

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 – NEW ENGLAND**

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In the Matter of: )  
)  
Wagemont Properties, LLC )  
7077 Shaker Road )  
Loudon, NH 03307 )  
)  
Respondent. )  
)  
)  
*Proceeding under Section 16(a) of the* )  
*Toxic Substances Control Act,* )  
*42 U.S.C. § 2615(a).* )  
\_\_\_\_\_ )

EPA Docket No.  
TSCA-01-2021-0063

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the U.S. Environmental Protection Agency (“EPA”), pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), alleges that Respondent, Wagemont Properties, LLC (“Respondent” or “Wagemont”), violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act (the “Act”), 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated under TSCA and the Act, including 40 C.F.R. Part 745, Subpart E, and 40 C.F.R. Part 745, Subpart L, as amended (collectively referred to herein as the “Renovation, Repair and Painting Rule” or “RRP Rule”) and 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”).

This Consent Agreement and Final Order (“CAFO”) simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of

Practice”), at 40 C.F.R. Part 22. Complainant and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

## **I. STATUTORY AND REGULATORY AUTHORITY**

1. In 1992, Congress passed the Act in response to findings that low-level lead poisoning was widespread among American children, that pre-1978 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. Among the stated purposes of the Act is ensuring that the existence of lead-based paint hazards be considered in the rental and renovation of homes and apartments. To carry out these purposes, the Act added a new section to TSCA, entitled *Subchapter IV – Lead Exposure Reduction*, which includes TSCA Sections 401-412, 15 U.S.C. §§ 2681-2692.

2. In 1996, EPA promulgated regulations to implement Section 1018 of the Act (*Disclosure of Information Concerning Lead upon Transfer of Residential Property*), 42 U.S.C. § 4852d, and Section 402(a) of TSCA (*Lead-Based Paint Activities Training and Certification – Regulations*), 15 U.S.C. § 2682(a). The regulations under Section 1018 of the Act are set forth at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”), and the regulations under TSCA Section 402(a) are set forth at 40 C.F.R. Part 745, Subpart L (commonly referred to as the “Lead-Based Paint Activities, Certification, and Training Rule” or the “LBP Activities Rule”). In 1998, EPA promulgated regulations to implement Section 406(b) of TSCA (*Lead Hazard Information Pamphlet – Renovation of Target Housing*), 15 U.S.C. § 2686(b), and those regulations are set

forth at 40 C.F.R. Part 745, Subpart E (commonly referred to as the “Pre-Renovation Education Rule” or “PRE Rule”).

3. In 2008, EPA promulgated regulations to implement Section 402(c)(3) of TSCA [*Lead-Based Paint Activities Training and Certification – Renovation and Remodeling – Certification Determination*], 15 U.S.C. § 2682(c)(3), by amending both the PRE Rule at 40 C.F.R. Part 745, Subpart E, as well as the LBP Activities Rule at 40 C.F.R. Part 745, Subpart L, now commonly referred to as the “RRP Rule.”

4. The Disclosure Rule, in pertinent part, requires sellers of target housing to do the following:

- i. Provide to the purchaser an EPA-approved lead hazard information pamphlet before the purchaser becomes obligated under a sales contract;
- ii. Provide a Lead Warning Statement as an attachment to the sales contract;
- iii. Provide an attachment to the sales contract a statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards, or indicating no knowledge thereof;
- iv. Provide as an attachment to the sales contract a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or, otherwise, indicates no such records or reports are available; and
- v. Provide as an attachment to the sales contract a statement by the purchaser affirming receipt of the information set out in §§ 745.113(a)(2) and (a)(3) and the lead hazard information pamphlet.

See 40 C.F.R. §§ 745.100, 745.103, 745.107(a)(1), (a)(2), (a)(4), and 745.113(a)(1)-(7).

5. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), failure to comply with any requirements of the Disclosure Rule is a violation of TSCA Section 409, 15 U.S.C. § 2689. Section 1018(b)(5) of the Act also provides that, for each

such violation of TSCA Section 409, specific civil penalties apply under TSCA Section 16.

6. The RRP Rule sets forth procedures and requirements for, among other things, the accreditation of training programs, certification of renovation firms and individual renovators, work practice standards for renovation, repair, and painting activities in target housing and child-occupied facilities, and the establishment and retention of records to document compliance.

7. Pursuant to 40 C.F.R. § 745.103 and 40 C.F.R. § 745.83, the housing stock addressed by the Disclosure Rule and the RRP Rule is “target housing,” defined as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities, or any “0-bedroom dwelling” (unless any child who is less than 6 years of age resides or is expected to reside in such housing).

