

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. TSCA-05-2024-0020
)	
Roger Gillenwater)	Proceeding to Assess a Civil
Fountaintown, Indiana,)	Penalty Under Section 16(a) of the
)	Toxic Substances Control Act,
Respondent.)	15 U.S.C. § 2615(a)
)	

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 the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Roger Gillenwater, a sole proprietor with a place of business located at 579 West Brookville Road, Fountaintown, Indiana 46130.
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). 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 factual 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. Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Lead Act), 42 U.S.C. § 4852d, requires the Administrator of EPA to promulgate regulations for the disclosure of lead-based paint hazards in target housing that is offered for sale or lease.

10. On March 6, 1996, EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (Disclosure Rule) pursuant to 42 U.S.C. § 4852d.

11. 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 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

12. 40 C.F.R. § 745.103 defines “lessor” as any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.

13. 40 C.F.R. § 745.103 defines “lessee” as any entity that enters into an agreement to lease, rent or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.

14. 40 C.F.R. § 745.103 defines “seller” as any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit

organizations.

15. 40 C.F.R. § 745.103 defines “purchaser” as any entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.

16. 40 C.F.R. § 745.113(a) requires that each contract to sell target housing include an attachment containing the following elements: a lead warning statement; a statement by the seller disclosing the presence of any known lead-based paint and/or lead-based paint hazards or lack of knowledge of such presence; a list of any records or reports available to the seller that have been provided to the purchaser regarding lead-based paints and/or lead-based paint hazards in target housing or a statement that no such records are available; a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (3) and the Lead Hazard Information Pamphlet; a statement by the purchaser that he or she has received or waived the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a); and, the signatures and dates of signatures of the seller and purchaser certifying the accuracy of their statements.

17. 40 C.F.R. § 745.113(b) requires that each contract to lease target housing include, as an attachment or within the contract, a lead warning statement; a statement by the lessor disclosing the presence of any known lead-based paint and/or lead-based paint hazards or the lack of knowledge of such presence; a list of any records or reports available to the lessor regarding lead-based paints and/or lead-based paint hazards in the target housing or a statement that no such records exist; a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet; and, the signatures and dates of signature of the lessor and lessee certifying the accuracy of their statements.

18. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failure to comply with the Disclosure Rule 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), 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f).

19. Under 42 U.S.C. § 4852d(b)(5), 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19, the Administrator of EPA may assess a civil administrative penalty of up to \$21,699 for each violation of 42 U.S.C. § 4852d and Section 409 of TSCA, 15 U.S.C. § 2689, that occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023.

Factual Allegations

20. Between 2017 and 2023, Respondent owned single and multi-family housing in the State of Indiana.

21. Respondent's properties are "target housing" as defined in 40 C.F.R. § 745.103.

22. On or around the following dates, Respondent directly entered into the following 22 lease agreements (contracts) with individuals for the lease of his properties:

No.	Address	Year Built	Start Date for Term of Lease
1	165 West Hendricks Shelbyville, Indiana 46176	1880	February 1, 2020
2	3134 Asbury Street Indianapolis, Indiana 46237	1959	June 2019
3	3134 Asbury Street Indianapolis, Indiana 46237	1959	September 2021
4	316 West 9th Street Rushville, Indiana 46173	1920	January 2022
5	928 South 18 th Street New Castle, Indiana 47362	1934	June 19, 2022
6	201 North 30 th Street New Castle, Indiana 47362	1948	April 1, 2023
7	314 South 27 th Street New Castle, Indiana 47362	1900	April 14, 2023
8	630 North 26 th Street New Castle, Indiana 47362	1940	April 8, 2023
9	630 North 26 th Street New Castle, Indiana 47362	1940	November 1, 2021
10	1303 South 18 th Street New Castle, Indiana 47362	1900	February 24, 2023
11	1303 South 18 th Street New Castle, Indiana 47362	1900	July 14, 2022

