

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

U.S. EPA-REGION 3-RHC
FILED-19SEP2018am7:46

In the Matter of:	: Consent Agreement and
	: Final Order
MAPRO Builders, LLC	:
70 T Street NW,	: U.S. EPA Docket Number
Washington, DC 20001	: TSCA-03-2018-0127
	:
Respondent.	: Proceeding under Sections 16(a) and
	: 409 of the Toxic Substances Control
	: Act, 15 U.S.C. §§ 2615(a) and 2689
	:

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region III (“Complainant” or “EPA” or “Agency”) and MAPRO Builders, LLC (“Respondent”), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, the federal regulations set forth at 40 C.F.R. Part 745, Subpart E, and 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 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).
2. The violations cited herein pertain to the Respondent’s alleged failure, to comply with requirements of 40 C.F.R. Part 745, and Section 409 of TSCA, 15 U.S.C. § 2689.
3. 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, as part of the settlement set forth herein, EPA’s civil claims alleged in Section IV (“Findings of Fact and Conclusions of Law”) of this Consent Agreement.

II. JURISDICTION

4. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the Consolidated Rules of Practice.

III. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order, hereinafter collectively referred to as the “CAFO”.
6. Except as provided in Paragraph 5 of this Consent Agreement, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement.
7. 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 CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
10. Each Party to this Consent Agreement shall bear its own costs and attorney’s fees.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding Subchapter IV – Lead Exposure Reduction, TSCA Section 401 to 412, 15 U.S.C. §§ 2681 to 2692.
12. Section 402(c) of TSCA, 15 U.S.C § 2682, required the Administrator of EPA to promulgate regulations for the certification of individuals engaged in renovation or remodeling activities in target housing, public buildings built before 1978, and commercial buildings.
13. Section 407 of TSCA, 15 U.S.C. § 2687 required that the regulations promulgated by the Administrator include such record keeping and reporting requirements as may be necessary to insure the effective implementation of TSCA Subchapter IV.
14. EPA promulgated the Renovation, Repair and Painting Rule (the “RRP Rule”) codified at 40 C.F.R. Part 745, Subpart E, Residential Property Renovation.
15. 40 C.F.R. § 745.83 defines “firm” to mean 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.”
16. 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. § 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, planning thresholds to install weather stripping), and interim controls that disturb painted surfaces.

17. 40 C.F.R § 745.83 defines “renovator” to mean an individual who either performs or directs workers who perform renovations.
18. Section 401(17) of TSCA, 15 U.S.C. § 263(17), 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. Firms that perform renovations for compensation must apply to EPA for certification to perform renovations.
20. Failure to comply with any provision of 40 C.F.R. Part 745, Subpart E, of the RRP rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which subjects the violator to administrative penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).
21. Respondent is and at all times referred to herein was a “person” within the meaning of 40 C.F.R. § 745.83.
22. Respondent is a “firm” as that term is defined by 40 C.F.R. § 745.83.
23. On June 8, 2017, two EPA inspectors reviewed the records in the Respondent’s files at a meeting place agreed to by the Respondent’s owner.
24. The Respondent’s records indicated that on approximately February 13, 2017, Respondent entered into a contract to perform a “renovation” as that term is defined by 40 C.F.R. § 745.83 at 1240 E Street, NE, Washington, DC 20002-6338 (“E Street House”).
25. The Respondent’s records indicated that on approximately March 8, 2017, Respondent entered into a contract to perform a “renovation” as that term is defined by 40 C.F.R. § 745.83 at 2226 Good Hope Road, SE, Washington, DC 20020-4002 (“Good Hope Road House”).
26. The Respondent’s records indicated that on approximately November 4, 2015, Respondent entered into a contract to perform a “renovation” as that term is defined by 40 C.F.R. § 745.83 at 4422 Ord Street, NE, Washington, DC 20019-1960 (“Ord Street

House”).

