

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of :
:
Buckingham Properties LLC :
and Buckingham Construction LLC, :
:
:
Respondents :
:
:
Proceeding under Section 16(a) of :
the Toxic Substances Control Act :
-----X

CONSENT AGREEMENT
AND
FINAL ORDER

Docket No.
TSCA-02-2017-9276

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 Respondents 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. Respondents are Buckingham Properties LLC and Buckingham Construction LLC (“Buckingham” or “Respondents”).
2. Respondents’ primary place of business is located at 259 Alexander Street, Rochester, New York 14607.
3. Buckingham Properties LLC is engaged in the business of commercial and residential real estate development and management. Buckingham Construction LLC is the building and construction affiliate of Buckingham Properties LLC.
4. Respondent Buckingham Construction LLC is a “firm” as that term is defined at 40 C.F.R. § 745.83.
5. Respondents are 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 July 25, 2014, the United States Environmental Protection Agency, Region 2 (“EPA”) received an anonymous tip/complaint regarding renovations conducted by Respondents at target housing, as that term is defined by TSCA § 401(17), 15 U.S.C. § 2681(17), located at 739 South Clinton Avenue, Rochester, New York (the “Property”).
7. On February 5, 2015, EPA sent an Information Request Letter (“IRL”) to Respondents as part of EPA’s investigation of Respondents’ work practice standards while conducting renovations at the Property.
8. On March 11, 2015, EPA received Respondents’ response, dated March 3, 2015, to EPA’s IRL.

9. Based in part on Respondents' response to the IRL, EPA determined that the renovation work performed by Respondents at the Property is subject to the requirements set forth at 40 C.F.R. Part 745, Subpart E (the "Renovation, Repair and Painting (RRP) Rule").

10. Based in part on Respondents' response to the IRL, EPA determined that Respondents had performed renovations at the Property without first obtaining initial certification from EPA, as required by 40 C.F.R. § 745.85(a).

11. EPA further determined that Respondents had failed to ensure a certified renovator was assigned to the renovation work at the Property, as required by 40 C.F.R. § 745.89(d)(2).

12. EPA further determined that Respondents had failed to retain, and make available to EPA upon request, all records necessary to demonstrate compliance with the RRP Rule for the work performed at the Property, as required by 40 C.F.R. § 745.86.

13. Respondents' failures to comply with the RRP Rules are violations of TSCA § 409, 15 U.S.C. § 2689, for which penalties may be assessed under TSCA § 16(a), 15 U.S.C. § 2615(a).

14. On February 26, 2016, April 8, 2016, and May 17, 2016, EPA and Respondents held informal pre-filing settlement conferences at Respondents' request to discuss EPA's findings with regard to Respondents' failures to comply with TSCA and the RRP Rule during and after the renovation at the Property.

15. Respondent Buckingham Construction LLC obtained its initial RRP Firm certification on April 13, 2016, EPA Certification No. NAT-F-163082-1.

16. As a result of the informal settlement conferences, the parties agreed to enter into this Consent Agreement.

CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondents, that Respondents voluntarily and knowingly agree to, and shall comply with, the following terms:

1. Respondents shall each hereinafter maintain compliance with all applicable statutory provisions of TSCA, 15 U.S.C. § 2601 et seq. and its implementing regulations.

2. Respondents certify that each is currently in compliance with the statutory provisions of Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692 and the implementing regulations codified at 40 C.F.R. Part 745.

3. For the purposes of this Consent Agreement, Respondents: (a) admit that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) to commence a civil administrative proceeding for the violations described in the “Findings of Fact and Conclusions of Law” section, above; and (b) neither admit nor deny the specific factual allegations contained in the “Findings of Fact and Conclusions of Law” section, above.

4. Respondents have developed, and submitted to EPA for its approval, a Compliance Plan (“CP” or “Plan”) addressing the following broad categories of compliance with TSCA and the regulations codified at 40 C.F.R. Part 745:

- a. Obtaining appropriate firm certification(s) from USEPA;
- b. Training of Buckingham employees, when applicable;
- c. Creation and retention of records of compliance;
- d. Meeting work practice standards for renovation and abatement projects; and
- e. Management of general contractor/subcontractor roles in renovation and abatement projects.

The Plan is appended to this CA/FO as Attachment 1.

