



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
September 30, 2014

REPLY TO THE ATTENTION OF:  
LC-8J

**CERTIFIED MAIL 7009 1680 0000 7649 6803**  
**RETURN RECEIPT REQUESTED**

Mr. Gerald Millsaps  
Richmond's Complete Home Improvement Co.  
3920 National Road West  
Richmond, Indiana 47374

Consent Agreement and Final Order in the Matter of  
Richmond's Complete Home Improvement,  
Docket No. TSCA-05-2014-0023

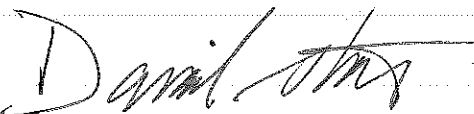
Dear Mr. Millsaps:

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on September 30, 2014 with the Regional Hearing Clerk and mailed October 1, 2014.

The civil penalty in the amount of \$2,590 is to be paid in the manner described in paragraphs 50 and 51. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by October 30, 2014 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

*for*   
Paul Fericelli  
Pesticides and Toxics Compliance Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. TSCA-05-2014-0023</b>
	)	
<b>Richmond's Complete Home Improvement Richmond, Indiana,</b>	)	<b>Proceeding to Assess a Civil Penalty Under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C.</b>
<b>Respondent.</b>	)	<b>§ 2615(a)</b>

---



**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Richmond's Complete Home Improvement (Respondent), an entity with a place of business at 3920 National Road West, Richmond, Indiana 47374.
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). See 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 general 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.

### **Statutory and Regulatory Background**

9. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, Pub. L. No.102-550, Oct. 28 1998 (Title X), Congress found, among other things, that low-level lead poisoning was widespread among American children, afflicting as many as 3,000,000 children under the age of six; at low levels, lead poisoning in children causes intelligence deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems; and the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children. A key component of the national strategy to reduce and eliminate the threat of childhood lead poisoning is to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards. See 42 U.S.C. § 4851.

10. Section 1021 of Title X amended TSCA by adding Sections 401-412, entitled Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692.

11. Pursuant to Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), EPA promulgated regulations amending 40 C.F.R. Part 745, Subparts E and L, that apply to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. These regulations prescribe work practice standards and ensure that individuals engaged in such activities are properly trained, and

that the training programs are accredited and contractors engaged in such activities are certified. These requirements are known as the Renovation, Repair and Painting Program Rule (RRP Rule).

12. Pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b), EPA promulgated regulations at 40 C.F.R. Part 745, Subpart E, requiring, among other things, that each person who performs for compensation a renovation of target housing provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation. These requirements are known as the Pre-Renovation Education Rule (PRE Rule).

13. 40 C.F.R. § 745.83 defines “firm” as a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal or local government agency; or a nonprofit organization.

14. 40 C.F.R. § 745.83 defines “renovation” as the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 C.F.R. § 745.223. The term renovation includes, but is not limited to: the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping), and interim controls that disturb painted surfaces.

15. 40 C.F.R. § 745.83 defines “renovator” as an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has

successfully completed a renovator course accredited by EPA or an EPA-authorized State or tribal program.

16. 40 C.F.R. § 745.103 defines “residential dwelling” as a single family dwelling, including attached structures such as porches and stoops; or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

17. 40 C.F.R. § 745.103 defines “target housing” as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

18. 40 C.F.R. § 745.83 defines “pamphlet” as the EPA pamphlet titled “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools” developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose.

19. 40 C.F.R. § 745.84(a)(1) requires that the firm performing renovation activities in residential dwelling units of target housing provide the owner of the unit with the pamphlet and obtain, from the owner, either a written acknowledgement that the owner has received the pamphlet no more than 60 days before beginning renovation activities, or a certificate of mailing of the pamphlet to the owner at least 7 days prior to the renovation.

20. Under 40 C.F.R. § 745.81(a)(4)(ii), on or after July 6, 2010, all renovations must be performed in accordance with the work practice standards in 40 C.F.R. § 745.85 and the

associated recordkeeping requirements in 40 C.F.R. § 745.86(b)(1) and (b)(6) in target housing or child-occupied facilities, unless the renovation qualifies for the exception identified in 40 C.F.R. § 745.82(a).

21. 40 C.F.R. § 745.86(a) provides that firms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with the residential property renovation requirements at 40 C.F.R. Part 745, Subpart E, for a period of 3 years following completion of the renovation. Under 40 C.F.R. § 745.86(b), this includes signed and dated acknowledgements of receipt of the pamphlet by the owner or certificates of mailing of the pamphlet, documentation that the firm complied with the work practice standards in 40 C.F.R. § 745.85, documentation that a certified renovator was assigned to the project, and documentation that the certified renovator performed or directed workers who performed the renovation activities.

22. Under 15 U.S.C. § 2689 and 40 C.F.R. § 745.87(a), failing to comply with any requirement of 40 C.F.R. Part 745, Subpart E, violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

23. The Administrator of EPA may assess a civil penalty of up to \$37,500 for each violation of Section 409 of TSCA that occurred between January 12, 2009 and December 6, 2013, pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615, 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19.