12	1511 Tabor Street Indianapolis, Indiana 46203	1920	February, 2021
13	1511 Tabor Street Indianapolis, Indiana 46203	1920	June 11, 2023
14	1615 B Avenue New Castle, Indiana 47362	1900	July 1, 2023
15	1615 B Avenue New Castle, Indiana 47362	1900	April 1, 2023
16	1812 C Avenue New Castle, Indiana 47362	1900	July 22, 2021
17	1816 C Avenue New Castle, Indiana 47362	1900	October 3, 2022
18	2337 Ohio Street New Castle, Indiana 47362	1950	April 1, 2023
19	2337 Ohio Street New Castle, Indiana 47362	1950	August 23, 2021
20	4488 East 900 North Rushville, Indiana 46173	1850	November 1, 2021
21	4488 East 900 North Rushville, Indiana 46173	1850	September 8, 2022
22	4488 East 900 North Rushville, Indiana 46173	1850	May 1, 2019

23. Each of the 22 contracts referred to in paragraph 22, above, covered a term of occupancy greater than 100 days.

24. Respondent is a “lessor,” as defined in 40 C.F.R. § 745.103, because he offered the target housing referred to in paragraph 22, above, for lease.

25. Each individual who signed a lease or entered into an oral contract to pay rent in exchange for occupancy of the target housing referred to in paragraph 22, above, became a “lessee” as defined in 40 C.F.R. § 745.103.

26. On the following dates, Respondent directly entered into the following four (4) written sales agreements (contracts) with individuals for the sale of target housing:

No.	Address	Year Built	Date of Sale
1	165 W. Hendricks Shelbyville, Indiana 46176	1880	September 15, 2023
2	401-403 N. 13 th Street Richmond, Indiana 47374	1900	October 31, 2022
3	1422 E. Bradbury Ave	1903	July 31, 2020

	Indianapolis, Indiana 46203		
4	314 West 3 rd Street Rushville, Indiana 46173	1840	October 5, 2021

27. Respondent is a “seller,” as defined in 40 C.F.R. § 745.103, because he transferred legal title of the target housing referred to in paragraph 26, above, in return for consideration.

28. The individuals who signed the contracts to purchase the target housing referred to in paragraph 26, above, became a “purchaser,” as defined in 40 C.F.R. § 745.103, because they entered into an agreement to purchase an interest in target housing.

Alleged Violations

Count 1

Failure to Include, as an Attachment or Within the Contract to Sell Target Housing, the Required Lead Hazard Information Pamphlet

29. Paragraphs 1-28 above, are incorporated by reference as if fully set forth herein.

30. Pursuant to 40 C.F.R. § 745.107(a)(1), when contracting to lease or to sell target housing, the lessor must provide the lessee or purchaser with EPA-approved lead hazard information and pamphlet.

31. Respondent did not provide purchaser listed in paragraph 26, line no. 1, above, with the required lead hazard information and pamphlet.

32. Respondent’s failure to provide the purchaser listed in paragraph 26, line no. 1, above, with the required lead hazard information and pamphlet constitutes a violation of 40 C.F.R. § 745.107(a)(1), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 2-4

Failure to Include, as an Attachment or Within the Contract to Sell Target Housing, the Required Lead Warning Statement

33. Paragraphs 1-28 above, are incorporated by reference as if fully set forth herein.

34. Pursuant to 40 C.F.R. § 745.113(a)(1), each contract to sell target housing must include, as an attachment or within the contract, the Lead Warning Statement.

35. Respondent did not include, as an attachment or within the contracts with the purchasers listed in paragraph 26, line nos. 1-3, above, the Lead Warning Statement.

