

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

Philadelphia, Pennsylvania 19103

In the Matter of:	:
	:
Jefferson Homebuilders, Inc.	:
501 N. Main Street	:
Culpeper, VA 22701	:
Respondent.	:
	:
Culpeper Wood Preservers	:
15487 Braggs Corner Road	:
Culpeper, Virginia 22701	:
Facility.	:

U.S. EPA Docket No. RCRA-03-2021-0105
Proceeding under Sections 3008(a) and (g) of
the Resource Conservation and Recovery Act
(RCRA), as amended, 42 U.S.C. §§ 6928(a) and
(g)

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Jefferson Homebuilders, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA” or the “Act”), 42 U.S.C. §§ 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rule of Practice”), 40 C.F.R. Part 22. RCRA § 3008(a)(1), 42 U.S.C. § 6928(a)(1), authorizes the Administrator of the U.S. Environmental Protection Agency (“EPA”) to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator, who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant’s civil penalty claims against Respondent under RCRA for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. EPA notified the Virginia Department of Environmental Quality (VADEQ) of its intended enforcement action by letter dated June 15, 2020. VADEQ had no objection to the enforcement action.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(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.
13. On December 18, 1984, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, EPA granted the Commonwealth of Virginia final

authorization to administer a state hazardous waste management program in lieu of the federal hazardous waste program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, which is set forth in the authorized Commonwealth of Virginia Hazardous Waste Management Program, 9 VAC 20-60-12 *et seq.* The authorized provisions of Virginia's hazardous waste management program through this authorization, have become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA reauthorized amendments to the Virginia hazardous waste management program on June 20, 2003, on July 30, 2008 and again on November 4, 2013 (with revisions not relevant here), and the authorized revisions became effective as requirements of RCRA Subtitle C on those dates.

14. When EPA last authorized the Virginia hazardous waste regulations on November 4, 2013, EPA approved Virginia's incorporation by reference of the then current federal regulations which were in effect as of July 1, 2010, including, among other things, incorporation of 40 C.F.R. § 262.34 (Accumulation Time, which lists the requirements for the generator permit exemption). As a result, 40 C.F.R. § 262.34 (2010) is the currently enforceable version of that RCRA regulation in Virginia. On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 - 262.17. The Code of Federal Regulation citations used herein, when referring to the Federal regulations incorporated by the Virginia's hazardous waste management program, are to the 2010 Federal regulations.
15. For the times relevant to the allegations set forth below, Jefferson Homebuilders, Inc. was a corporation, organized under the laws of the Commonwealth of Virginia in 1972. As such, Jefferson Homebuilders, Inc. was a 'person' as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), 40 C.F.R. § 260.10 and as incorporated by reference in 9 VAC 20-60-260.
16. At all times relevant to the alleged violations contained herein, Respondent was the owner of Culpeper Wood Preservers and the owner of a facility located at 15487 Braggs Corner Road, Culpeper, Virginia 22701 (hereinafter "the Facility"), which operated then, and still operates, under the name of Culpeper Wood Preservers.
17. The Facility began operations in 1980.
18. The Facility had originally used copper chromated arsenic ("CCA") as its wood preservative treatment liquid. CCA drippage from wood preserving and associated waste waters are listed hazardous wastes under the code F035.
19. Drip Pads 1, 2, & 3 at the Facility were originally used to catch CCA drippings, and as such were subject to applicable RCRA regulations.
20. The Facility never "clean-closed" Drip Pads 1, 2 and 3, which had previously used CCA, as required under the closure requirements of 9 VAC 20-60-262, 9 VAC 20-60-264 and 9

VAC 20-60-265, which respectively incorporate by reference 40 C.F.R. §§ 262.34(a)(1)(iii), 264.575 and 265.44.

