (“CAFO”)
In the Matter of: Springfield Housing Authority
Docket No.: TSCA-01-2012-0078**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT (“SEP”)
SCOPE OF WORK (“SOW”)**

Subject Properties:

- Moxon Apartments – 22-66 Healy Street and 29-53 Moxon Street, Springfield, MA.
- Robinson Garden Apartments – 57 Robert Dyer Circle and 40 William Sands Road, Springfield, MA.
- John J. Duggan Park Apartments – 2, 4, 10, 12, 27, 29, 31, 33, 36, and 38 Arthur Picard Circle; 399-517 Goodwin Street; 9-135 Layzon Bros. Road; and 30, 32, 34, 36, 48, 50, 52, and 54 Rodney Smith Jr. Circle, Springfield, MA.
- Ashley-Gerrish Apartments – 100 Ashley Street and 2,4 and 6 Gerrish Court, Springfield, MA.

Description of SEP:

For its Supplemental Environmental Project (“SEP”), Respondent, the Springfield Housing Authority, shall complete the four Lead-Based Paint abatement projects identified below and shall spend at least \$49,500 to perform the four Lead-Based Paint abatement projects identified below that require the removal and replacement of certain interior and exterior building components at the Subject Properties. The work will eliminate Lead-Based Paint (“LBP”) on these components that were identified during inspections that were performed by Respondent on its properties from November 2012 to April 2013. Respondent shall complete the SEP within 24 months of the Effective Date of the Consent Agreement and Final Order (“CAFO”). The four projects that Respondent is required to perform are:

- Removal and replacement of wooden bathtub trim in approximately 40 apartment units at the Moxon Apartments, located at 22-66 Healy Street and 29-53 Moxon Street, Springfield, MA;
- Removal and replacement of the wood basement stair system at 57 Robert Dyer Circle, and the wood basement walls at 40 William Sands Rd., (Robinson Gardens Apartments, Springfield, MA);
- Removal and replacement of eight steel exterior columns of the Type E buildings at the John J. Duggan Park Apartments, located at 2, 4, 10, 12, 27, 29, 31, 33, 36, and 38 Arthur Picard Circle, 399-517 Goodwin Street, 9-135 Layzon Bros. Road, and 30, 32, 34, 36, 48, 50, 52, and 54 Rodney Smith Jr. Circle, Springfield, MA; and
- Removal and replacement of approximately 18 basement windows/frames at the Ashley-Gerrish Apartments, located at 100 Ashley Street and 2-6 Gerrish Court, Springfield, MA.

Standard of Care:

- A. The SEP shall be performed in accordance with the HUD Guidelines, Chapter 12, the requirements set forth in the CAFO, the Lead Safe Housing Rule (24 C.F.R. Part 35, subparts B, L, and R) and any applicable Massachusetts laws and regulations, including the Massachusetts Lead Poisoning Prevention and Control Regulations (105 C.M.R. 460 *et seq.*).
- B. Abatement Plan: No later than four (4) Months after the Effective Date of this CAFO, Respondent shall provide copies to HUD and EPA of a plan for Lead-Based Paint Abatement (“Abatement Plan”) for the four Subject Properties described in the SEP. The Abatement Plan shall be prepared by a certified Lead Abatement Supervisor and shall include the list of property addresses to be abated, information about the components to be abated, the method of abatement chosen, and the names of certified abatement contractors who will perform the required Lead-Based Paint abatement work. The Abatement Plan shall be prepared to ensure that Lead-Based Paint Abatement activities required by the SEP are conducted in accordance with Chapter 12 of the HUD Guidelines and any applicable Massachusetts laws and regulations. The Abatement Plan shall include specifications as provided in the HUD Guidelines, Appendix 7.3, Lead-Based Paint Abatement Specification, or the equivalent. After review of the Abatement Plan, HUD shall, in writing: (a) approve, in whole or in part, the submission; (b) approve the submission with modifications; or (c) disapprove, in whole or in part, the submission, directing Respondent to resubmit the document after modification to address HUD’s and EPA’s comments. If HUD disapproves of or requires revisions to the Abatement Plan, in whole or in part, Respondent shall amend and submit to HUD and EPA a revised Abatement Plan which is responsive to the directions in HUD’s and EPA’s comments, within fifteen (15) days of receiving such comments. The Abatement Plan must be approved by HUD before any work is performed at the Subject Properties.
- C. O&M Plan: No later than sixty days after approval of the Abatement Plan, Respondent shall submit to HUD and EPA a plan for ongoing operations and maintenance (“O&M Plan”), including ongoing monitoring for all Subject Properties that are not Lead-Based Paint Free. After review of the O&M Plan, HUD shall, in writing: (a) approve, in whole or in part, the submission; (b) approve the submission with modifications; or (c) disapprove, in whole or in part, the submission, directing Respondent to resubmit the document after modification to address HUD’s and EPA’s comments. If HUD disapproves of or requires revisions to the O&M Plan, in whole or in part, Respondent shall amend and resubmit to HUD and EPA a revised O&M Plan which is responsive to the directions in HUD’s and EPA’s comments, within fifteen (15) days of receiving such comments. The O&M Plan shall be prepared in accordance with Chapters 6 and 11 of the HUD Guidelines and any applicable Massachusetts laws and regulations.
- D. Worksite preparation: Worksite preparation and occupant protection shall be in accordance with Chapter 8 of the HUD Guidelines and any applicable Massachusetts laws and regulations.
- E. Daily and final cleanups: Daily and final cleanups shall be in accordance with Chapter 14 of the HUD Guidelines and any applicable Massachusetts laws and regulations.
- F. Clearance Examination: Clearance Examination must be completed by a certified Lead-Based Paint risk assessor in each building upon completion of final cleanup in

accordance with Chapter 15 of the HUD Guidelines, TSCA Section 403, 15 U.S.C. § 2683, and 40 CFR §§ 745.227(e)(8) and (9). Respondent shall submit the clearance examination report ("Clearance Report") to HUD and EPA within fifteen (15) days of the receipt of the Clearance Report. The Clearance Report shall contain all results of dust samples analyzed at an EPA-accredited laboratory and the results of a visual assessment of work areas and Lead-Based Paint abatement work performed. If the results indicate that clearance is not achieved, Respondent shall repeat the cleaning procedures identified in Paragraph E, above, and repeat dust clearance sampling within five (5) days of the failed Clearance Examination, and repeat this procedure until clearance has been attained. All additional Clearance Reports shall be submitted as described above.