5. Respondents shall implement the CP at all target housing which Respondents control or at which they perform work covered by the provisions of 40 C.F.R. Part 745.

6. Respondents shall submit reports to EPA documenting their use and implementation of the Plan in accordance with the following terms:

a. Respondents shall submit CP reports quarterly for a period of one year commencing ninety (90) days from the date of signature of the Final Order.

b. The CP reports will be sent to the attention of the following addressees:

U.S. EPA – Region 2
Lead Enforcement Coordinator
2890 Woodbridge Ave. MS-225
Edison, NJ 08837

and

Melva J. Hayden, Esquire
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA – Region 2
290 Broadway – 16th Floor
New York, New York 10007-1866

c. Respondents shall be subject to stipulated penalties for the failure to submit the required CP reports in a timely manner as follows:

i.)	15 – 30 days delinquent	-	\$ 500 per day
ii.)	30 – 45 days delinquent	-	\$1,000 per day
iii.)	45 – 60 days delinquent	-	\$1,500 per day

All stipulated penalties are due and payable within thirty (30) calendar days of Respondents' receipt from EPA of a written demand for payment of the penalties. Payment of stipulated payments shall be made in the same manner as prescribed in Paragraphs 10 and 11, below, for payment of the civil penalty. Stipulated penalties shall accrue as provided above, regardless of

whether EPA has notified Respondents of the violation or has made a demand for payment, but need only be paid upon demand.

d. Each report shall summarize the compliance activities performed in accordance with the Compliance Plan during the preceding quarter. In addition, for renovation work conducted, the report shall indicate the number of RRP renovation undertaken during the relevant quarter and include the submission of Enhanced Renovations Checklists for each RRP renovation conducted during the quarterly period.

e. Each report shall contain the following certification signed by an appropriate corporate official:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant potential penalties for submitting false information, including the possibility of fines and imprisonment."

7. The EPA's Director of Division of Enforcement and Compliance Assistance, may, in her sole discretion, reduce or eliminate any stipulated penalty due.

8. Delays:

a. If any unforeseen event occurs which causes or may cause delays in the submission of the CP Report as required herein, Respondent shall notify EPA in writing within (14) days of the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of delay, the precise cause of delay, the measures taken by Respondent to prevent or minimize delay, and any proposed adjustments to the timetable for the submission of the CP Report caused by the delay. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply

with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular event involved and may constitute a waiver of Respondent's right to request an extension of its obligation under this Consent Agreement based on such incident.

b. If the parties agree that the delay or anticipated delay in the submission of the CP Report has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances.

c. In the event that EPA does not agree that a delay in implementing submitting the CP Report has been or will be caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision and any delays shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent.

9. Respondents shall pay, by cashier's or certified check or electronic fund transfer, a civil penalty in the amount of **FOURTEEN THOUSAND TWO HUNDRED EIGHTY DOLLARS (\$14,280)** due on or before **30 calendar days** from the date of signature of the Final Order at the end of this document.

10. Payment must be received at the address listed in Paragraph 11, below, or the EFT must be received by the Federal Reserve Bank of New York, on or before the due date specified above (the date by which such payment must be received shall hereafter be referred to as the "due date").

a. Failure to pay the full amount of the penalty, or any stipulated penalty demanded by EPA, according to the above provisions will result in the referral of this matter to

the U.S. Department of Justice or the U.S. Department of the Treasury for collection or other appropriate action.

b. Further, if a payment is not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid.

c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.

11. If a payment is made by cashier's or certified check, each such payment shall be payable to the "Treasurer of the United States of America." Each check shall be identified with a notation of the name and docket number of this case, as set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Alternatively, if Respondent chooses to pay by electronic fund transfer ("EFT"), Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: **FRNYUS33, 33 Liberty Street, New York, NY 10045**
- 3) Account Code for Federal Reserve Bank of NY receiving payment: **68010727**
- 4) ABA number: **021030004**
- 5) Field Tag 4200 of the Fedwire message should read "**D68010727**
Environmental Protection Agency"
- 6) Name of Respondents: **Buckingham Properties LLC and Buckingham Construction LLC**
- 7) Case Docket Number **TSCA-02-2017-9276**

Respondent shall also promptly send copies of these checks or furnish reasonable proof that such EFT payments have been made to both:

