

7. Respondent agrees not to deduct for civil taxation purposes the civil penalty paid pursuant to this CAFO.

Findings of Fact and Conclusions of Law

8. In accordance with 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

9. Pursuant to 40 C.F.R. § 745.83, the term “firm” means “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.”

10. Pursuant to 40 C.F.R. § 745.83, the term “renovation” means “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.”

11. Pursuant to Section 401(17) of TSCA, 15 U.S.C. § 2681(17), the term “target housing” means “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. Respondent, at all times relevant to the violations alleged in this Consent Agreement, was a “firm” who performed a “renovation,” as those terms are defined at 40 C.F.R. § 745.83, at the following five properties (“Renovation Properties”):

- a. 912 MacArthur Drive in Suffolk, Virginia;
- b. 3927 Woodley Station in Crestview, North Carolina;
- c. 2422 Ambler Avenue in Norfolk, Virginia;
- d. 46 Piedmont Avenue in Hampton, Virginia; and
- e. 2220 Wolf Street, Virginia Beach, Virginia.

13. Each of the Renovation Properties were constructed prior to 1978 and are “target housing” as that term is defined in Section 401(17) of TSCA, 15 U.S.C. § 2681(17).

14. Pursuant to 40 C.F.R. § 745.82(a), Respondent performed renovations for compensation at each of the Renovation Properties and, for each such renovation, was subject to the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E.

15. On May 9, 2013, a duly designated representative of the EPA Administrator conducted a records inspection at Respondent’s office located at 629 Phoenix Drive in Virginia Beach, Virginia to determine Respondent’s level of compliance with the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E.

Alleged Violations

Count 1 – Failure to Provide Owner with Lead Hazard Pamphlet

16. The allegations contained in Paragraphs 1 through 15 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

17. Pursuant to 40 C.F.R. § 745.84(a), firms are required to provide EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet to owners of dwelling units before beginning renovation activities.

18. Respondent failed to provide the owner with EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet prior to beginning renovation activities at 912 MacArthur Drive in Suffolk, Virginia.

19. Respondent's acts or omissions described in paragraph 18 immediately above constitute a violation of 40 C.F.R. § 745.84(a) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

Counts 2-5 – Failure to Obtain Acknowledgment of Receipt of Lead Hazard Pamphlet

20. The allegations contained in Paragraphs 1 through 19 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

21. Pursuant to 40 C.F.R. § 745.84(a)(1)(i), firms are required to obtain from owners a written acknowledgement of receipt of EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet prior to beginning renovation activities.

22. Respondent failed to obtain a written acknowledgement of receipt of EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet from respective owners prior to beginning renovation activities at:

- a. 3927 Woodley Station in Crestview, North Carolina;
- b. 2422 Ambler Avenue in Norfolk, Virginia;
- c. 46 Piedmont Avenue in Hampton, Virginia; and
- d. 2220 Wolf Street, Virginia Beach, Virginia.

23. Respondent's acts or omissions described in paragraph 22 immediately above constitute four (4) violation of 40 C.F.R. § 745.84(a)(1)(i) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

Civil Penalty

24. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of twelve thousand eight hundred dollars (\$12,800), which Respondent shall be liable to pay in accordance with the terms set forth below. Such civil penalty amount shall become due

and payable immediately upon Respondent's receipt of a true and correct copy of this signed and executed CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a true and correct copy of the signed and executed CAFO is mailed or hand-delivered to Respondent.

25. The Parties represent that the settlement terms are reasonable and are based upon EPA's consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* ("LBP Consolidated ERPP"), revised April 2013.

