



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

AUG 03 2010

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. James H. Cook, Jr.  
President/Owner  
JHC Corporation  
1029 North Peachtree Parkway, #359  
Peachtree City, Georgia 30269

Re: JHC Corporation  
Docket No. CAA-04-2010-1520(b)

Dear Mr. Cook:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served upon all parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, the first of eight penalty payments in the amount of \$1,127.61 is due within 30 days from the effective date of the CAFO, and subsequent payments are due in 90-day intervals thereafter. Please ensure that the face of each of your cashier's or certified check includes the name of the Respondent and the Docket Number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. Environmental Protection Agency's (EPA's) Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Keith Bates at (404) 562-8992.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document

Internet Address (URL) • <http://www.epa.gov>

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Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

In the Matter of: )  
 )  
JHC Corporation )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. CAA-04-2010-1520(b)

2010 AUG -3 FILED:15  
HEAVY METALS  
ENVIRONMENTAL

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation/Termination or Suspension of Permits; Final Rule (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is JHC Corporation.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. Asbestos is a “hazardous air pollutant” as that term is defined in Sections 112(a)(6) and 112(b)(1) of the CAA, 42 U.S.C. §§ 7412(a)(6) and 7412(b)(1), and is the subject of regulations codified at 40 C.F.R. Part 61, Subpart M, “National Emission Standard for Asbestos,” promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412. Any person who violates Section 112 of the CAA may be assessed a penalty of up to \$25,000 for each such violation, in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d). The statutory penalty of \$25,000 has been adjusted for inflation. For a violation occurring after January 31, 1997, and through March 15, 2004, a penalty of up to \$27,500 may be assessed. For a violation occurring after March 15, 2004, and through January 12, 2009, a penalty of up to \$32,500 may be assessed. For a violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
4. In December 1977, pursuant to Section 112(l) of the CAA, EPA delegated the Administrator’s authorities and responsibilities to implement and enforce emission standards and prevention requirements for asbestos under Section 112 of the CAA, 42 U.S.C. § 7412, to the State of Georgia. Pursuant to Georgia Department of Natural Resources Rules for Air Quality Control, Chapter 391-3-1-.02(9)(b)(7), the State has incorporated and adopted EPA’s rules for asbestos located at 40 C.F.R. Part 61, Subpart M, promulgated pursuant to Section 112 of the CAA, by reference. As indicated in Section 112(l)(7) of the CAA, nothing in Section 112(l) of the CAA shall prohibit the Administrator from enforcing any applicable emission standard or requirement under Section 112 of the CAA.

5. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to the aforementioned delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.
6. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Keith Bates  
Chemical Products and  
Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8997.

### **III. Specific Allegations**

7. Respondent's place of business is located at 1029 North Peachtree Parkway, #359, in Peachtree City, Georgia.
8. Respondent is a "person" as defined in Section 302 of the CAA, 42 U.S.C. § 7602.
9. Respondent was the operator of demolition activity at 450 Morgan Falls Place in Sandy Springs, Georgia that was conducted sometime after February 20, 2009. The demolition activity was associated with structures consisting of a stadium and concession areas.
10. An "owner or operator of a demolition or renovation activity" is defined at 40 C.F.R. as any person who owns, leases, operates, controls, or supervises the facility

being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation or both.

11. "Demolition" is defined in 40 C.F.R. § 61.141 as the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.
12. A "facility" is defined at 40 C.F.R. § 61.141, in part, as any institutional, commercial, public, industrial, or residential structure, installation, or building; any ship; and any active or inactive waste disposal site.
13. The site where the demolition activity took place is a facility.
14. Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b) by failing to provide written notice of intention to demolish the facility prior to the initiation of demolition activities.

#### **IV. Consent Agreement**

15. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
16. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
17. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
18. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M.

19. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
20. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

**V. Final Order**

21. Respondent is assessed a civil penalty of EIGHT THOUSAND, NINE HUNDRED TWENTY-THREE DOLLARS (\$8,923). Eight payments will be made to complete payment of the entire civil penalty including interest. The first payment is due within thirty (30) days of the effective date of this CAFO and subsequent payments will be due in ninety (90) day intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be Nine Thousand Twenty Dollars and Eighty-Eight Cents (\$9,020.88). Respondent shall make payments in accordance with the following schedule.

<u>Payment No.</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	within 30 days of date CAFO filed	\$1,127.61
2	within 120 days of date CAFO filed	\$1,127.61
3	within 210 days of date CAFO filed	\$1,127.61
4	within 300 days of date CAFO filed	\$1,127.61
5	within 390 days of date CAFO filed	\$1,127.61
6	within 480 days of date CAFO filed	\$1,127.61

7	within 570 days of date CAFO filed	\$1,127.61
8	within 660 days of date CAFO filed	\$1,127.61

22. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

**The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

- For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.) use the following address:

U. S. Bank  
 1005 Convention Plaza  
 Mail Station SL-MO-C2GL  
 St. Louis, MO 63101

Contact: Natalie Pearson (314) 418-4087

23. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk  
 U.S. EPA Region 4  
 61 Forsyth Street, S.W.  
 Atlanta, Georgia 30303-8960,

Keith Bates  
 Chemical Products and  
 Asbestos Section  
 U.S. EPA Region 4  
 61 Forsyth Street  
 Atlanta, Georgia 30303-8960,



and

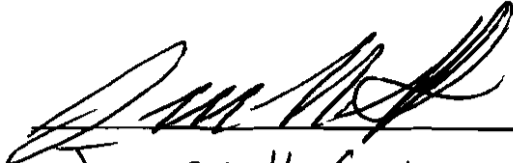
Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

24. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
25. 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 from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
26. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
27. This CAFO shall be binding upon the Respondent, its successors and assigns.
28. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.


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**AGREED AND CONSENTED TO:**

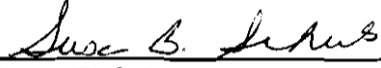
**Respondent:** JHC Corporation  
**Docket No.:** CAA-04-2010-1520(b)

By:  (Signature) Date: 7/14/2010  
Name: JAMES H. COOK (Typed or Printed)  
Title: President (Typed or Printed)

**Complainant:** U.S. Environmental Protection Agency

By:  Date: 7/22/2010  
Kenneth R. Lapierre  
Acting Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 29<sup>th</sup> day of July, 2010.

By:   
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: JHC Corporation, Docket Number: CAA-04-2010-1520(b), to the addressees listed below.

Mr. James H. Cook, Jr. (via Certified Mail, Return Receipt Requested)  
President/Owner  
JHC Corporation  
1029 North Peachtree Parkway, #359  
Peachtree City, GA 30269

Keith Bates (via EPA's internal mail)  
Chemical Products and  
Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

Robert Caplan, Attorney (via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

Date: August 3, 2010

*for* Chaudette A. Hance  
Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
Atlanta, GA 30303  
(404) 562-9511

Department of Justice RM 1647  
P.O. Box 7611, Benjamin Franklin Station  
Washington, D.C. 20044

**B. ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Council (EAD)    |