**General Allegations**

24. Complainant incorporates paragraphs 1 through 23 of this CAFO as if set forth in this paragraph.

25. Respondent is a “firm,” as defined at 40 C.F.R. § 745.83.

26. Respondent is a “renovator” as defined at 40 C.F.R. § 745.83.

27. Every employee of Respondent who performs or directs workers to perform renovations is a “renovator,” as defined at 40 C.F.R. § 745.83.

28. From at least August 23, 2010 to October 13, 2010, Respondent performed or directed workers to perform work for compensation on properties at the following addresses:

<b>Address</b>	<b>Date work began</b>	<b>Description of Work</b>
298 E Walnut Street, Hagerstown, Indiana	On or about October 13, 2010	removing wood, painting
248 W Main Street, Hagerstown, Indiana	On or about October 7, 2010	siding and painting
247 N Perry Street, Hagerstown, Indiana	On or about September 14, 2010	removing wood, siding
332 W North Market Street, Hagerstown, Indiana	On or about August 25, 2010	removing wood
433 N Elm Street, Hagerstown, Indiana	On or about August 23, 2010	removing wood, siding

29. All of the properties identified in paragraph 28 are residential dwellings.

30. All of the residential dwellings identified in paragraph 28 were constructed prior to 1978.

31. All of the residential dwellings identified in paragraph 28 are “target housing” as defined in 40 C.F.R. § 745.103.

32. The work Respondent performed or directed workers to perform at the residential dwellings identified in paragraph 28 resulted in the disturbance of painted surfaces.

33. The work Respondent performed or directed workers to perform at the residential dwellings identified in paragraph 28 was “renovation” as defined at 40 C.F.R. § 745.83.

34. On July 12, 2011, representatives from EPA and the Indiana State Department of Health conducted an inspection at 608 South 12th Street, Richmond, Indiana (the 608 South 12th Property), to determine Respondent’s level of compliance with the RRP Rule.

35. At the time of inspection, a sub-contractor hired by Respondent was going to construct a new porch at the 608 South 12th Property.

36. On August 10, 2011, Complainant issued a Request for Information requesting, among other things, documents, information and records Respondent is required to maintain pursuant to 40 C.F.R. § 745.86(b), in order to determine Respondent’s compliance with the RRP Rule and the PRE Rule.

37. On August 29, 2011, Respondent submitted a response to Complainant’s August 10, 2011 Request for Information that contained records and information.

38. Respondent was required to perform the renovations at the residential dwellings referenced in paragraph 28, above, in accordance with the work practice standards in 40 C.F.R. § 745.85 and the associated recordkeeping requirements in 40 C.F.R. § 745.86(b).

39. On May 23, 2014, Complainant advised Respondent by letter that it was planning to file an administrative complaint against Respondent for specific alleged violations of the RRP Rule and PRE Rule and that the complaint would seek a civil penalty. Complainant asked Respondent to identify any factors Respondent thought Complainant should consider before issuing the complaint. If Respondent believed there were financial factors which bore on Respondent’s ability to pay a civil penalty, Complainant asked Respondent to submit specific financial documents.



**Count 1-5: Failure to Obtain Acknowledgements of Receipt of Pamphlet by, or Certificates of Mailing of Pamphlet to, Owners of Residential Dwelling Units**

40. Complainant incorporates paragraphs 1 through 39 of this Complaint as if set forth in this paragraph.

41. Under 40 C.F.R. § 745.84(a)(1), no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing renovation activities must, in the case of a non-owner-occupied unit, provide the owner of the unit with the pamphlet and obtain either a written acknowledgement from the owner that the owner has received the pamphlet or a certificate of mailing at least 7 days prior to the renovation.

42. When Respondent began the renovations referenced in paragraph 28, above, Respondent had not obtained from the owner a written acknowledgement that the owner had received the pamphlet.

43. Respondent did not obtain a certificate of mailing of the pamphlet to the owner of the unit at least 7 days prior beginning to the renovations referenced in paragraph 28, above.

44. For each renovation referenced in paragraph 28, Respondent's failure to obtain from the owner either a written acknowledgement that the owner had received the pamphlet or a certificate of mailing at least 7 days prior to the renovations referenced in paragraph 28, above, violates 40 C.F.R. § 745.84(a)(1) and 15 U.S.C. §§ 2614 and 2689.

**Count 6-10: Failure to Retain and Provide Documentation of Compliance with RRP Work Practice Standards**

45. Complainant incorporates paragraphs 1 through 39 of this Complaint as if set forth in this paragraph.

46. Pursuant to 40 C.F.R. § 745.86(b)(6), records that must be retained pursuant to 40 C.F.R. § 745.86(a) include documentation of compliance with the work practice standards requirements of 40 C.F.R. § 745.85, including documentation that warning signs were posted at the entrances to the work area.