36. Respondent's failures to include the Lead Warning Statement, as an attachment or within the contracts to sell the target housing units listed in paragraph 26, line nos. 1-3, above, constitute three (3) violations of 40 C.F.R. § 745.113(a)(1), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 5-7

Failure to Include, as an Attachment or Within the Contract to Sell Target Housing, the Required Lead Hazards Disclosure Statement

37. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

38. Pursuant to 40 C.F.R. § 745.113(a)(2), each contract to sell target housing must include, as an attachment or within the contract, a statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

39. Respondent did not include, as an attachment or within the contracts with the purchasers listed in paragraph 26, line nos. 1-3, above, a statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

40. Respondent's failures to include a statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, as an attachment or within the contracts to sell the target housing units listed in paragraph 26, line nos. 1-3, above, constitute three (3) violations of 40 C.F.R. § 745.113(a)(2), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 8-10

Failure to Include, as an Attachment or Within the Contract to Sell Target Housing, the Required Lead-based Paint Records or Reports

41. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

42. Pursuant to 40 C.F.R. § 745.113(a)(3), a seller must include, as an attachment or within the contract to sell target housing, a list of any records or reports available to the seller that pertain to the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicate that no such records are available.

43. Respondent did not include, as an attachment or within the contracts with the purchasers listed in paragraph 26, line nos. 1-3, above, a list of any records or reports available to the seller that pertain to the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicate that no such records are available.

44. Respondent's failures to include a list of any records or reports available to the seller that pertain to the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicate that no such records are available, as an attachment or within the contracts to sell the target housing units listed in paragraph 26, line nos. 1-3, above, constitute three (3) violations of 40 C.F.R. § 745.113(a)(3), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 11-14

Failure to Include, as an Attachment or Within the Contract to Sell Target Housing, Statements Affirming that Purchasers Received the Required Lead Hazard Information

45. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

46. Pursuant to 40 C.F.R. § 745.113(a)(4), a seller must include, as an attachment or within the contract to purchase target housing, a statement by the purchaser affirming receipt of the information required by 40 C.F.R. §§ 745.113(a)(2) and (a)(3), and the lead hazard pamphlet required under 15 U.S.C. § 2686.

47. Respondent did not include, as an attachment or within the contracts with the purchasers listed in paragraph 26, above, a statement by the purchaser affirming receipt of the information required by 40 C.F.R. §§ 745.113(a)(2) and (a)(3), and the lead hazard pamphlet required under 15 U.S.C. § 2686.

48. Respondent's failures to include a statement by the purchaser affirming the receipt of the information required by 40 C.F.R. §§ 745.113(a)(2) and (a)(3), and the lead hazard pamphlet required under 15 U.S.C. § 2686, as an attachment or within the contracts to sell the target housing units listed in paragraph 26, above, constitute four (4) violations of 40 C.F.R. § 745.113(a)(4), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 15-18

Failure to Include, as Attachment or Within the Contract to Sell Target Housing, Statements Affirming that Purchasers Received, or Waived, their Opportunities to Conduct Risk Assessments or Inspections

49. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

50. Pursuant to 40 C.F.R. § 745.113(a)(5), each contract to sell target housing must include, as an attachment or within the contract, a statement by the purchaser affirming that he or she has either had an opportunity to conduct risk assessment or inspection or has waived the opportunity to do so.

51. Respondent did not include, as an attachment or within the contracts with the purchasers listed in paragraph 26, above, a statement by the purchaser affirming that he or she has either had an opportunity to conduct risk assessment or inspection or has waived the opportunity to do so.

52. Respondent's failures to include a statement by the purchaser affirming that he or she has either had an opportunity to conduct risk assessment or inspection or has waived the opportunity to do so, as an attachment or within the contracts to sell the target housing units listed in paragraph 26, above, constitute four (4) violations of 40 C.F.R. § 745.113(a)(5), and TSCA Section 409, 15 U.S.C. § 2689.

Count 19

Failure to Include, as an Attachment or Within the Contract to Sell Target Housing, a Statement Affirming that Agent Informed Seller of his Obligations and his Duty to Ensure Compliance with the Disclosure Rule

53. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

54. Pursuant to 40 C.F.R. § 745.113(a)(6), each contract to sell target housing must include, as an attachment or within the contract, a statement by one or more agents involved in the transaction to

sell target housing that the agent(s) has informed the seller of the seller's obligations and that the agent(s) is aware of his or her duty to ensure compliance with the Disclosure Rule.

