



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

AUG 17 2017

REPLY TO THE ATTENTION OF:  
LC-17J

**CERTIFIED MAIL 7014 2870 0001 9577 6831**  
**RETURNED RECEIPT REQUESTED**

Mr. Suraj Akotia  
General Counsel  
College Works Painting, Inc.  
1682 Langley Avenue  
Irvine, California 92614

Consent Agreement and Final Order – In the Matter of CWPILL, Inc.  
Docket No. TSCA-05-2017-0005

Dear Mr. Akotia:

Enclosed please find a copy of a fully executed Consented Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on August 17, 2017 with the Regional Hearing Clerk.

The civil penalty in the amount of \$12,480 is to be paid in the manner described in paragraph's 40 and 41. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Christina Saldivar".

Christina Saldivar  
Pesticides and Toxics Compliance Section

Enclosure

cc: Robert M. Peachey, (C-14J)

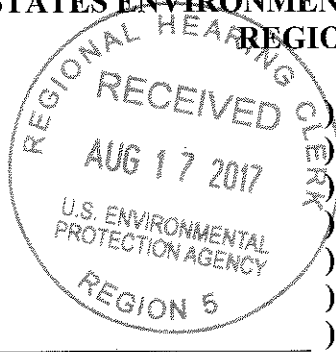


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

CWPILL, Inc.,  
Irvine, California,

Respondent.



Docket No. TSCA-05-2017-0005

Proceeding to Assess a Civil Penalty Under  
Section 16(a) of the Toxic Substances  
Control Act, 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 Section 22.1(a)(5), 22.13(b), and 22.18(b)(2)-(3) of 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. § 22.1(a)(5), 22.13(b), and 22.18(b)(2)-(3).
2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is CWPILL, Inc., a corporation doing business in the State of Illinois.
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 terms of this CAFO, including the assessment of the civil penalty specified below.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional and factual allegations in this CAFO.

8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including its right to request a hearing or petition for judicial review under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and under 40 C.F.R. § 22.15(c), its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06, any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent also consents to the issuance of this CAFO without further adjudication.

### **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 age six; at low levels, lead poisoning in children causes intelligence quotient 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, at 15 U.S.C. §§ 2681-2692.

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

12. Section 407 of TSCA, 15 U.S.C. § 2687 required that the regulations promulgated by the Administrator of EPA include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of TSCA Subchapter IV (TSCA §§ 2681-2692).

13. 40 C.F.R. § 745.82(a)(1) makes 40 C.F.R. Part 745, Subpart E applicable to renovations of target housing performed for compensation.

14. 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.

15. 40 C.F.R. § 745.83 defines “renovation” to mean 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. Part 745 (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, and 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.

16. 40 C.F.R. § 745.83 defines “renovator” to mean 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.

17. 40 C.F.R. § 745.103 defines “residential dwelling” to mean 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.

18. 40 C.F.R. § 745.103 defines “target housing” to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

19. 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).

20. The Administrator of EPA may assess a civil penalty of up to \$37,500 for each violation of Section 409 of TSCA that occurred after December 6, 2013 through November 2, 2015, pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19.

### **General Allegations**

21. Complainant incorporates paragraphs 1 through 20 of this CAFO as if set forth in this paragraph.

22. At all times relevant to this CAFO, Respondent was a firm doing business in Illinois. Respondent was therefore a “firm”, as defined at 40 C.F.R. § 745.83, at all times relevant to this CAFO.

23. Pursuant to a contract dated May 17, 2015, Respondent performed, or directed subcontractors to perform for compensation, modifications at 1172 Wade Street, Highland Park, Illinois (the Highland Park property), a residential dwelling built in 1928. In particular, the Respondent, through its subcontractor, disturbed and removed painted surfaces and components and generated paint dust and debris at the Highland Park property by scraping, priming, and painting the house from September 2 to September 5, 2015.

24. The Highland Park property is “target housing” as defined at 40 C.F.R. § 745.103.

25. Respondent’s contracted work at the Highland Park property from September 2 to September 5, 2015 was a “renovation” as defined at 40 C.F.R. § 745.83.

26. From September 2 to September 5, 2015, Respondent was a “renovator” as defined at 40 C.F.R. § 745.83.

**Count I – Failure to Clean Work Area Until No Dust, Debris, or Residue Remains**

27. Complainant incorporates paragraphs 1 through 26 of this CAFO as if set forth in this paragraph.

28. 40 C.F.R. § 745.85(a)(5) requires the firm performing the renovation to clean the work area until no dust, debris, or residue remains after the renovation has been completed.

29. On September 5, 2015, Respondent completed the renovation described in paragraph 23, but failed to clean the work area until no dust, debris, or residue remained.