8. Pursuant to 40 C.F.R. § 745.82, the requirements of the RRP Rule apply to all renovations performed for compensation in target housing, as defined in TSCA Section 401(17) and 40 C.F.R. § 745.103, and in “child-occupied facilities,” as defined in 40 C.F.R. § 745.83.

9. Pursuant to Section 401(14) of TSCA, 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term “residential dwelling” means either 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.

10. For purposes of complying with Section 406(b) of TSCA, 15 U.S.C. § 2686(b), and the RRP Rule, pursuant to 40 C.F.R. § 745.83, the term “pamphlet” as used herein means the EPA-approved pamphlet developed under TSCA Section 406(a), entitled “*Renovate Right*:

*Important Lead Hazard Information for Families, Child Care Providers and Schools*

(“Renovate Right”) (EPA # 740-K-10-001, revised September 2011), or any State or Tribal pamphlet developed for the same purpose and approved by EPA under 40 C.F.R. § 745.326.

11. Pursuant to 40 C.F.R. § 745.83, the term “firm” means 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.

12. Pursuant to 40 C.F.R. § 745.83, the term “renovation” means 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, ceiling, 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. The term renovation does not include “minor repair and maintenance activities.”

13. Pursuant to 40 C.F.R. § 745.83, the term “minor repair and maintenance activities” means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by 40 C.F.R. § 745.85(a)(3) are used and where the

work does not involve window replacement or demolition of painted surface areas.

14. Pursuant to 40 C.F.R. § 745.83, the term “renovator” means 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 by an EPA-authorized State or Tribal program.

15. Under the RRP Rule, except in circumstances specified by the regulations that are not relevant to Respondent or the violations alleged in this CAFO, firms performing renovations in target housing and child-occupied facilities are, among other things, required to:

- i. Obtain an EPA certification for the firm prior to performing renovations;
- ii. Assign a certified renovator, and ensure that a certified renovator either performs the renovation or directs a properly trained worker to perform the renovation;
- iii. Provide the EPA-approved pamphlet to the owner and adult occupant (if the owner does not occupy the unit) before renovation activities begin and obtain written verification that the pamphlet was provided;
- iv. Perform renovations in compliance with applicable work practice standards for any renovation, repair, and painting activities conducted; and,
- v. Retain all records necessary to demonstrate compliance with the same.

*See* 40 C.F.R. §§ 745.81(a)(2), 745.84(a), 745.89(d), 745.85, and 745.86(a)-(b).

16. Pursuant to Section 409 of TSCA, 15 U.S.C § 2689, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA, such as the RRP Rule.

Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with a requirement of the RRP Rule is a violation of Section 409 of TSCA. Pursuant to 40 C.F.R. § 745.87(b), the failure to establish and maintain the records required by the RRP Rule is a violation of Sections 15 and 409 of TSCA, 15

U.S.C §§ 2614 and 2689.

17. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of Section 15 or 409 of TSCA shall be liable to the United States for a civil penalty.

18. Section 16(a) of TSCA, Section 1018(b)(5) of the Act, and 40 C.F.R. § 745.118(f) authorize the assessment of a civil penalty of \$10,000 per violation of the Disclosure Rule. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 (“Debt Collection Improvement Act”), 40 C.F.R. Part 19 and the 2015 Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461, each violation that occurred after November 2, 2015, and for which a penalty is assessed on or after December 23, 2020, is subject to a penalty of up to \$18,364 per day per violation (See 85 Fed. Reg. 83,818, December 23, 2020).

19. TSCA Section 16(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. § 745.235(e) authorize the assessment of a civil penalty of up to \$25,000 per day per violation of the RRP Rule. Under the Debt Collection Improvement Act, 40 C.F.R. Part 19 and the Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461, each violation that occurred after November 2, 2015, and for which a penalty is assessed on or after December 23, 2020, is subject to a penalty of up to \$41,056 per day per violation. (See 85 Fed. Reg. 83,818, December 23, 2020).

## **II. GENERAL ALLEGATIONS**

20. Respondent is a domestic limited liability company organized under the laws of the State of New Hampshire. Respondent is a property management company that also buys and sells property. Its principal place of business is located at 7070 Shaker Road, Loudon, New Hampshire. Kurt Wageling and Raymond Dumont are the principals of Wagemont.