Melva J. Hayden, Esquire
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

and

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

12. The civil penalties and any stipulated penalties provided for herein are “penalt[ies]” within the meaning of 26 U.S.C. § 162(f), and are not deductible expenditures for purposes of federal or state law.
13. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein) the civil and administrative claims described in the Findings of Fact and Conclusions of Law set forth above.
14. Nothing herein shall be read to preclude EPA or the United States from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of the law.
15. Respondents have read the Consent Agreement, understand its terms, find it to be reasonable, and consent to its issuance and its terms.
16. Respondents consent to the issuance of the accompanying Final Order.
17. Respondents agree that all terms of settlement are set forth herein.
18. Respondents explicitly and knowingly consent to the assessment of the civil penalty as set forth in this Consent Agreement and agree to pay the penalty in accordance with the terms of this Consent Agreement.

19. Respondents hereby waive their right to seek or to obtain any hearing pursuant to Subpart D of 40 C.F.R. Part 22 or other judicial proceeding on this Consent Agreement or on the Findings of Fact and Conclusions of Law herein or on the accompanying Final Order.

20. The Respondents agree not to contest the validity or any term of this Consent Agreement and Final Order in any action brought: a) by the United States, including EPA, to enforce this Consent Agreement or Final Order; or b) to enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondents to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order, and may subject Respondents to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order.

21. Respondents waive any rights they may have to appeal this Consent Agreement and the accompanying Final Order.

22. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondents' obligation to comply with all applicable federal, state, or local laws, rules, or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondents' obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

23. The signatory for Respondents certifies that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

24. Each party hereto agrees to bear its own costs and fees in this matter.

25. Respondents consent to service upon them of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

In the Matter of Buckingham Properties LLC and Buckingham Construction LLC
Docket Number TSCA-02-2017-9276

**Buckingham Properties LLC and Buckingham
Construction LLC**

RESPONDENT:

BY:

Richard I. Finley III

NAME:

RICHARD I FINLEY III

(PLEASE PRINT)

TITLE:

COO

DATE:

2/6/17

COMPLAINANT:

Kate LaPosta

Dore LaPosta, Director

Division of Enforcement and Compliance
Assistance

U.S. Environmental Protection Agency, Region 2

290 Broadway

New York, New York 10007-1866

DATE:

FEB - 8 2017

In the Matter of Buckingham Properties LLC and Buckingham Construction LLC
Docket Number TSCA-02-2017-9276

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Buckingham Properties LLC and Buckingham Construction LLC, bearing Docket Number TSCA-02-2017-9276. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into, and issued as this Final Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk of EPA - Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615.

DATE: _____

 2/13/2017

Walter E. Mugdan
Acting Regional Administrator
U.S. Environmental Protection Agency
290 Broadway, 26th Floor
New York, New York 10007-1866

In the Matter of Buckingham Properties, LLC and Buckingham Construction, LLC
Docket Number TSCA-02-2017-9276

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

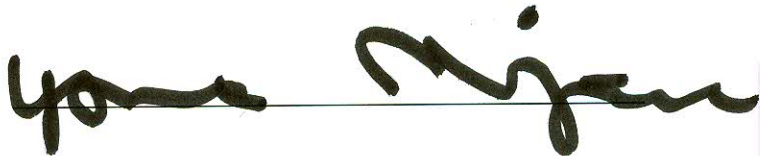
Copy by Certified Mail Return Receipt Requested:

Kenneth Glazer, Managing Partner
Buckingham Properties LLC and
Buckingham Construction LLC
259 Alexander Street
Rochester, NY 14607

Dan O'Brien, Esquire
Woods Oviatt Gillman, LLP
700 Crossroads Building
2 State Street
Rochester, New York 14614

Dated:

2/16/17
New York, New York

A handwritten signature in black ink, appearing to read "Yona Nijem", written over a horizontal line.

