



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

JUL 21 2015

REPLY TO THE ATTENTION OF:  
LC- 8J

**CERTIFIED MAIL: No.7011 1150 0000 2643 8579**  
**RETURN RECEIPT REQUESTED**

Mr. Alex Rohrer  
Rohrer Group Inc.  
d/b/a Window World of Akron  
2424 Gilchrist Rd.  
Akron, Ohio 44305

Consent Agreement and Final Order In the Matter of  
Window World of Akron. Docket No. TSCA-05-2015-0009


Mr. Rohrer:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on July 21, 2015 with the Regional Hearing Clerk.

The civil penalty in the amount of \$3,600 is to be paid in the manner described in paragraphs 43 and 44. 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,

*for*   
Pamela Grace  
Pesticides and Toxics Compliance Section

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:**

**Rohrer Group Inc.  
d/b/a Window World of Akron  
Akron, Ohio**

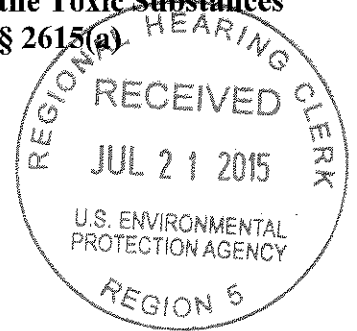
**Respondent,**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. TSCA-05-2015-0009**

**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 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 Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Rohrer Group Inc., doing business as Window World of Akron, (Respondent) with a place of business located at 2424 Gilchrist Road, Akron, Ohio 44305.

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. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X), Pub. L. 102-550, 106 Stat. 3897 (codified in sections of 15 U.S.C. and 42 U.S.C.), Congress found, among other things, that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under the age of 6; at low levels, lead poisoning in children causes intelligence 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.

10. Section 1021 of Title X amended TSCA by adding Sections 401-412, entitled Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692.

11. Pursuant to Sections 402(c), 406(b), and 407 of TSCA, 15 U.S.C. §§ 2682(c), 2686(b), and 2687, EPA promulgated regulations codified at 40 C.F.R. Part 745, Subpart E (“Residential Property Renovation Rule” or “RRP Rule”). The RRP Rule is intended to ensure that owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before renovations begin, that individuals performing such renovations are properly trained and certified, and that specified work practices are followed during the renovations to reduce the potential for lead-based paint exposure.

12. 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.

13. 40 C.F.R. § 745.83 defines “renovation” as 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. 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, 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.

14. 40 C.F.R. § 745.83 defines “renovator” as 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.

15. 40 C.F.R. § 745.103 defines “residential dwelling” as 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.

16. 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 six years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

17. 40 C.F.R. § 745.83 defines “pamphlet” as the EPA pamphlet titled “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools” developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. 745.326 that is developed for the same purpose.

18. 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.

19. 40 C.F.R. § 745.84(a)(1) requires that, no more than 60 days before beginning renovation activities, the firm performing renovation activities in residential dwelling units of target housing must provide the owner of the unit with the pamphlet and obtain, from the owner, a written acknowledgement that the owner has received the pamphlet.

20. 40 C.F.R. § 745.81(a)(4)(ii) requires, on or after July 6, 2010, all renovations must be performed in accordance with the work practice standards in § 745.85 and the associated recordkeeping requirements in § 745.86(b)(1) and (b)(6) in target housing or child-occupied facilities, unless the renovation qualifies for the exception identified in §745.82(a).

21. 40 C.F.R. § 745.86(a) provides that 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. This includes, among other things, signed and

dated acknowledgements of receipt of the pamphlet by the owner or certificates of mailing of the pamphlet and documentation that the firm complied with the work practice standards in 40 C.F.R. § 745.85.

22. 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).

23. 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 January 12, 2009, pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. Part 19.

**Factual Allegations and Alleged Violations**

24. Respondent is a “firm,” as defined at 40 C.F.R. § 745.83.

25. Respondent is a “renovator” as defined at 40 C.F.R. § 745.83.

26. Every employee of Respondent who performs or directs workers to perform renovations is a “renovator,” as defined at 40 C.F.R. § 745.83.

27. From at least April 23, 2010 to September 15, 2011, Respondent performed or directed workers to perform window replacement work for compensation at properties located at the following addresses:

<b>Address:</b>	<b>Date Work Began:</b>	<b>Description of Work:</b>
230 Darrow Rd., Akron, Ohio	On or about 4/23/2010	Window installation
5148 Clardell SW, Canton, Ohio	On or about 9/21/2010	Window installation
337 Oxford Ave., Akron, Ohio	On or about 10/11/2010	Window installation
1189 Herberich Ave., Akron Ohio	On or about 4/6/2011	Window installation
566 South Court St., Medina, Ohio	On or about 5/17/2011	Window installation
724 Rudolph Ave., Cuyahoga Falls, Ohio	On or about 8/2/2011	Window installation
2042 5 <sup>th</sup> Street, Cuyahoga Falls, Ohio	On or about 8/19/2011	Window installation
1452 Mogadure Rd., Kent, Ohio	On or about 8/30/2011	Window installation
549 Fulmer Ave., Akron, Ohio	On or about 9/15/2011	Window installation