55. Respondent did not include, as an attachment or within the contract with the purchaser listed in paragraph 26, line no. 4, above, a statement by one or more agents involved in the transaction to sell target housing that the agent(s) has informed the seller of the seller's obligations and that the agent(s) is aware of his or her duty to ensure compliance with the Disclosure Rule.

56. Respondent's failure to include a statement by one or more agents involved in the transaction to sell target housing that the agent(s) has informed the seller of the seller's obligations and that the agent(s) is aware of his or her duty to ensure compliance with the Disclosure Rule, as an attachment or within the contract to sell the target housing unit listed in paragraph 26, line no. 4, above, constitutes a violation of 40 C.F.R. § 745.113(a)(6), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 20-23

Failure to Include, as an Attachment or Within the Contract to Sell Target Housing, the Signatures of Sellers, Agents, and Purchasers Certifying to the Accuracy of Their Statements

57. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

58. Pursuant to 40 C.F.R. § 745.113(a)(7), each contract to sell target housing must include, as an attachment or within the contract, the signatures of the sellers, agents, and purchasers certifying to the accuracy of their statements, as well as dates of said signatures.

59. Respondent did not include, as an attachment or within the contracts with the purchasers listed in paragraph 26, above, the signatures of the sellers, agents, and purchasers certifying to the accuracy of their statements, as well as dates of said signatures.

60. Respondent's failures to include the signatures of the sellers, agents, and purchasers certifying the accuracy of their statements, as well as dates of said signatures, as an attachment or within the contracts to sell the target housing units listed in paragraph 26, constitutes four (4) violations of 40 C.F.R. § 745.113(a)(7), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 24-45

Failure to Include, as an Attachment or Within the Contract to Lease Target Housing, the Required Lead Warning Statement

61. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

62. Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing must include, as an attachment or within the contract, the Lead Warning Statement.

63. Respondent did not include, as an attachment or within the contracts with the lessees listed in paragraph 22, above, the Lead Warning Statement.

64. Respondent's failures to include the Lead Warning Statement, as an attachment or within the contracts to lease the target housing units listed in paragraph 22, above, constitute twenty-two (22) violations of 40 C.F.R. § 745.113(b)(1), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 46-67

Failure to Include, as an Attachment or Within the Contract to Lease Target Housing, the Required Lead Hazards Disclosure Statement

65. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

66. Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing must include, as an attachment or within the contract, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

67. Respondent did not include, as an attachment or within the contracts with the lessees listed in paragraph 22, above, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

68. Respondent's failures to include a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, as an attachment or within the contracts to lease the

target housing units listed in paragraph 22, above, constitute twenty-two (22) violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409, 15 U.S.C. § 2689.

Counts 68-89

Failure to Include, as an Attachment or Within the Contract to Lease Target Housing, the Required Lead-based Paint Records or Reports

69. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

70. Pursuant to 40 C.F.R. § 745.113(b)(3), each contract to lease target housing must include, as an attachment or within the contract, a list of any records or reports available to the lessor that pertain to the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicate that no such records are available.

71. Respondent did not include, as an attachment or within the contracts with the lessees listed in paragraph 22, above, a list of any records or reports available to the lessor that pertain to the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicate that no such records are available.

72. Respondent's failures to include a list of any records or reports available to the lessor that pertain to the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicate that no such records are available, as an attachment or within the contracts to lease the target housing units listed in paragraph 22, above, constitute twenty-two (22) violations of 40 C.F.R. § 745.113(b)(3), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 90-111

Failure to Include, as an Attachment or Within the Contract to Lease Target Housing, Statements Affirming that Lessees Received the Required Lead Hazard Information

73. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

74. Pursuant to 40 C.F.R. § 745.113(b)(4), each contract to lease target housing must include, as an attachment or within the contract, a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3), and the lead hazard pamphlet required under 15

U.S.C. § 2686.