ATTACHMENT 1

BUCKINGHAM CONSTRUCTION LLC AND BUCKINGHAM PROPERTIES LLC

LEAD PAINT REGULATIONS COMPLIANCE PLAN

I. Introductory Statement.

This Lead Paint Regulations Compliance Plan (“the Plan”) is being implemented in order to promote compliance by Buckingham Construction LLC and Buckingham Properties, LLC (hereinafter referred to as “Buckingham”) with the requirements for Residential Property Renovation, codified at Title 40 of the Code of Federal Regulations, Part 745, Subpart E, commonly known as the Renovation, Repair, and Painting (RRP) Rule, and Part 745, Subpart F, commonly known as the Disclosure Rule, and (where applicable) Part 745, Subpart L, commonly known as the Abatement Rule. The Plan is designed to help ensure that covered companies and their employees, engaged in renovation activities involving residential “target housing” properties¹ where lead-based paint is, or may be, present, have the necessary guidance and/or training to conduct renovation activities in compliance with the RRP Rule.

II. Objective.

The objective of the Plan is to ensure Buckingham’s compliance with the RRP Rule. This Plan does not address compliance with the residential lead-based paint laws or regulations of other federal, state, or local agencies.

¹ “Target Housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling. 40 C.F.R. §745.103.

III. Applicability.

This Plan covers all Buckingham employees and contractors working on projects involving the leasing, management, sale, renovation or repair of property originally constructed prior to 1978. Note, that in addition to pre-existing residential structures, the conversion of any class of property (e.g., Commercial, Industrial, etc.) constructed prior to 1978 to residential use makes such property subject to the requirements of 40 C.F.R. Part 745 and this Plan.

IV. Procedures.

This document, created and adopted by Buckingham, sets forth procedures which will address the following broad categories of compliance that apply to the Rules cited above:

A) Obtaining appropriate firm certification(s) by US EPA; B) Training of Buckingham employees, when applicable; C) Retention of records of compliance; and D) Managing general contractor/subcontractor roles for RRP Rule projects.

A. Firm certification(s).

RRP Rule - Buckingham has obtained US EPA firm certification for the RRP Rule under certificate number NAT-F-163082-1, issued on April 13, 2016, which expires on April 27, 2021.

Abatement Rule - If Buckingham chooses to become involved in lead-based paint Abatement activities (as distinct from Renovation (i.e., RRP) activities, terms defined at 40 CFR 745.223, and 40 CFR 745.83), then Buckingham would be required to obtain certification from EPA as an Abatement Firm. At this time, Buckingham has no present intention to become involved in Abatement activities and, instead, when necessary, intends to rely on duly certified lead paint abatement contractors.

Disclosure Rule – The Disclosure Rule does not involve certification (see Section B(3) below).

B. Training of Buckingham employees.

1. **RRP Rule** - As the general contractor, whenever Buckingham undertakes a project which triggers the RRP Rule, it will assign an RRP Certified Renovator (appropriately trained individual who possesses a current Renovator certificate issued by an EPA-accredited training provider (school)) to that project. The assigned renovator may be an employee of Buckingham, or of a subcontractor Buckingham hires. This assigned renovator will be responsible, in part, for compliance with the RRP Rules for that project, and in that role must perform, and document, a number of specific job functions.

2. **Assigned Renovator** - If Buckingham chooses the assigned renovator to be a direct employee, it will send an employee for the Renovator training at an EPA-accredited training provider. Unless otherwise designated, Aaron Malbone, Director of Development and Operations, will serve this function for Buckingham. If Buckingham is involved in multiple concurrent projects and it is necessary to have more than one assigned renovator, additional training will be required to insure the availability of a sufficient number of certified renovators to maintain proper coverage and insure compliance with the RRP Rule. If the only certified renovator on a specific project is

the assigned renovator, then the other workers who are performing RRP work must, at a minimum, receive On-the-job training (OJT) on the lead-safe work practices required by the RRP Rule from the certified renovator. The certified renovator will create a record of this training, and Buckingham will retain that record, as well as the other RRP records of compliance, including, but not limited to, the Checklist for Regulated Renovations, written acknowledgment(s) pertaining to receipt of the “Renovate Right” Pamphlet, and any testing results (e.g., if a lead-free determination has been made), which will be completed for each project covered by this Plan.

3. Disclosure Rule – The Disclosure Rule does not involve specific EPA-mandated training. However, to ensure that Buckingham is properly executing its rental leases, and sales of residential property, with respect to the Disclosure Rule, employees involved with the Leasing or Sales of our properties will be notified in writing by Buckingham management of the Disclosure Rule requirements. Internal control documents or training procedures will be instituted to comply, and to document compliance, and to retain such records.

