

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of :
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BOA Windows, Inc. :
d/b/a Window World of the Capital :
District :
:
Respondent. :
:
Proceeding under Section 16(a) of :
the Toxic Substances Control Act :
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CONSENT AGREEMENT
AND
FINAL ORDER

Docket No.
TSCA-02-2017-9281

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (hereinafter "Consolidated Rules of Practice"). Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and

22.18(b)(3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is BOA Windows, Inc. d/b/a Window World of the Capital District (“Window World” or “Respondent”).
2. Respondent’s primary place of business is located at 1240 Central Avenue Colonie, New York 12205.
3. Respondent is a corporation engaged in the business of selling and installing replacement windows, doors, and home remodeling products and services.
4. Respondent is a “firm,” as that term is defined at 40 C.F.R. § 745.8, with EPA Certification No. NAT-30666-2 valid from 3/25/15 to 4/29/2020.
5. Respondent is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692, and set forth at 40 C.F.R. Part 745 (the “Renovation, Repair & Painting (“RRP”) Rule”).
6. On or about August 18, 2015, a Window World customer contacted EPA Region 2’s Lead Team to file a Tip/Complaint about unsafe work practices being followed by Respondent’s employees replacing windows in her home, located at 25 Crell Avenue in Wynantskill, New York (the “Property”). Respondent’s work had commenced at the Property on August 17, 2015.
7. The Property is a single-family home constructed in 1926 and is therefore “target housing,” as that term is defined at Section 401 of TSCA, 15 U.S.C. § 2681, and 40 C.F.R. §745.103.

8. Respondent's conduct of the window replacement work at the Property is subject to the work practice standards of the RRP Rule.

9. On or about August 19, 2015, EPA staff emailed Respondent a list of questions pertaining to the work that was being done at the Property. On or about August 28, 2017, Respondent sent a response via email.

10. On September 1, 2015, EPA issued an Information Request Letter ("IRL") to Respondent requesting information about the work that was conducted at the Property.

11. On or about September 17, 2015 Respondent submitted its response to the IRL, which indicated that Respondent had performed work subject to the requirements set forth at 40 C.F.R. Part 745, Subpart E (the "Renovation, Repair and Painting (RRP) Rule") at the Property.

12. Based in part on Respondent's August 28, 2017 email and its September 17, 2017 response to the IRL, EPA determined that Respondent had failed to retain records necessary to demonstrate compliance with RRP requirements for residential property renovation at the Property, as required by 40 C.F.R. § 745.86.

13. EPA further determined that Respondent had failed to ensure that the renovations performed at the Property were conducted in accordance with the work practice standards set out at § 745.85, pursuant to 40 C.F.R. §745.89(d)(3).

14. On June 5, 2017, June 13, 2017 and August 29, 2017, EPA and Respondent held informal pre-filing settlement conferences at Respondent's request to discuss EPA's findings with regard to Respondent's failures to comply with TSCA and the RRP Rule before and during the renovation at the Property.

15. As a result of the informal settlement conferences, the parties agreed to enter into this Consent Agreement.