75. Respondent did not include, as an attachment or within the contracts with the lessees listed in paragraph 22, above, a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3), and the lead hazard pamphlet required under 15 U.S.C. § 2686.

76. Respondent's failures to include a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3), and the lead hazard pamphlet required under 15 U.S.C. § 2686, as an attachment or within the contracts to lease the target housing units listed in paragraph 22, above, constitute twenty-two (22) violations of 40 C.F.R. § 745.113(b)(4), and TSCA Section 409, 15 U.S.C. § 2689.

Counts 112-133

Failure to Include, as an Attachment or Within the Contract to Lease Target Housing, Signatures Certifying the Accuracy of Lead-based Paint Statements

77. Paragraphs 1-28, above, are incorporated by reference as if fully set forth herein.

78. Pursuant to 40 C.F.R. § 745.113(b)(6), each contract to lease target housing must include, as an attachment or within the contract, the signatures of the lessors, agents, and lessees certifying to the accuracy of their statements, as well as dates of said signatures.

79. Respondent did not include, as an attachment or within the contracts with the lessees listed in paragraph 22, above, the signatures of the lessors, agents, and lessees certifying to the accuracy of their statements, as well as dates of said signatures.

80. Respondent's failures to include the signatures of the lessors, agents, and lessees certifying to the accuracy of their statements, as well as the dates of said signatures, as an attachment or within the contracts to lease the target housing units listed in paragraph 22, above, constitute twenty-two (22) violations of 40 C.F.R. § 745.113(b)(6), and TSCA Section 409, 15 U.S.C. § 2689.

Civil Penalty

81. 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 \$5,000. 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 Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy, dated December 2007.

82. Respondent agrees to pay a civil penalty in the amount of \$5,000 (“Assessed Penalty”) within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”). EPA conducted an analysis of Respondent's financial information and determined Respondent has a limited ability to pay. Consequently, in accordance with applicable law, EPA determined that the Assessed Penalty is an appropriate amount to settle this action.

83. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

84. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, TSCA-05-2024-0020.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Craig Meredith (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. Environmental Protection Agency, Region 5

Meredith.craig@epa.gov
and
R5LECAB@epa.gov

Robin Jacobs (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Jacobs.robin@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

85. Interest, Charges, and Penalties on Late Payments. Pursuant to 15 U.S.C. § 2615, 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s

costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed each subsequent thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty, as well as any accrued interest, penalties, and other charges are paid in full.

- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, and other charges, that remain delinquent more than ninety (90) days.

86. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions may include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Per 15 U.S.C. § 2615(a), the Attorney General will bring a civil action in the appropriate district court to recover the full remaining balance of the debt plus interest. In such an action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

General Provisions

87. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: jacobs.robin@epa.gov (for Complainant), and EWalter@PritzkeAndDavis.com and mchambers@boselaw.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

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

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

90. This CAFO does not affect Respondent's responsibility to comply with the Lead Act and the Disclosure Rule and other applicable federal, state and local laws.

91. Respondent certifies that he is complying with the Lead Act and the Disclosure Rule.

92. The terms of this CAFO bind Respondent, and his successors and assigns.

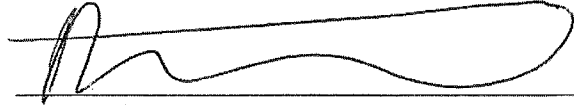
93. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

94. Each party agrees to bear its own costs and attorney's fees in this action.

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

Roger Gillenwater, Respondent

08/16/2024
Date


Roger Gillenwater

United States Environmental Protection Agency, Complainant

Michael D. Harris
Director
Enforcement and Compliance Assurance Division

In the Matter of:
Roger Gillenwater
Docket No. TSCA-05-2024-0020

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.

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5