

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

-----X  
:  
In the Matter of :  
:  
**Kascon, LLC,** :  
:  
Respondent. :  
:  
Proceeding under Section 16(a) of :  
the Toxic Substances Control Act :  
-----X

CONSENT AGREEMENT  
AND  
FINAL ORDER

Docket No.  
TSCA-02-2017-9273

RECEIVED  
2017 SEP 10 10 36 AM  
EPA REGION 2  
NEW YORK

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (hereinafter "Consolidated Rules of Practice"). Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and

22.18(b)(3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Kascon, LLC (“Kascon” or “Respondent”).
2. Respondent’s primary place of business is located at 2930 Mason Road, Waterville, New York 13480.
3. Respondent is a general contractor engaged in the business of providing environmental services for asbestos detection and removal, mold remediation, lead detection and removal, and home improvement projects.
4. Respondent is a “firm,” as that term is defined at 40 C.F.R. § 745.8, with EPA Certification No. NAT-F111844-1, valid from 4/2/2013 to 4/16/2018.
5. Respondent is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692, and set forth at 40 C.F.R. Part 745
6. On or about August 5, 2015, duly authorized inspectors of the United States Environmental Protection Agency, Region 2 (“EPA”), conducted an inspection and records review of Joseph Priore Construction (“JPC”), (the “Inspection”). During the course of the Inspection, EPA learned that JPC subcontracted to Respondent all asbestos and lead-based paint work associated with a project at the John F. Hughes Elementary School in Utica, New York (the “Property”), a child-occupied facility, as that term is defined at 40 C.F.R. § 745.83.
7. Respondent conducted lead-based paint renovations at the Property from April 8, 2015 through July 19, 2015.

8. On or about August 26, 2015 and February 10, 2016, EPA issued Information Request Letters (“IRLs”) to Respondent requesting information about the school project and the activities involving lead-paint that Respondent had conducted at the Property.

9. On or about September 25, 2015 and March 15, 2016, Respondent submitted responses to the respective IRLs which indicated that Respondent had performed work subject to the requirements set forth at 40 C.F.R. Part 745, Subpart E (the “Renovation, Repair and Painting (RRP) Rule”) at the Property.

10. Based in part on Respondent’s response to the second IRL, EPA determined that Respondent had failed, within sixty days prior to beginning renovation activities, to provide the owner or an adult representative of the child-occupied facility with the EPA-approved lead hazard information pamphlet, as required by 40 C.F.R. § 745.84(c)(1)(i) and (ii).

11. EPA further determined that Respondent had failed to provide the parents and/or guardians of children using the child-occupied facility with the EPA-approved lead hazard information pamphlet, information describing the general nature and information on how interested parents and guardians of children frequenting the child-occupied facility can review a copy of the records required by §745.86(c) and (d) or obtain a copy from the renovation firm at no cost, required by §745.84(c)(2) no more than sixty days before beginning renovation activities and in the manner prescribed by §§745.84(c)(2)(i) and (ii).

12. EPA further determined that Respondent had failed to establish and maintain records, or make available such records, as required by 40 C.F.R. § 745.87(b).

13. On April 26, 2017 and July 7, 2017, EPA and Respondent held informal pre-filing settlement conferences at Respondent’s request to discuss EPA’s findings with regard to Respondent’s failures to comply with TSCA and the RRP Rule before and during the renovation at the Property.