27. The Respondent’s records indicated that on approximately January 16, 2015, Respondent entered into a contract to perform a “renovation” as that term is defined by 40 C.F.R. § 745.83 at 1803 Wiltberger Street, NW, Washington, DC 20001-5122 (“Wiltberger Street House”).
28. The Respondent’s records indicated that on approximately October 12, 2015, Respondent entered into a contract to perform a “renovation” as that term is defined by 40 C.F.R. § 745.83 at 717 Quebec Place, NW, Washington, DC 20010-1610 (“Quebec Place House”).
29. The E Street House, the Good Hope Road House, the Ord Street House, the Wiltberger Street House, and the Quebec Place House were all constructed before 1978.
30. Because each house was constructed before 1978, the E Street House, the Good Hope Road House, the Ord Street House, the Wiltberger Street House, and the Quebec Place House (collectively the (“Housing Sites”)) are “target housing” as that term is defined by Section 401(17) of TSCA, 15 U.S.C. § 2681,
31. In the Respondent’s files for the Housing Sites, the EPA inspectors found that the Respondent did not have records showing that it had provided the property owners with EPA’s Lead Hazard Information Pamphlet entitled, “The Lead-Safe Certified guide to Renovate Right”.
32. The Respondent did not have any records in its files showing that it had initially registered with EPA as a firm before performing the renovations on the Housing Sites.
33. A search of EPA’s FLPP (“Federal Lead-Based Paint Program”) database showed that the Respondent had not initially registered with EPA as a firm before performing the renovations on the Housing Sites.
34. In the Respondent’s files for the Housing Sites, the EPA inspectors found that the Respondent did not have any records showing that it had performed all of the lead-safe work practices described in 40 C.F.R. § 745.85(a) at the Housing Sites and did not have any records showing that it had performed all the post-renovation cleaning described in 40 C.F.R. § 745.85(b) at the Housing Sites.
35. On January 17, 2018, an EPA inspector conducted an inspection of the E Street House.
36. During the January 17, 2018 inspection, the EPA inspector observed uncontained paint chips and debris from the renovation on the ground adjacent to the house.

V. VIOLATIONS

Count I

37. The allegations of the preceding paragraphs are incorporated by reference as though fully set forth herein.
38. Pursuant to 40 C.F.R. § 745.81(a)(2)(ii) and 40 C.F.R. § 745.89(a)(1), prior to performing renovations at target housing for compensation, firms are required to obtain certification from EPA under § 745.89(a)(1).
39. The Respondent was not EPA certified under 40 C.F.R. § 745.89(a)(1) prior to or at the time of performing renovations at the Housing Sites.
40. The Respondent's failure to obtain certification prior to or at the time of performing renovations constitutes a violation of 40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a)(1), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts II-VI

41. The allegations of the preceding paragraphs are incorporated by reference as though fully set forth herein.
42. 40 C.F.R. § 745.84(a)(1), in part, requires renovators to provide the owners of target housing with EPA's Lead Hazard Information Pamphlet entitled, "The Lead-Safe Certified guide to Renovate Right".
43. During the June 8, 2017 inspection, the Respondent did not provide and the EPA inspectors did not find records showing that the Respondent had provided each of the property owners of the houses at the five target housing sites with EPA's Lead Hazard Information Pamphlet.
44. Respondent's failure to provide each of the property owners of the five target housing sites with EPA's Lead Hazard Information Pamphlet constitutes five violations of 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts VII - XI

45. The allegations of the preceding paragraphs are incorporated by reference as though fully set forth herein.
46. Pursuant to 40 C.F.R. § 745.86(b)(6), Respondent is required to retain and provide documentation of compliance with the work practice standards found in 40 C.F.R. § 745.85(a) and the post renovation cleaning verification standards found in 40 C.F.R. § 745.85(b).
47. During the June 8, 2017 inspection, the Respondent did not provide and the inspectors did not find records showing that the Respondent had performed all of the lead-safe work practices described in 40 C.F.R. § 745.85(a) and any records showing that it had performed all the post-renovation cleaning described in 40 C.F.R. § 745.85(b) for the

houses at each of the five target housing sites.

48. Respondent's failure to provide and/or retain records documenting compliance with 40 C.F.R. §§ 745.85(a) and (b) at the five target housing sites constitutes five violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Count XII

49. The allegations of the preceding paragraphs are incorporated by reference as though fully set forth herein.
50. 40 C.F.R. § 745.85(a)(4)(i) requires that renovators must contain waste from renovation activities to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal.
51. At the time of the inspection on January 18, 2018, at the E Street House, the Respondent had not contained waste from renovation activities in order to prevent the releases of dust and debris before the waste was removed from the work area for storage or disposal.
52. Respondent's failure to contain waste from renovation activities to prevent releases of dust and debris before the waste was removed from the work area for storage or disposal constitutes a violation of 40 C.F.R. § 745.85(a)(4)(i) and Section 409 of TSCA, 15 U.S.C. § 2689.