47. Respondent failed to retain documentation of compliance with the work practice standards requirements of 40 C.F.R. § 745.85 for each renovation referenced in paragraph 28, above, including documentation that warning signs were posted at the entrances to the work area.

48. For each renovation referenced in paragraph 28, Respondent's failure to retain documentation of compliance with the work practice standards requirements of 40 C.F.R. § 745.85 for the renovation referenced in paragraph 28, above, violates 40 C.F.R. § 745.86(b)(6) and 15 U.S.C. § 2689.

**Proposed Civil Penalty**

49. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$2,590. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of such prior violations, the degree of culpability. Complainant also considered *EPA's Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, dated August 19, 2010.

50. Within 30 days after the effective date of this CAFO, Respondent must pay the \$2,590 civil penalty for the TSCA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

The check must note the following: the case title ("In the Matter of Richmond's Complete Home Improvement") and the docket number of this CAFO.

51. A transmittal letter stating Respondent's name, complete address and the case docket number must accompany the payment in paragraph 50. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Paul Fericelli (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Robert M. Peachey (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

52. This civil penalty is not deductible for federal tax purposes.

53. If Respondent does not pay the civil penalty timely, EPA may refer this matter to the Attorney General, who will recover such amount, plus interest, by action in the appropriate

United States district court under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

54. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

55. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

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

57. This CAFO does not affect Respondent's responsibility to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and other applicable Federal, State, and local laws.

58. Respondent certifies that it is complying with Section 402 of TSCA, 15 U.S.C. § 2682, and its implementing regulations at 40 C.F.R. Part 745.

59. Respondent certifies that it has implemented the recordkeeping standard operating procedures as detailed in Attachment A of this CAFO.

60. The terms of this CAFO bind Respondent, its successors and assigns.

61. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review with respect to any issue of fact or law set forth in this CAFO.

62. Each person signing this CAFO 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.

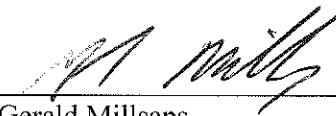
63. Each party agrees to bear its own costs and attorneys' fees in this action.

64. This CAFO constitutes the entire agreement between the parties.

**In the Matter of: Richmond's Complete Home Improvement**  
**Docket No. TSCA-05-2014-0023**

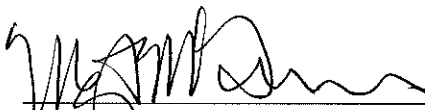
**Richmond's Complete Home Improvement, Respondent**

8-20-14  
Date

  
Gerald Millsaps  
President

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

9/24/2014  
Date

  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

**In the Matter of: Richmond's Complete Home Improvement  
Docket No. TSCA-05-2014-0023**

**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.

9-30-2014

Date



\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5


**CERTIFICATE OF SERVICE**

This is to certify that a copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving Richmond's Complete Home Improvement, was filed on September 30, 2014, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Blvd. Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No.7009 1680 0000 7649 6803 to:

Mr. Gerald Millsaps  
Richmond's Complete Home Improvement Co.  
3920 National Road West  
Richmond, Indiana 47374

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Robert M. Peachey, Counsel for Complainant/C-14J  
Eric Volck, Cincinnati Finance/MWD

  
Frederick Brown, PTCS (LC-8J)  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

**Docket No.TSCA-05-2014-0023**



**In the Matter of: Richmond's Complete Home Improvement  
Docket No. TSCA-05-2014-0023**

**Attachment A**

**Richmond's Complete Home Improvement  
Recordkeeping Procedures  
Lead-Based Paint Renovation, Repair, and Painting Program**

**Richmond's Complete Home Improvement Co.**

**Firm # NAT19547-1**

**Recordkeeping procedures**

**Lead-based paint Renovation, Repair and Painting Program**

1. Every installation shall include a copy of the work ticket, describing the work to be completed. On the work ticket the name of the Customer, their address and telephone number will be documented. Also included with the work ticket, will be a copy of the County Property Tax card proving the year of construction of the dwelling, and a copy of the "Renovate Right" Pamphlet.

Included will be the Certified Renovator's required paperwork. The Certified Renovator will complete the forms below as needed for each Job, and will keep them at the job site until they are turned into the General Manger.

1. Lead Determination work sheet.
2. Lead Paint Test Authorization form
3. "Renovation Right" Pamphlet Receipt for Homeowner and Receipt for any Tenant's.
4. Lead test Determination and Documentation form.
5. Renovation Checklist form
6. Cleaning Verification form
7. Warning signs used.
8. Any other forms that maybe required for the job.  
(Building Permits, Order forms, Lien release, etc)



2. After completion of the job all paperwork will be turned into The General Manger of the Company. The General Manger Will provided a copy of the paperwork to the homeowner With the final invoice.
3. At that point the entire set of paperwork for the job will be Kept within the company for a period of 3 yrs from the date Of completion of the job as required by federal law. After the 3 Year period the paperwork can be disposed of.