28. All of the properties identified in Paragraph 27 are residential dwellings.
29. All of the residential dwellings identified in Paragraph 27 were constructed prior to 1978.
30. All of the residential dwellings identified in Paragraph 27 are “target housing” as defined in 40 C.F.R. § 745.103.
31. The work Respondent performed or directed workers to perform at the residential dwellings identified in Paragraph 27 resulted in the disturbance of painted surfaces.
32. The work Respondent performed or directed workers to perform at the residential dwellings identified in Paragraph 27, above, was “renovation” as defined at 40 C.F.R. § 745.83.
33. On June 16, 2011 and January 5, 2012 Complainant received separate complaints from owners of residential dwellings alleging that Respondent did not comply with lead safe work practices required by the RRP Rule while performing renovation work at the owners’ dwellings.
34. On July 11, 2011, Complainant issued a Request for Information requesting, among other things, documents, information and records Respondent is required to maintain pursuant to 40 C.F.R. § 745.86(b)(6), in order to determine Respondent’s compliance with the RRP Rule and the PRE Rule.
35. On August 2, 2011, Respondent submitted a response to Complainant’s July 11, 2011 Request for Information that contained some, but not all, of the information requested by Complainant.
36. On April 9, 2012, Complainant issued an administrative subpoena to Respondent, under the authority of Section 11 of TSCA, 15 U.S.C. § 2610, seeking, among other things, copies of all contracts and/or agreements for renovation (contracts) and copies of all

acknowledgements of receipt of a pamphlet by the owners and occupants of residential housing, including copies of all certificates of attempted delivery of a pamphlet, and all certificates of mailing of a pamphlet.

37. On May 10, 2012, Respondent submitted a response to Complainant's April 9, 2012 subpoena with additional responsive documents.

38. On February 6, 2014, Complainant requested additional information from Respondent.

39. Respondent provided the additional information requested by Complainant on March 18, 2014.

40. For each property identified in Paragraph 27, Respondent failed to obtain, from the owner, a written acknowledgment that the owner has received the pamphlet as required by 40 C.F.R. § 745.84(a)(2) and 15 U.S.C. § 2689.

41. For each property identified in Paragraph 27, Respondent failed to retain all records necessary to demonstrate compliance with work practice standards as required by 40 C.F.R. § 745.86(b)(6)(viii) and 15 U.S.C. § 2689.

#### **Civil Penalty**

42. 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 \$3,600. 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, and such other factors as justice may require. Complainant also considered EPA's "Revised 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” (April 2013).

43. Within 30 days after the effective date of this CAFO, Respondent must pay a \$3,600 civil penalty for the TSCA violations by sending a cashier’s or certified check, payable to “Treasurer, United States of America,” by either regular U.S. Postal Service mail, to:

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

or by express mail, to:

U.S. Bank  
Government Lockbox 979077 U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must state “Rohrer Group Inc., doing business as Window World of Akron” and the docket number of this CAFO.

44. Respondent must send a notice of payment that states Respondent’s name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Pamela Grace (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Mary McAuliffe (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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

46. If Respondent does not pay timely 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). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

47. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following 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**

48. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk (Effective Date).

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


50. 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.

51. This CAFO does not affect Respondent's responsibility to comply with TSCA and the RRP Rule and other applicable federal, state and local laws.

52. Respondent certifies that it is complying with TSCA and the RRP Rule.
53. The terms of this CAFO bind Respondent, and its successors and assigns.
54. 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.
55. Each party agrees to bear its own costs and attorney's fees in this action.
56. This CAFO constitutes the entire agreement between the parties.

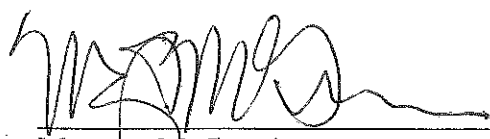
**Rohrer Group Inc., d/b/a Window World of Akron, Respondent**

6-23-15  
Date

  
\_\_\_\_\_  
Alex Rohrer  
Rohrer Group Inc., d/b/a Window World of Akron

**United States Environmental Protection Agency, Complainant**

7/14/2015  
Date


  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

**In the Matter of:  
Rohrer Group Inc., d/b/a Window World of Akron  
Docket No. TSCA-05-2015-0009**

**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.

17 July 2015  
Date



\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

In the matter of: Window World of Akron.  
Docket Number: TSCA-05-2015-0009

**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 July 21, 2015, in the following manner to the addressees:

Copy by Certified Mail  
Return-receipt:

Mr. Alex Rohrer  
Rohrer Group Inc.  
d/b/a Window World of Akron  
2424 Gilchrist Rd.  
Akron, Ohio 44305

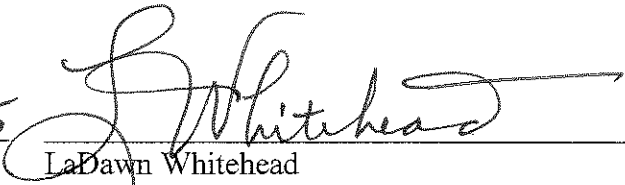
Copy by E-mail to  
Attorney for Complainant:

Mary McAuliffe  
[McAuliffe.mary@epa.gov](mailto:McAuliffe.mary@epa.gov)

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Dated:

July 21, 2015   
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2643 8579