C. Records Retention.

Buckingham will generate and maintain the following records of compliance with the RRP Rule and the Abatement and Disclosure Rules:

- **RRP Rule** – minimum of 3 years after completion of activity

- **Abatement Rule** - minimum of 3 years after completion of activity

- **Disclosure Rule** - minimum of 3 years from date of signing of lease or sale

The maintenance of all such records shall be the responsibility of (1) Aaron Malbone, the Director of Development and Operations or (2) his designee, so long as the designee is a certified renovator in his or her own right. If the specified documents are maintained in hard copy, all such documents covering all projects with RRP Rule requirements, or Disclosure Rule requirements where applicable, shall be maintained at Buckingham's office at 259 Alexander Street, Rochester, New York, in a central file dedicated to RRP Rule documentation, or Disclosure Rule documentation where applicable, with copies of the specified documents to be kept with the individual project files. If hard copy records are not maintained, the specified records shall be maintained in Buckingham's database in a folder dedicated to RRP Rule documentation, or Disclosure Rule documentation where applicable, with copies of the specified documents to be kept with the individual project files or folders. All electronic files containing the specified documents shall be backed up regularly and copies shall be maintained off-site, in the cloud or on some independent medium to prevent inadvertent loss or destruction of the data. Records shall be maintained in PDF format or another format to prevent modification of historical data. In the event of litigation, administrative investigation or action or other inquiries

relating to Buckingham's compliance with the RRP Rule, or Disclosure Rule where applicable, all relevant data shall be preserved and all routine document deletion programs and/or document destruction protocols shall be disabled or suspended until the completion of the litigation, administrative investigation or action or inquiry.

D. Managing general contractor/subcontractor roles for RRP Rules projects

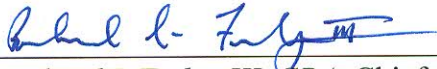
1. When Buckingham serves as the sole contractor, or as a subcontractor to another general contractor, Buckingham will ensure RRP compliance (worker training, lead-safe work practices, etc.), create and retain all records of compliance (and provide copies to whichever firm contracted the work to Buckingham), as well as ensure information distribution ("Renovate Right" booklet (<https://www.epa.gov/lead/materials-and-downloads-renovators-renovation-repair-and-painting>), etc.) to the owner (if different than Buckingham) and/or tenants, as required/applicable.
2. Before Buckingham subcontracts RRP Rule regulated projects to another firm, Buckingham will require proof that that firm is EPA-certified, that the subcontractor is using certified/trained workers as required/applicable, and that a specifically identified certified renovator individual employee of the subcontractor has been assigned as the Renovator to satisfy the assigned renovator responsibilities. Upon commencement of the project Buckingham

will ensure all requirements of the RRP Rule are met (as legally required of all general contractors in general contractor/subcontractor RRP arrangements), and Buckingham will require the subcontractor to provide Buckingham with a copy of all records of compliance for Buckingham to retain in its files for a minimum of 3 years after completion of the project.

3. In connection with any RRP Rule regulated projects undertaken by Buckingham, Buckingham will employ a "Checklist for Renovations Regulated by the Lead Renovation RRP Rule" provided by the EPA and which is attached hereto as "Attachment 2."

Compliance Plan Authorization and Effective Date (attested by highest corporate officer)

Buckingham Properties, LLC


Richard I. Finley III, CPA, Chief Operating Officer

Date 2/6/17

Buckingham Construction, LLC


Richard I. Finley III, CPA, Chief Operating Officer

Date 2/6/17

Buckingham Properties, LLC, sole member of Buckingham Construction, LLC

cc: Aaron Malbone, Director of Development and Operations

ATTACHMENT 2

**CHECKLIST FOR RENOVATIONS REGULATED
BY THE LEAD RENOVATION, REPAIR, AND
PAINTING (RRP) RULE**

CHECKLIST FOR RENOVATIONS REGULATED BY THE RRP RULE

THE PURPOSE OF THIS FORM IS TO DOCUMENT COMPLIANCE WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S LEAD RENOVATION, REPAIR, AND PAINTING RULE ("RRP RULE"), 40 C.F.R. § 745.80, *et seq.*, OR ANY APPLICABLE U.S. EPA-AUTHORIZED STATE OR TRIBAL PROGRAM REGULATING LEAD-BASED PAINT SAFE WORK PRACTICES.