21. Although the Facility no longer uses CCA to treat wood, on drip pads regulated under RCRA which have not been clean-closed, any drippage, dirt and sediment that are collected for discarding from Drip Pads 1, 2 and 3, are considered hazardous waste, due to prior contamination of the drip pads with CCA.
22. The Facility identifies the waste collected from Drip Pads 1, 2 and 3 with the F035 and D007 hazardous waste codes, as listed in 40 C.F.R. Part 261, which is incorporated by reference into 9 VAC 20-60-261.
23. On September 26-27, 2018, an inspector from EPA conducted a Compliance Evaluation Inspection (“inspection”) of the Facility.
24. At the time of the September 26-27, 2018 inspection, the Facility continued to use Drip Pads 1, 2 and 3 for its wood-preservative treatment operations.
25. At all times relevant to the allegations set forth in this Consent Agreement, Respondent is, and has been, the “owner,” and Culpeper Wood Preservers has been the “operator,” of the Facility, as those terms are defined in 9 VAC 20-60-260.
26. The Facility has been assigned RCRA EPA ID # VAR000004846 for the generation of hazardous waste. The Facility does not have a permit for the treatment, disposal or storage of hazardous wastes.
27. Culpeper Wood Preservers is classified as a Small Quantity Generator (“SQG”) under RCRA.
28. At all times relevant to the allegations set forth in this Consent Agreement, and as described below, Culpeper Wood Preservers is, and has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as these terms are defined in 9 VAC 20-60-260.
29. At all times relevant to the allegations set forth in this Consent Agreement, and as described below, Culpeper Wood Preservers is, and has been, engaged in the temporary “storage” of “solid waste” and “hazardous waste” in “containers” and on a “drip pad” at the Facility, as well as in the collection system and a “sump” associated with the treatment cylinders, as those terms are defined in 9 VAC 20-60-260.
30. On the basis of EPA’s findings during the Inspection and other information provided by the Respondent, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and certain provisions of the authorized Commonwealth of Virginia Hazardous Waste Management Program, 9 VAC 20-60-12 *et seq.*

Count I
**Operating a Treatment, Storage or Disposal Facility Without a Permit
or Interim Status**

31. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
32. 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. Part 270 with exceptions not relevant herein, and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), require that a person may not own or operate a hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for the facility or has qualified for interim status for the facility.
33. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (i.e., “interim status”) until such time as final administrative disposition of such application is made.
34. Neither Respondent nor Culpeper Wood Preservers has a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), for the treatment or storage of hazardous waste at the Facility.
35. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34 with exceptions not relevant herein, allows for a generator of hazardous waste to operate without a permit or interim status if the generator meets certain accumulation, storage, labeling and inspection permit exemption requirements.
36. The Facility did not qualify for the temporary accumulation exemption to the permit requirement found in 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34 with exceptions not relevant herein, because the Facility did not comply with each of the applicable exemption conditions for its management of hazardous waste as stated below.
37. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a) (pertaining to “Accumulation Time”), provides that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:
 - (1) The waste is placed:
 - (i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or

* * *

(iii) On drip pads and the generator complies with subpart W of 40 CFR part 265 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection systems at least every 90 days;

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal;

* * *

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; ...

38. At the time of the September 26-27, 2018 Inspection, the Facility failed to properly label a container in a satellite accumulation area that had hazardous waste, as required by 9 VAC 20-60-262, which incorporates 40 C.F.R. 262.34 by reference.

39. At the time of the Inspection, the Facility failed to mark a container with hazardous waste lamps in a temporary storage facility as hazardous waste. Neither was it marked with: "Universal Waste-Lamp(s)," "Waste Lamp(s)" or "Used Lamp(s)," as required by 9 VAC 20-60-262, which incorporates 40 C.F.R. 262.34 by reference.

40. At the time of the Inspection, the Facility had a hazardous waste container in satellite area accumulation that was not located at or near the point of generation, as required by 9 VAC 20-60-262, which incorporates 40 CFR 262.34(c) by reference.

41. At the time of the Inspection, the Facility did not follow the drip pad requirements of 40 C.F.R. Part 265, Subpart W, and did not maintain records for the drip pads at the Facility, as required by 40 C.F.R. 262.34(a)(1)(iii)(A) and (B) as follows:

1) Facility records from 2017 to 2019 do not document the time and the amount of HW removed from drip pad sumps, as required under 9 VAC 20-60-262, which incorporates 40 C.F.R. 262.34(a)(1)(iii)(B) by reference.

2) Facility records indicate that the Facility did not maintain annual Professional Engineer certification of the drip pads, as required under 9 VAC 20-60-262, which incorporates 40 C.F.R. 262.34(a)(1)(iii), which in turn incorporates 265.443(a)(4)(ii) and (g).

- 3) The Facility had installed metal grates on the drip pads, which did not allow the Facility to ensure that the drip pads operated to convey, drain, and collect liquid from drippage, as required under 9 VAC 20- 60-262, which incorporates 40 C.F.R. 262.34(a)(1)(iii), which in turn incorporates 40 C.F.R. 265.443(d).
 - 4) The Facility did not clean thoroughly and/or remove materials to allow inspections to determine deterioration and cracks on drip pad. Thorough cleaning is required under 9 VAC 20-60-262, which incorporates 40 C.F.R. 262.34(a)(1)(iii) which in turn incorporated 40 C.F.R. 265.443(i) by reference.
42. In failing to comply with the exemption to the permit requirement found in 9 VAC 20-60-262, the Respondent did not qualify for the permit exemption, and engaged in the storage of hazardous waste without a permit. Therefore, Respondent was in violation of 9 VAC 20-60-270.A and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count II

Failure to maintain Professional Engineer (“PE”) annual certification of drip pad.

43. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
44. 9 VAC 20-60-264, which incorporates 40 C.F.R. 264.573((g) by reference, requires that:
- The drip pad must be evaluated to determine that it meets the requirements of paragraphs (a) through (f) of this section and the owner or operator must obtain a statement from a qualified Professional Engineer (PE) certifying that the drip pad design meets the requirements of this section.
45. 9 VAC 20-60-264, which incorporates 40 C.F.R. 264.573(a)(4)(ii), requires an annual assessment of the drip pad by a PE.
46. At the time of the September 26-27, 2018 Inspection, the Facility did not have records to show that annual PE assessment and certification had been performed.
47. In failing to comply with 9 VAC 20-60-264, which incorporates 40 C.F.R. 264.573(a)(4)(ii) and (g) by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a)and (g).

COUNT III

Failure to clean thoroughly and or remove materials to allow inspections to determine deterioration and cracks on drip pad, and to document cleaning

48. 9 VAC 20-60-264, which incorporates 40 C.F.R. 264.573 by reference, requires cleaning and inspection of drip pads. 40 C.F.R. 264.573(i) requires that:

The drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and the cleaning procedure used in the facility's operating log.

49. At the time of the September 26-27, 2018 Inspection, the Facility had metal grates installed over the drip pads, which prevented thorough cleaning and did not allow for inspection of drip pads 1, 2 and 3.
50. The Facility's cleaning records maintained from 2017 – 2019 do not indicate the time of hazardous waste removal from the sumps for drip pads 1, 2, & 3.
51. In failing to comply with the requirements of 9 VAC 20-60-264, which incorporates 40 C.F.R. 264.573(i) by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

52. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **TWENTY-FIVE THOUSAND NINE-HUNDRED THIRTY dollars (\$25,930.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
53. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
54. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, **U.S. EPA Docket No. RCRA-03-2021-0105**;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

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

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously **by email** to:

Daniel T. Gallo
Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
gallo.dan@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

- 55. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
- 56. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing

Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

57. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties 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 rate in accordance with 40 C.F.R § 13.11(a).
58. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case 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.
59. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that 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).
60. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

61. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
62. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors

and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

63. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that the Facility currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

64. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

65. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. 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). EPA reserves any rights and remedies available to it under the RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

66. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

67. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

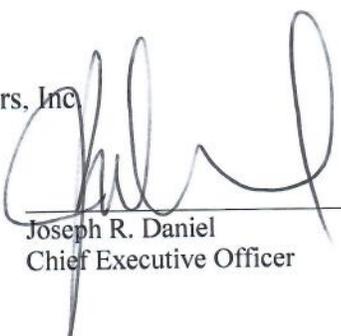
68. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

[MAKE SEPARATE SIGNATURE PAGES FOR EACH PARTY]

For the Respondent: Jefferson Homebuilders, Inc

Date: 8/3/21

By: _____


Joseph R. Daniel
Chief Executive Officer

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Daniel T. Gallo, Jr.
Assistant Regional Counsel
U.S. EPA – Region III

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

In the Matter of:	:	
	:	
Jefferson Homebuilders, Inc.	:	U.S. EPA Docket No. RCRA-03-2021-0105
501 N. Main Street	:	
Culpeper, VA 22701	:	Proceeding under Sections 3008(a) and (g) of
	:	the Resource Conservation and Recovery Act
Respondent.	:	(RCRA), as amended, 42 U.S.C. §§ 6928(a)
	:	and (g)
	:	
Culpeper Wood Preservers	:	
15487 Braggs Corner Road	:	
Culpeper, Virginia 22701	:	
	:	
Facility.	:	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Jefferson Homebuilders, Inc., 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 22.13(b) and 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*, EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June, 2003 and May, 2020 (“RCRA Penalty Policy”), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of the Resource Conservation and Recovery Act, as amended (“RCRA”), 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), 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 ***TWENTY-FIVE THOUSAND NINE-HUNDRED THIRTY DOLLARS (\$25,930.00)***, in accordance with the

payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Resource Conservation and Recovery Act and the regulations promulgated thereunder.

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.

Date: _____

By: _____

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