VI. CIVIL PENALTY

53. 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 of four hundred sixty-eight dollars and zero cents (\$468.00) 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 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.
54. The aforesaid settlement amount is based upon Complainant'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 the Respondent, 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 Lead-Based Paint Consolidated Enforcement Response Policy, and 40 C.F.R. Part 19.

55. Respondent shall remit payment for the civil penalty set forth in Paragraph 53 by either cashier's check, certified check, or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference its name and address, and the Docket Number of this action, i.e., TSCA-03-2018-0127;

b. 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

Contact: Craig Steffen, 513-487-2091

c. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: (314) 418-1028

d. All payments 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. Martin Luther King Drive
Cincinnati, OH 45268-0001

56. Respondent may also pay the civil penalty amount described in Paragraph 53 electronically or on-line as follows:

a. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045

(Field Tag 4200 of the wire transfer message should read:
"D 68010727 Environmental Protection Agency")

- b. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:
US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Craig Steffen, 513-487-2091

- c. On-Line Payment Option:
<https://www.pay.gov/public/form/start/11751879>

Open and complete the form.

- d. Additional payment guidance is available at:
<https://www.epa.gov/financial/makepayment>

57. At the same time that any payment is made, Respondent shall submit copies of the check(s), or verification of the wire transfer(s) or electronic payment(s) to the Regional Hearing Clerk and Mr. Philip Yeany at the following addresses:

Philip Yeany
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC50)
1650 Arch Street
Philadelphia, PA 19103

and

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

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

59. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in this Consent Agreement and the accompanying Final Order.

VII. EFFECT OF SETTLEMENT

60. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties, which Complainant may have under TSCA for the specific violations alleged in Section V (“Violations”), above. 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.

VIII. OTHER APPLICABLE LAWS

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

IX. CERTIFICATION OF COMPLIANCE

62. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that it currently is in compliance with the provisions of TSCA, the RRP Rule, i.e., 40 C.F.R. Part 745, Subpart E.

X. RESERVATION OF RIGHTS

63. This Consent Agreement and the accompanying Final Order resolve only EPA’s claims for civil monetary penalties for the specific violations alleged in Section V (“Violations”) herein. 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, such as the RRP Rule, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the EPA Regional Hearing Clerk.

XI. PARTIES BOUND

64. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, and Respondent’s officers and directors (in their official capacity), successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

XII. EFFECTIVE DATE

65. The effective date of this Consent Agreement and the accompanying Final Order 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 EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

XIII. ENTIRE AGREEMENT

66. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims 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 CAFO.

In the Matter of:
MAPRO Builders, LLC
EPA Docket No. TSCA-03-2018-0127

For Respondent:

8/6/2018
Date


Marcela Correa, Owner

In the Matter of:
MAPRO Builders, LLC
EPA Docket No. TSCA-03-2018-0127

For Complainant:

9/7/18
Date

Philip Yeany
Philip Yeany
Senior Assistant
Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

9.13.18
Date

John A. Armstead
John A. Armstead, Director
Land and Chemicals Division
U.S. EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103

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

In the Matter of:	:
MAPRO Builders, LLC	: EPA Docket No.
70 T Street NW,	: TSCA-03-2018-0127
Washington, DC 20001	:
Respondent.	: Proceeding under Section 16 of the
	: Toxic Substances Control Act, 15
	: U.S.C. § 2615
	:
	:

CERTIFICATE OF SERVICE

I certify that on SEP 19 2018, the original and one (1) copy of the foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

Marcela Correa
MAPRO Builders, LLC
70 T Street NW,
Washington, DC 20001
(Owner of the Respondent)

Copy served via **Hand Delivery or Inter-Office Mail** to:

Philip Yeany
Senior Assistant
Regional Counsel
Office of Regional Counsel (3RC50)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
(Counsel for Complainant)

Dated: SEP 19 2018

Berwin Esposito

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 7015 1520 00030896 2694