

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the matter of:

U.S. EPA-REGION 3-RHC
FILED-6FEB2019pm1:07

Wesco Construction Co.

902 Saginaw Road

West Grove, PA 19390

Respondent,

U.S. EPA Docket No.

CAA-03-2018-0054

1400 Union Meeting Road

Blue Bell, PA 19422

Facility.

CONSENT AGREEMENT

1. Pursuant to Section 113(a) and (d) of the Clean Act ("CAA"), as amended, 42 U.S.C. § 7413(a)(3) and (d), the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region III ("Complainant"), initiated this administrative proceeding for the assessment of civil penalties against Wesco Construction Co. (the "Respondent") by issuing a Complaint and Notice of Opportunity for Hearing ("Complaint") on February 1, 2018. The Complaint, incorporated herein by reference, alleges that Respondent violated Section 112 of the Clean Air Act, as amended, 42 U.S.C. § 7412, and the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M, in connection with removal of regulated asbestos-containing material at 1400 Union Meeting Road, Blue Bell, PA 19422 in 2015. This Consent Agreement ("CA") and accompanying Final Order (collectively, "CAFO"), when filed, will resolve Complainant's claims for civil penalties for the violations alleged in the Complaint.

2. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in the Complaint, in this CA and the attached Final Order ("FO").

3. Except as provided in Paragraph 2 herein the Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CA.

4. The Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this CA, the issuance of the attached Final Order, and the enforcement of this CAFO.
5. For purposes of this proceeding only, the Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
6. The Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
7. Each party to this CA shall bear its own costs and attorney's fees.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. Complainant incorporates by reference all findings of fact and conclusions of law contained in the Complaint.

III. SETTLEMENT RECITATION

9. In settlement of EPA's claims for civil penalties assessable for the violations alleged in the Complaint, and incorporated by reference herein, the Respondent consents to the assessment of a civil penalty of seven thousand one hundred thirty-six dollars and no cents (\$7,136.00) which the Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon receipt by the Respondent of a true and correct copy of the fully executed and filed CAFO. If the Respondent pays the entire penalty within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to the Respondent, no interest will be assessed pursuant to 40 C.F.R. § 13.11(a)(1).
10. The aforesaid settlement amount is based on a number of factors, including, but not limited to, the facts and circumstances of this case, the statutory factors of Section 113(e) of the CAA, 42 U.S.C. § 7413(e), EPA's *Clean Air Act Stationary Source Civil Penalty Policy*, dated October 25, 1991, and Appendix III thereto, *Asbestos Demolition and Renovation Civil Penalty*

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Policy, revised May 5, 1992, as amended, and the *Adjustment of Civil Monetary Penalties for Inflation*, 40 C.F.R. Part 19.

11. The Respondent shall remit payment of the civil penalty described in Paragraph 9 herein as follows:

- a. By mailing (*via first class U.S. Postal Service mail*) a certified check or cashier's check payable to the "United States Treasury" to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Contacts: Craig Steffen 513-487-2091
Jessica Henderson 513-487-2718 henderson.jessica@epa.gov

- b. By overnight delivery of a certified check or cashier's check payable to the "United States Treasury" to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contacts: Craig Steffen 513-487-2091
Jessica Henderson 513-487-2718 henderson.jessica@epa.gov

- c. By delivery of a certified check or cashier's check payable to the "United States Treasury" in any currency drawn on a bank with no USA branches to following address:

Cincinnati Finance
US EPA, MS-NWD
26 W ML King Drive
Cincinnati, OH 45268-0001

- d. By electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York
ABA: 021030004
Account No: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency"

- e. By automated clearinghouse ("ACH") to the following account:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account 310006
Environmental Protection Agency
CTX Format
Transaction Code 22 -checking

- f. Online at: WWW.PAY.GOV/paygov/ using credit or debit cards (Visa, MasterCard, American Express & Discover) or checking account information:
- i. Enter **SFO 1.1** in the form search box on the top left side of the screen.
 - ii. Open the form and follow the on-screen instructions.
 - iii. Select your type of payment from the "Type of Payment" drop down menu.
 - iv. Based on your selection, the corresponding line will open and no longer be shaded gray.
 - v. Enter the docket number
- g. Additional payment penalty guidance is available at following internet site:

<https://www.epa.gov/financial/makepayment>

- h. All payments by the Respondent shall reference the name and address of the Respondent and the EPA Docket Number of this CAFO (CAA-03-2018-0054). At the same time that any payment is made, the Respondent shall send a copy of the check or written confirmation of the EFT, ACH or online payment to:

Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

12. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, any failure by the Respondent to make a timely payment or to comply with the conditions in this CA and the attached FO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

13. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CA and the accompanying FO.