- G. In each of the two (2) years of the SEP, Respondent shall make substantial and reasonable progress on the Lead-Based Paint abatement work agreed to in this CAFO and shall detail the progress made in the SEP Periodic Reports required below. The Parties agree that substantial and reasonable progress shall mean completion of at least 50% of the total inventory of units in the first year, and the remaining (50%) in the second year.
- H. The timelines in this CAFO shall not apply where Respondent has been notified by a governmental entity or become aware of a unit where a child with an Elevated Blood-Lead Level resides or is a regular visitor (i.e., visits at least two (2) different days within any week for at least three (3) hours on each day, and the combined annual visits last at least sixty (60) hours). Respondent shall comply with such notice(s) including the timelines set forth in the notice(s). Additionally, Respondent shall perform all work under the SEP for that property within five (5) Months of notification or becoming aware. If exteriors and common areas are required to be treated by any governmental entity, Respondent shall also treat those areas within five (5) Months of notification or becoming aware.
- I. Ongoing operations and maintenance ("O&M") in all Subject Properties that are not certified "Lead-Based Paint Free" shall be implemented at the completion of any abatement activity, and shall be in accordance with Chapters 6 and 11 of the HUD Guidelines and the O&M Plan. During reevaluations, Respondent shall ensure that all abated areas are still intact and the abatement methods have not failed. If any Lead-Based Paint Abatement has failed, Respondent shall repair the area in accordance with Chapter 12 of the HUD Guidelines and any applicable Massachusetts laws and regulations, and perform a Clearance Examination within one (1) Month of discovery of the failure. If dust hazards are discovered as part of ongoing reevaluations, Respondent shall address them according to Chapter 11 of the HUD Guidelines and any applicable Massachusetts laws and regulations.

Qualifications to Conduct Lead-Based Paint Work:

- A. All Lead-Based Paint abatement work, and Lead-Based Paint Clearance Examinations performed under this SEP shall be consistent with the HUD Guidelines and any applicable Massachusetts laws and regulations, and conducted by individuals authorized to perform the work in accordance with the laws of the jurisdiction where the property is located.
- B. Respondent shall ensure that Clearance Examinations are conducted by individuals and/or business entities independent of those conducting the SEP work, which is being evaluated by the Clearance Examination.

- C. Respondent shall ensure that Lead-Based Paint inspections are done by individuals and/or business entities independent of those performing Lead-Based Paint abatement work on the Subject Properties.

Schedule:

Respondent shall complete the SEP on the following schedule:

a. Respondent shall submit its first SEP Periodic Report, which shall contain the information as specified below in this Scope of Work, no later than September 30, 2013. Each subsequent SEP Periodic Report shall be due on the following dates: December 31, 2013; June 30, 2014; and December 31, 2014. Respondent shall not be required to submit any SEP Periodic Report subsequent to its completion of the SEP.

b. Respondent shall complete the SEP no later than June 30, 2015.

c. Respondent shall submit a SEP Completion Report, which shall contain the information as specified below in this Scope of Work within 30 days of completing the SEP or no later than July 31, 2015, whichever date is earlier.

SEP Periodic Reports:

Each SEP Periodic Report shall contain the following information:

a. A summary of the work undertaken for the SEP during the three/six month period preceding the due date of the report;

b. A summary of the SEP costs incurred during the three/six month reporting period, with costs itemized (documentation of these costs shall be provided at the end of the project, when Respondent submits the SEP Completion Report); and

c. The certification language provided in Paragraph 27 of the CAFO.

SEP Completion Report:

The SEP Completion Report shall contain the following information:

a. A description of the four Lead-Based Paint abatement removal/replacement projects that were completed, including representative photographs showing before and after photographs of all SEP work done;

b. Any clearance examination reports and data not already submitted;

c. Itemized costs of goods and services used to complete the four Lead-Based Paint abatement removal/replacement projects, documented by copies of invoices, purchase orders, or

canceled checks that specifically identify and itemize the individual costs of the goods and services;

d. Itemized costs of services used to complete any clearance examinations, documented by copies of invoices or canceled checks that specifically identify and itemize the costs of the services;

e. Documentation that the Lead Abatement Supervisor and Lead Abatement firm who performed the SEP and Lead-Based Paint risk assessor who performed the clearance examinations are authorized to perform such work in accordance with state and local laws and the HUD Guidelines;

f. A description of any operating problems encountered and the solutions thereto; and

g. The certification language provided in Paragraph 27 of the CAFO.

SEP Costs:

Respondent shall spend at least \$49,500 to complete the four Lead-Based Paint abatement projects identified in this Scope of Work. If the actual costs to complete the four Lead-Based Paint abatement projects are less than \$49,500, Respondent may include no more than \$9,500 in temporary tenant relocation costs in order to meet the minimum expenditure required for the SEP.

In itemizing costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes, without limitation, invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment was made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.