

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine FOOT 6-25-15
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2015-0013

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

MARK VECE, President
The Whalley GLASS COMPANY
214 Whalley Avenue
New Haven, CT 06511

Total Dollar Amount of Receivable \$ 31,286.00 Due Date: 12/25/15

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:
1st \$ 15,643.00 on 7/25/15
2nd \$ 15,839.00 on 12/25/15
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

RECEIVED

JUN 25 2015

EPA ORC
Office of Regional Hearing Clerk

In the Matter of:)
)
The Whalley Glass Company)
214 Whalley Avenue)
New Haven, Connecticut 06511)
)
Respondent.)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
42 U.S.C. § 2615(a))
)

Docket No. TSCA-01-2015-0013

**CONSENT AGREEMENT
AND FINAL ORDER**

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency ("EPA"), and Respondent, The Whalley Glass Company ("Respondent"), have agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter.

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against Respondent pursuant to Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, by filing a Complaint and Notice of Opportunity for Hearing, Docket No. TSCA-01-2015-0013 ("Complaint").

2. The Complaint alleges that Respondent violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated thereunder, entitled "Residential Property Renovation," as set forth at 40 C.F.R. Part 745, Subpart E.

3. The provisions of this CAFO shall apply to and be binding on Respondent, its successors, and assigns.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO. The parties acknowledge that, by entering into this CAFO, they are settling disputed claims. Nothing in this agreement shall be deemed as an admission of liability. This CAFO shall not be construed to create any rights in, or any cause of action in favor of, any third party not a party to this CAFO.

5. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order.

II. TERMS OF SETTLEMENT

6. Respondent hereby certifies that it is currently operating and will operate its business in compliance with Section 406(b) of TSCA, 15 U.S.C. § 2686(b), the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*, and the Renovation, Repair and Painting Rule set forth at 40 C.F.R. Part 745, Subpart E.

7. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and taking into account the nature, circumstances, extent, and gravity of the violations, EPA has determined that an appropriate civil penalty to settle this action is in the amount of \$31,286.

8. Respondent consents to the issuance of this CAFO and consents to the payment of a civil penalty of \$31,286, which shall be due in two (2) installments. The first payment shall be in the amount of \$15,643 and shall be made within thirty (30) days of the effective date of this CAFO. The second payment shall be in the amount of \$15,839 (consisting of \$15,643 in principal plus \$196 in interest) and shall be made within six (6) months of the effective date of this CAFO.

9. Respondent shall make each payment by cashier's or certified check, or by wire transfer, and shall include the case name and docket number (*In re The Whalley Glass Company*, Docket No. TSCA-01-2015-0013) on the face of the check or wire transfer confirmation. A check should be payable to "Treasurer, United States of America." Each 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, Missouri 63197-9000

If remitted by any overnight commercial carrier:

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

In addition, at the time of payment, Respondents should also forward notice of payment of the civil penalty as well as copies of the payment check or payment receipt to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

and

Christine M. Foot
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-2
Boston, Massachusetts 02109-3912

10. If Respondent fails to make any of the payments required by Paragraph 8 by the required due dates, all remaining installments shall become immediately due and payable as of the missed payment date. Interest on such unpaid penalty amounts shall accrue from the missed payment date until the total amount due has been received by the United States. Respondent shall be liable for such amounts regardless of whether EPA has notified Respondent of its failure to pay or made demand for payment. All payments to the United States under this paragraph shall be made as described in Paragraph 9.

11. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 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. In the event that the civil penalty is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six (6) percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, 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).

12. All payments made pursuant to this Section are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and Respondent shall not use these payments in any way as, or in furtherance of, a tax deduction under federal law.

13. Respondent shall bear its own costs and attorney's fees in connection with the action resolved by this CAFO and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

14. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, for the violations alleged in the Complaint, contingent on Respondent's full compliance with the terms of this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

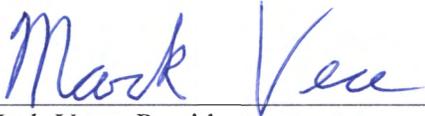
15. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in the CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment. 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 CAFO or Respondent's violation of the statutes and regulations upon which this agreement is based, or for Respondent's violation of applicable provision of law.

16. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

17. This CAFO does not constitute a waiver, suspension, or modification of the requirements of TSCA, 15 U.S.C. § 2601 *et seq.*, or any regulations promulgated thereunder.

18. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

For Respondent:

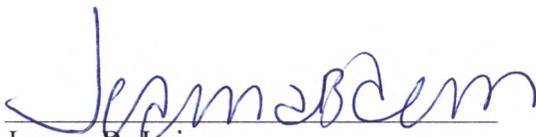


Mark Vece, President
The Whalley Glass Company

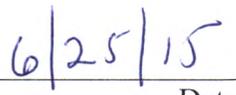


Date

For Complainant:



Joanna B. Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region I



Date

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

Date: June 25, 2015



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

In the Matter of: The Whalley Glass Company
Docket No. TSCA-01-2015-0013

CERTIFICATE OF SERVICE

I hereby certify that foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and One Copy
(hand-delivered):

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

One Copy (Certified Mail,
Return Receipt Requested):

David Speranzini, Esq.
57 Plains Road, Suite 2B
Milford, Connecticut 06461-2573

Dated: 6/25/15



Christine Foot, Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square Suite 100
Mail Code OES04-2
Boston, MA 02109-3912
Phone: 617-918-1333
Fax: 617-918-0333
E-mail: foot.christine@epa.gov