26. Payment of the civil penalty amount required under the terms of paragraph 24 herein shall be made as follows:

a. Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO, 63197-9000.
Contact: Craig Steffen 513-487-2091
Molly Williams 513-487-2076

b. Via Overnight Delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

c. All payment made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. 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
NY, NY 10045

(Field tag 4200 of Fedwire message should read “D 68010727
Environmental Protection Agency”)

- e. By automatic clearinghouse (“ACH”) to the following account:

U.S. Treasury REX/Cashlink ACH Receiver
ABA 051036706
Account No. 310006
Environmental Protection Agency
CTX Format
Transaction Code 22 – checking

Contact: John Schmid
202-874-7026

- f. Online payments can be made at WWW.PAY.GOV by entering “sfo 1.1”
in the search field, and opening the form and completing the required fields.

- g. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

All payments shall also reference the above case caption and docket number (Docket No.: TSCA-03-2015-0044). At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to the following addressees:

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

Jennifer M. Abramson (3RC50)
Senior Asst. Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

27. 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, Respondent’s failure to make timely payment or to comply with the conditions in this Consent Agreement and the attached Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

28. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar

days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan account rate in accordance with 40 C.F.R. § 13.11(a).

29. The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

30. A late penalty payment of six percent (6%) per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

Certification

31. Respondent certifies that it is currently in compliance with all applicable requirements of TSCA, 15 U.S.C. §§ 2601 *et seq.*

Other Applicable Laws

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

Reservation of Rights

33. This CAFO resolves only EPA's civil claims for penalties for the specific violations of TSCA alleged in this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which 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*. Further, EPA reserves any rights and remedies available to it under TSCA, 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.

Full and Final Satisfaction

34. This settlement shall constitute full and final satisfaction of all claims for civil penalties which Complainant may have under Sections 16(a) and 409 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2615(a) and 2689, for the specific violations alleged in this CAFO. 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.

Parties Bound

35. This CAFO shall apply to and be binding upon Complainant, Respondent, and Respondent's officers, directors, successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

Effective Date

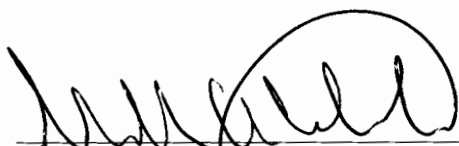
36. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

37. This CAFO constitutes the entire agreement and understanding of the Complainant and Respondent concerning settlement of the action referenced in the caption above, and there are no representations, warranties, covenants, terms, or conditions agreed upon between Complainant and Respondent other than those expressed herein.

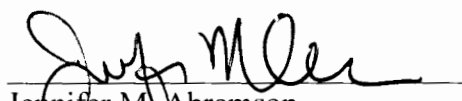
For Respondent:

12/12/14
Date


Michael Coakley, Owner
AAPCO LC d/b/a Best Value Remodelers

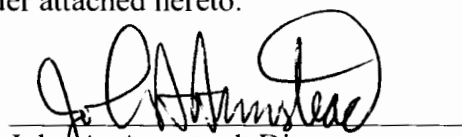
For Complainant:

12/18/14
Date


Jennifer M. Abramson
Counsel for Complainant

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

12.19.14
Date


John A. Armstead, Director
Land and Chemicals Division
U.S. EPA, Region III

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

In the Matter of:)
AAPCO LC)
629 Phoenix Drive)
Virginia Beach, VA 23452)
Respondent.)

DOCKET NO.: TSCA-03-2015-0044
Proceeding Under Section 16(a) of the
Toxic Substances Control Act, 15 U.S.C.
Section 2615(a)

RECEIVED
2014 DEC 30 AM 10:26
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA.

CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

Original and one copy by hand-delivery:

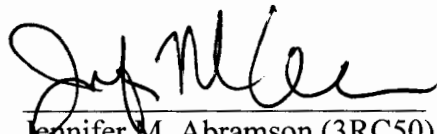
Lydia Guy, Regional Hearing Clerk

Copy by Certified Mail

Mike Coakley
AAPCO LC
629 Phoenix Drive
Virginia Beach, VA 23452

DEC 30 2014

Date



Jennifer M. Abramson (3RC50)
Senior Assistant Regional Counsel
U.S. EPA, Region III

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