IV. FULL AND FINAL SATISFACTION

14. This CAFO shall constitute full and final satisfaction of all civil claims for penalties, which Complainant may have against the Respondent for the specific violations alleged in the Complaint and incorporated by referenced herein.

V. OTHER APPLICABLE LAWS

15. Nothing in this CAFO shall relieve the Respondent of the obligation to comply with all applicable federal, state, and local laws and regulations. Compliance with this CAFO

shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VI. RESERVATION OF RIGHTS

16. EPA reserves the right to commence action against any person, including the Respondent, in response to any condition that EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*, 40 C.F.R. § 22.18(c). Further, EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VII. CERTIFICATION OF COMPLIANCE

17. The Respondent certifies to EPA that, upon personal investigation and to the best of its knowledge and belief, it is currently in compliance with applicable provisions of the CAA and 40 C.F.R. Part 61, Subpart M.

VIII. PARTIES BOUND

18. This CA and the accompanying FO shall apply to and be binding upon EPA, the Respondent and the Respondent's successors, agents and assigns.

IX. EFFECTIVE DATE

19. The effective date of this CA and the accompanying FO (after signature by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer,) is the date on which such CAFO is filed with the Regional Hearing Clerk.

X. ENTIRE AGREEMENT

20. This CA and the accompanying FO constitute the entire agreement and

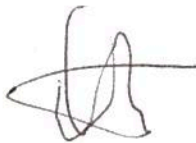
understanding of the Parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

XI. EXECUTION

21. The person signing this CA on behalf of the Respondent acknowledges and certifies by their signature that they are fully authorized to enter into this CA and to legally bind Respondent to the terms and conditions of this CA and the accompanying FO.

For Respondent:

Date: NOV 29 2018

By:  _____

Wesco Construction Co.
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For Complainant:

Date: 12/14/18

By: Philip Yeany

Philip Yeany
Sr. Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region III

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, U.S. EPA, Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: 1.31.19

By: John A. Armstead

John A. Armstead, Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

U.S. EPA-REGION 3-RHC
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In the matter of:	:	
	:	
Wesco Construction Co.	:	U.S. EPA Docket No.
902 Saginaw Road	:	CAA-03-2018- 0054
West Grove, PA 19390	:	
Respondent,	:	
	:	
1400 Union Meeting Road	:	
Blue Bell, PA 19422	:	
Facility.	:	
	:	

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and the Respondent, Wesco Construction Co., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors of Section 113(e) of the CAA, 42 U.S.C. § 7413(e), EPA's *Clean Air Act Stationary Source Civil Penalty Policy*, dated October 25, 1991, and Appendix III thereto, *Asbestos Demolition and Renovation Civil Penalty Policy*, revised May 5, 1992, as amended, and the *Adjustment of Civil Monetary Penalties for Inflation*, 40 C.F.R. Part 19.

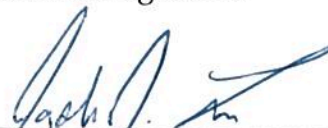
NOW, THEREFORE, PURSUANT TO Section 113(d) of the Clean Air Act, 42 U.S.C.

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§ 7413(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of seven thousand one hundred thirty-six dollars and no cents (\$7,136.00), in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

2/6/2019
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:

Wesco Construction Co.
902 Saginaw Road
West Grove, PA 19390

Respondent.

:
: **EPA Docket No.**
: **CAA-03-2018-0054**
:
: **Proceeding under Section 113 of**
: **the Clean Air Act, 42 U.S.C. § 7413**
:
:
:

CERTIFICATE OF SERVICE

I certify that on **FEB 06 2019**, the original and one (1) copy of the foregoing ***Consent Agreement and Final Order***, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

William J. Gallagher
MacElree Harvey
211 East State Street
Kennett Square, PA 19348
(Counsel for the Respondent)

Copy served via **Hand Delivery or Inter-Office Mail** to:

Philip Yeany
Senior Assistant
Regional Counsel
Office of Regional Counsel (3RC50)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
(Counsel for Complainant)

Dated: FEB 06 2019

Berwin Esposito

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 70172620 0000 9143 3283