General Project Information:

Property Address: _____
City State Zip

Contractor/subcontractor firm name and certification number (copy of the firm certificate must be on file with Buckingham)

Firm Name

Certification Number

Assigned certified renovator name & certification number (copy of training certificate must be available on the work site and attached to this checklist):

Renovator Name

Certification Number

Brief description of Renovation Project (include painted surfaces disturbed and estimated size):

Did the contractor/subcontractor obtain a written determination from a certified inspector or risk assessor that lead-based paint was not present on the components affected by the renovation?

Yes and a copy of the determination is attached to this checklist. (Form is COMPLETE. Sign Certification on last page.)

No (Continue to Next Section, "Lead Testing Information")

CHECKLIST FOR RENOVATIONS REGULATED BY THE RRP RULE

LEAD TESTING INFORMATION:

Were EPA or applicable state recognized lead test kits used by certified renovator on each and every component (for example, each window to be replaced must be tested unless it is assumed to have lead-based paint) to determine whether lead was present on components affected by renovation?

Yes N/A

Identify workers and kits used and describe components tested, sampling locations and results below. Follow the lead test kit directions completely when testing components. Document paint chip sampling using the template on the following page and attach any laboratory results.

Certified Renovator Name	Certification Number

Attach additional sheets as needed.

Test Kit Manufacturer and Model	Date of Testing	Component and Location Tested	Result

Attach additional sheets as needed.

Note -- Each window to be replaced must be tested unless it is assumed to have lead-based paint

**CHECKLIST FOR RENOVATIONS
REGULATED BY THE RRP RULE**

General Information

Name of Property Owner: _____
Address: _____
City: _____ State: _____ Zip code: _____ Contact #: (____) ____ - _____
Email: _____

Renovation Information

Renovation Address: _____ Unit #: _____
City: _____ State: _____ Zip code: _____
Certified Firm Name: _____
Address: _____
City: _____ State: _____ Zip code: _____ Contact #: (____) ____ - _____
Email: _____
Certified Renovator Name: _____
Date Certified ____/____/____

For each sample collected, fill out all of the following information:

Sample Identifier: _____
Sample Collector Name: _____
Sampling Location: _____
Sampling site description: _____ Date of Collection: ____/____/____
Sample Dimensions (cm): _____ Calculate Sample Area (cm²): _____
*NLLAP-recognized entity and location: _____
Submission date: ____/____/____ Results: _____ Result Date: ____/____/____

Attach additional sheets as necessary.
*National Lead Laboratory Accreditation Program

Was lead-based paint determined to be present on the components affected by the renovation?

___ **Yes** (Continue to Next Section, "Notification, Work Practices, and Recordkeeping").

___ Presumed to be present on the components affected by the renovation (Continue to Next Section, "Notification, Work Practices, and Recordkeeping").

___ **No** (Form is COMPLETE, sign Certification on last page.)

**CHECKLIST FOR RENOVATIONS
REGULATED BY THE RRP RULE**

NOTIFICATION, WORK PRACTICES, AND RECORDKEEPING:

(40 C.F.R. Parts §§ 745.84-745.86 or applicable state program)

Please acknowledge one of the following:

Signed and dated acknowledgments of receipt of the Renovate Right pamphlet from, as applicable: owners and, if not owner-occupied, adult occupants of dwelling units, owners of multi-unit housing for renovations in common areas; and owners and adult representatives of child-occupied facilities are attached to this checklist;

OR

Certificates of mailing of the Renovate Right pamphlet to the following, as applicable: owners and, if not owner-occupied, adult occupants of dwelling units; owners of multi-unit housing for renovations in common areas; and owners and adult representatives of child-occupied facilities are attached to this checklist.

OR

Certificates of attempted delivery of the Renovate Right pamphlet to adult occupants of dwelling units or adult representatives of child-occupied facilities are attached to this checklist.

Comments on pamphlet delivery (*i.e.*, obstacles encountered and how they were addressed):

If the Renovation Project involved a common area of a multi-unit building, was a signed statement describing the steps performed to notify all occupants of multi-unit housing of the renovation activities, to provide the Renovate Right pamphlet to all occupants, and to inform of any changes to the renovation activities, obtained and attached?