30. For the renovation referenced in paragraph 23, Respondent's failure to clean the work area until no dust, debris, or residue remained violated 40 C.F.R. § 745.85(a)(5), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.

**Count II – Failure to Collect All Paint Chips and Debris and Seal Material in a Heavy-Duty Bag Without Dispersing Any of it**

31. Complainant incorporates paragraphs 1 through 26 of this CAFO as if set forth in this paragraph.

32. 40 C.F.R. § 745.85(a)(5)(i)(A) requires the firm performing the renovation to collect all paint chips and debris and seal the material in a heavy-duty bag without dispersing any of it.

33. On September 5, 2015, Respondent completed the renovation described in paragraph 23, but failed to collect all paint chips and debris and seal the material in a heavy-duty bag without dispersing any of it.

34. For the renovation referenced in paragraph 23, Respondent's failure to collect all paint chips and debris and seal the material in a heavy-duty bag without dispersing any of it violated 40 C.F.R. § 745.85(a)(5)(i)(A), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.



**Count III – Failure to Retain All Records Necessary to Demonstrate Compliance with 40 C.F.R. Part 745, Subpart E**

35. Complainant incorporates paragraphs 1 through 26 of this CAFO as if set forth in this paragraph.

36. Under 40 C.F.R. § 745.86(a), 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 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.

37. Respondent failed to maintain records, or to make available such records, for certain renovations completed in the State of Illinois between February 28, 2015 and July 12, 2015, according to the requirements of 40 C.F.R. § 745.86(a) and 745.86(b).

38. Respondent's failure to maintain records, or make available records, violates 40 C.F.R. § 745.86(a) and 745.86(b), 40 C.F.R. § 745.87(b), and 15 U.S.C. § 2689.

**Civil Penalty**

39. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action was \$12,480. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations alleged and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require. 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.*

40. Within 30 days after the effective date of this CAFO, Respondent must pay the \$12,480 civil penalty for the TSCA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

The check must note the following: the case title ("In the Matter of CWPILL, Inc.") and the docket number of this CAFO.

41. A transmittal letter stating Respondent's name, complete address, and the case docket number must accompany the payment in paragraph 40. 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

Christina Saldivar (LC-17J)  
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

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

43. If Respondent does not timely pay the civil penalty, EPA may refer this matter to the Attorney General, who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). Respondent acknowledges that the validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

44. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following interest, fees, and penalties on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. 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**

45. Pursuant to 40 C.F.R. § 22.5(b)(2), the parties consent to service of this CAFO by email at the following email addresses: peachey.robert@epa.gov (for Complainant) and sakotia@nsgmail.com (for Respondent). *See* 40 C.F.R. § 22.5-6. The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

46. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

47. 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.

48. This CAFO does not affect Respondent's responsibility to comply with TSCA, the Residential Lead-Based Paint Hazard Reduction Act of 1992, the Lead Residential Lead-Based

Paint Disclosure Program, and other applicable federal, state, or local laws and permits.

49. Respondent certifies that it is complying with TSCA and 40 C.F.R. Part 745.

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

51. 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.

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


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

54. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

**In the Matter of CWPILL, Inc.  
Docket No.**


**CWPILL, Inc., Respondent**

7/28/2017  
Date

  
\_\_\_\_\_  
Tracy Meneses  
Treasurer  
CWPILL, Inc.

**United States Environmental Protection Agency, Complainant**

Aug. 11, 2017  
Date

  
\_\_\_\_\_  
Brigid Lowery  
Acting Director  
Land and Chemicals Division

**In the Matter of CWPILL, Inc.**  
**Docket No. TSCA-05-2017-0005**

**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.

8/16/17  
Date

Debra K. Smith  
for Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

In the Matter of CWPILL, Inc.  
Docket Number: TSCA-05-2017-0005

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on August 17, 2017 this day in the following manner to the addressees:

Copy by Certified Mail  
Return Receipt Requested:

Mr. Suraj Akotia  
College Works Painting, Inc.  
1682 Langley Avenue  
Irvine, California 92614

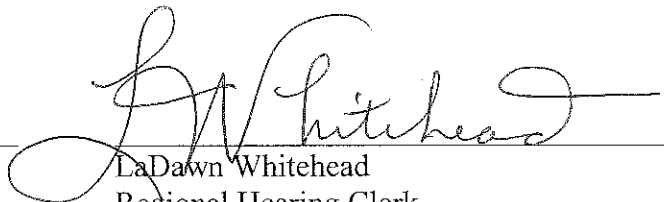
Copy by e-mail to  
Attorney of Complainant:

Robert M. Peachey  
peachey.robert@epa.gov

Copy by e-mail to  
Regional Judicial Officer:

Ann Coyle  
coyle.ann@epa.gov

Dated: August 17, 2017

  
\_\_\_\_\_  
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5