21. The property that is the subject of this action is a multi-family residential building located at 30 Cedar Street, Tilton, New Hampshire (the “Property”). At times relevant to this CAFO, Respondent owned the Property. At times relevant to this CAFO, Respondent managed and renovated the Property. In July 2020, Respondent sold the Property to Trog Properties, LLC. The Property was constructed before 1978.

22. Beginning in November 2019 and continuing through July 2020, Respondent performed renovations at the Property. The renovations consisted of replacing the windows in all the bedrooms of the Property (“Renovation”).

23. On October 5, 2020, EPA received a complaint regarding the Renovation at the Property.

24. On October 13, 2020, EPA issued an Information Request Letter (“IRL”) to the current owner of the Property, Trog Properties, LLC. The EPA Information Request Letter sought records and other information relating to compliance with RRP Rule and Disclosure Rule requirements. Trog Properties, LLC submitted a response to the IRL on October 26, 2020.

25. On October 27, 2020, EPA issued an IRL to the previous owner of the Property, Wagemont.

26. On December 9, 2020, in response to EPA’s IRL, Respondent submitted information documenting the following: (1) Respondent performed renovation work at the Property; (2) Respondent did not obtain RRP Rule firm certification prior to performing the renovation work; (3) Respondent was not aware of the need to obtain firm certification prior to performing the renovation work at the Property; and (4) Respondent did not provide lead disclosure to Trog Properties, LLC when it sold the Property in July 2020.



27. The Property was built prior to 1978, and therefore, it is “target housing,” as defined in 40 C.F.R. § 745.103. Furthermore, the Property does not satisfy the requirements for an exemption under the provisions of the Act, TSCA (including 15 U.S.C. § 2681(17)), the Disclosure Rule (including 40 C.F.R. § 745.101), or the RRP Rule (including 40 C.F.R. § 745.82).

28. At all times relevant to the RRP Rule violations alleged in this CAFO, Respondent was a “firm,” as defined in 40 C.F.R. § 745.83.

29. At all times relevant to the RRP Rule violations alleged in this CAFO, Respondent’s employees performed renovation activities at the Property that constituted “renovations” within the meaning of 40 C.F.R. § 745.83.

30. The renovation activities performed by Respondent at the Property constituted a renovation for compensation within the meaning of TSCA Section 406(b) and the RRP Rule.

### **III. VIOLATIONS**

#### **DISCLOSURE RULE VIOLATIONS**

31. EPA has identified the following violations of the Act and the Disclosure Rule based on documents and other information obtained from Respondent’s response to EPA’s IRL and EPA’s investigation of the facts and circumstances underlying the violations.

#### **COUNT ONE**

##### *Failure to Provide Lead Hazard Information Pamphlet*

32. Paragraphs 1 through 31, above, are incorporated by reference as if fully set forth herein.

33. Pursuant to 40 C.F.R. § 745.107(a)(1), prior to a purchaser becoming obligated

under a contract to purchase target housing, the seller of target housing is required to provide the purchaser with an EPA-approved lead hazard information pamphlet (“*Protect Your Family From Lead in Your Home*”) or an equivalent pamphlet that has been approved for use in particular states by EPA.

34. At all times relevant to this CAFO, Respondent failed to provide the purchaser of the Property, Trog Properties, LLC, with an EPA-approved lead hazard information pamphlet before the purchaser became obligated under a contract to purchase the Property.

35. Respondent’s failure to provide the purchaser of target housing with an EPA-approved lead hazard information pamphlet prior to the purchaser becoming obligated under a contract to purchase target housing violated 40 C.F.R. § 745.107(a)(1) and TSCA Section 409, 15 U.S.C. § 2689.

36. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e), and a violation for which penalties may be assessed pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and Section 16 of TSCA, 15 U.S.C. § 2615.

## **COUNT TWO**

### *Failure to Include a Lead Warning Statement*

37. Paragraphs 1 through 36, above, are incorporated by reference as if fully set forth herein.

38. Pursuant to 40 C.F.R. § 745.113(a)(1), a seller must provide as an attachment to each contract to sell target housing a Lead Warning Statement.

39. Respondent failed to include a Lead Warning Statement attached to its contract

for the sale of the Property.

40. Respondent's failure to provide a Lead Warning Statement attached to the contract to sell target housing violated 40 C.F.R. § 745.113(a)(1) and TSCA Section 409.

41. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e), and a violation for which a penalty may be assessed pursuant to Section 1018(b)(5) of the Act and Section 16 of TSCA.

### **Count Three**

#### *Failure to Include a Statement by the Seller Disclosing the Presence of Lead-based paint/hazards or lack of knowledge thereof*

42. Paragraphs 1 through 41, above, are incorporated by reference as if fully set forth herein.

43. Pursuant to 40 C.F.R. § 745.113(a)(2), each contract to sell target housing must include an attachment containing a statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

44. Respondent failed to include a statement disclosing the presence of known lead-based paint or indicating no knowledge thereof attached to its contract for the sale of the Property.

45. Respondent's failure to attach to its contract to sell the Property, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards violated 40 C.F.R. § 745.113(a)(2) and TSCA Section 409.

46. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e), and a violation for which a penalty may be assessed pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and Section 16 of TSCA, 15 U.S.C. § 2615.

**COUNT FOUR**

*Failure to Include A List of Records or Reports Pertaining to Lead-Based Paint*

47. Paragraphs 1 through 46, above, are incorporated by reference as if fully set forth herein.

48. Pursuant to 40 C.F.R. § 745.113(a)(3), a seller must attach to any contract to sell target housing, a list of any records or reports available pertaining to lead based paint and/or lead based paint hazards in the target housing being sold or, if no such records or reports are available, the seller shall so indicate.

49. Respondent did not attach to its contract to sell the Property, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards in the Property or an indication that no such records or reports are available.

50. Respondent's failure to include a list of records or reports, or a statement indicating none is available, attached to its contract to sell target housing violated 40 C.F.R. § 745.113(a)(3), and TSCA Section 409.

51. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e), and a violation for which a penalty may be assessed pursuant to Section 1018(b)(5) of the Act and Section 16 of TSCA.

## **RENOVATION, REPAIR AND PAINTING RULE VIOLATIONS**

52. EPA has identified the following violations of TSCA and the RRP Rule based on documents and other information obtained from Respondent in response to the IRL and EPA's investigation of the facts and circumstances underlying the violations.

### **COUNT FIVE**

#### *Failure of Firm to Obtain Certification*

53. Paragraphs 1 through 52, above, are incorporated by reference as if fully set forth herein.

54. Pursuant to 40 C.F.R. § 745.81(a)(2), on and after April 22, 2010, no firm may perform, offer, or claim to perform renovations in target housing or child-occupied facilities without certification from EPA under 40 C.F.R. § 745.89, unless the renovation is exempt under 40 C.F.R. § 745.82. Pursuant to 40 C.F.R. § 745.89(a)(1), firms performing renovations for compensation must apply to EPA for certification to perform renovations.

55. Starting in November 2019 and continuing through July 2020, Respondent's employee(s) performed renovations at the Property. The Renovation did not qualify as minor maintenance and repair activities under 40 C.F.R. § 745.83, nor was it exempt under 40 C.F.R. § 745.82.

56. At no time before or during the Renovation at the Property was Respondent certified as a firm under the RRP Rule.

57. Respondent's performance of the Renovation without having applied for or obtained firm certification under 40 C.F.R. § 745.89 constitutes a violation of 40 C.F.R. §§ 745.81(a)(2) and 745.89(a), and TSCA Section 409.

58. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a) and a violation for which a penalty may be assessed pursuant to Section 16 of TSCA.

**COUNT SIX**

*Failure to Assign a Certified Renovator*

59. Paragraphs 1 through 58, above, are incorporated by reference as if fully set forth herein.

60. Pursuant to 40 C.F.R. § 745.89(d)(1), firms must ensure that all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90. Pursuant to 40 C.F.R. § 745.89(d)(2), firms must ensure that a certified renovator is assigned to each renovation and discharges all the certified renovator responsibilities identified in 40 C.F.R. § 745.90.

61. At no time before or during the Renovation were individuals performing the renovation activities on behalf of Respondent certified renovators or trained by a certified renovator, as specified under 40 C.F.R. § 745.89(d)(1).

62. At no time before or during the Renovation was a certified renovator assigned to the 30 Cedar Street renovation, as specified under 40 C.F.R. § 745.89(d)(2).

63. Respondent's failure to ensure that individuals performing the renovation activities on behalf of Respondent were certified renovators or trained by a certified renovator violated 40 C.F.R. § 745.89(d)(1). Respondent's failure to ensure a certified renovator was assigned to the Renovation and carried out all of the responsibilities in 40 C.F.R. § 745.90 violated 40 C.F.R. § 745.89(d)(2).

64. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

#### **IV. TERMS OF SETTLEMENT**

65. This CAFO shall apply to and be binding upon Respondent, its successors and assigns.

66. Respondent stipulates that EPA has jurisdiction over the subject matter alleged herein and that the CAFO states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue. Without admitting or denying the factual allegations contained in this CAFO, Respondent consents for purposes of settlement to the terms of this CAFO.

67. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the CAFO, and waives its right to appeal the Final Order accompanying this Consent Agreement.

68. Respondent certifies that it will operate its business in compliance with Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and federal regulations promulgated under TSCA and the Act, including 40 C.F.R. Part 745, Subpart E, 40 C.F.R. Part 745, Subpart L, and 40 C.F.R. Part 745, Subpart F.

69. As of the effective date of this CAFO, Respondent will provide the owner and adult occupant(s) of target housing, where it performs renovations, with an EPA-approved lead hazard information pamphlet, in compliance with 40 C.F.R. § 745.84(a)(2).

70. As of the effective date of this CAFO, Respondent will provide the purchaser of target housing a Lead Warning Statement attached to any contract to sell target housing, in compliance with 40 C.F.R. § 745.113(a)(1).

71. As of the effective date of this CAFO, Respondent will provide the purchaser of target housing a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards attached to any contract to sell target housing, in compliance with 40 C.F.R. § 745.113(a)(2).

72. As of the effective date of this CAFO, Respondent will attach to any contract to sell target housing a list of records or reports, or a statement indicating none is available, attached to any sale contract to buy target housing in, compliance with 40 C.F.R. § 745.113(a)(3).

73. Respondent has applied for and obtained EPA firm certification to perform renovations or dust sampling, in compliance with 40 C.F.R. § 745.89(a) and 40 C.F.R. § 745.81(a)(2)(ii).

74. As of the effective date of this CAFO, Respondent will ensure that a certified renovator is assigned to each renovation performed by Respondent in compliance with 40 C.F.R. § 745.89(d)(2).

75. Pursuant to Section 16 of TSCA, 15 U.S.C § 2615, based upon the nature of the alleged violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of seven thousand four hundred fifty dollars (\$7,450).



76. Respondent consents to the issuance of this CAFO and for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

77. Respondent shall pay the penalty of seven thousand four hundred fifty dollars (\$7,450) within 30 days of the effective date of this CAFO in the following manner: The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall reference “*In the Matter of Wagemont Properties, LLC*; Consent Agreement and Final Order, EPA Region 1,” Respondent’s name and address, and the EPA Docket Number of this action (TSCA-01-2021-0063), and be payable to “Treasurer, United States of America.” The payment shall be remitted as follows:

**If remitted by regular U.S. mail:**

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

**If remitted by any overnight commercial carrier:**

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

**If remitted by wire transfer:** Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

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

Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to (copy to Andrea Simpson may be sent by email):

Wanda Santiago, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code: ORC 4-6  
Boston, MA 02109-3912  
[santiago.wanda@epa.gov](mailto:santiago.wanda@epa.gov)

and

Peter DeCambre, Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code: ORC 4-2  
Boston, MA 02109-3912  
[decambre.peter@epa.gov](mailto:decambre.peter@epa.gov)

78. Nothing in this CAFO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent’s violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent’s violation of any applicable provision of law.

79. The civil penalty due, and any interest, non-payment penalties or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 U.S.C. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

80. This CAFO shall not relieve Respondent of its obligation to comply with all

applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

81. This CAFO constitutes a settlement by and between EPA and Respondent of all claims for civil penalties pursuant to TSCA for the violations alleged herein. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Nothing in this CAFO shall be construed to limit the authority of EPA to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

82. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent per year and an amount to cover the costs of collection will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

83. Each undersigned representative of the Parties to this CAFO certifies that he, she, or they are fully authorized by the Party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that Party to it.

84. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by electronic mail, to the following address: kwageling@comcast.net. Complainant has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing Order, dated June 19, 2020. Electronic signatures shall comply with, and be maintained in accordance with, that Order.

85. Each Party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

For Respondent:

  
Kurt Wageling, Manager  
Wagemont Properties, LLC

Date: 11/16/2021

For Complainant, U.S. EPA, Region 1:

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James Chow, Deputy Director  
*for* Karen McGuire, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA, Region 1

Date: \_\_\_\_\_

**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b) and (c) of EPA’s Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent is ordered to pay the civil penalty amount specified in the Consent Agreement, in the manner indicated.

The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

\_\_\_\_\_  
(Date)

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LeAnn W. Jensen, Regional Judicial Officer  
U.S. EPA, Region 1