___ Yes ___ N/A

If the Renovation Project was performed in a child-occupied facility, was a signed statement describing the steps performed to notify all parents and guardians of children using child-occupied facilities of the renovation activities, to provide the Renovate Right pamphlet, and to provide a copy of the records showing compliance with the RRP Rule and any dust clearance sampling reports obtained and attached?

___ Yes ___ N/A

Name(s) of dust sampling technician, inspector, or risk assessor, if used (attach copies of their certification to this checklist):

NOTIFICATION, WORK PRACTICES, AND RECORDKEEPING: continued

If applicable, certified renovator provided training to workers on (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Posting warning signs | <input type="checkbox"/> Setting up plastic containment barriers |
| <input type="checkbox"/> Maintaining containment | <input type="checkbox"/> Avoiding spread of dust to adjacent areas |
| <input type="checkbox"/> Waste handling | <input type="checkbox"/> Post-renovation cleaning |

List Names of workers trained (attach a copy of any records documenting which elements were taught to each worker):

Renovator posted signs defining work area to keep others out of renovation work area. Warning signs were posted at entrance to work area.

Yes N/A

Work area contained to prevent spread of dust and debris? (Check all that apply)

(INTERIOR)

- All objects in the work area were removed or covered (interiors).
- HVAC ducts in the work area were closed and covered (interiors).
- Windows and doors in the work area were closed and sealed (interiors).
- Floor surfaces covered by plastic extending 6 feet from work area (interiors).
- Doors in the work area were closed and sealed (interiors).
- Doors that must be used in the work area were covered to allow passage but prevent spread of dust (interiors).
- Floors in the work area were covered with taped-down plastic (interiors).

(EXTERIOR)

- Windows in and within 20 feet of the work area were closed (exteriors).
- Doors in and within 20 feet of the work area were closed and sealed (exteriors).
- Ground was covered by plastic extending 10 feet from work area - plastic anchored to building and weighed down by heavy objects (exteriors).
- If necessary, vertical containment was installed if property line prevents 10 feet of plastic ground cover, or if necessary to prevent migration of dust and debris to adjacent property (exteriors).

**CHECKLIST FOR RENOVATIONS
REGULATED BY THE RRP RULE**

NOTIFICATION, WORK PRACTICES, AND RECORDKEEPING: continued

Please acknowledge the following if applicable:

None of the prohibited and restricted work practices was employed.

___ Yes ___ N/A

Waste was contained on-site and while being transported off-site.

___ Yes ___ N/A

Work site was properly cleaned after renovation:

___ Yes ___ N/A

- All chips and debris were picked up, protective sheeting misted, folded dirty side inward, and taped for removal;
- Plastic sheeting misted, folded dirty side inward, and taped for removal; and
- Work area surfaces, walls, and objects were cleaned using HEPA vacuum and/or wet-cloths or mops (interiors).

Certified renovator performed post-renovation cleaning verification. Describe results, including the number of wet and dry cloths used:

OR

If dust clearance testing was performed instead of cleaning verification, the sample results were below clearance standards and a copy of the report was provided to property owners and, if not owner-occupied, adult occupants of residential dwellings or adult representatives of child-occupied facilities and posted in common areas of any multi-unit housing. A copy of the results is attached to this checklist.

___ Yes ___ N/A

If the renovation is an emergency renovation under the RRP Rule, describe the nature of the emergency and document the provisions of the RRP Rule that were not followed:

CONTRACTOR/SUBCONTRACTOR CERTIFICATION

I, the undersigned contractor/subcontractor, certify under penalty of law that the above information is true and complete, and do hereby certify that I have complied with all requirements of the Lead Renovation, Repair, and Painting Rule (“RRP Rule”), 40 C.F.R. § 745.80, et seq., and/or any applicable state laws or program regulating lead-based paint safe work practices, including compliance with all information distribution, notice requirements and work practice standards in performing this Renovation Project. I certify that I have provided the occupants (if any) of the Property to be Renovated, with all documentation required to be supplied under the RRP Rule and/or state program, shall retain all records required by law for at least 3 years or longer if required by state law, and shall provide copies to EPA of all the records required to be retained by the RRP Rule or applicable state program upon request. I have provided Buckingham with a completed copy of this Renovation Recordkeeping Checklist and all associated documentation to support its contents.

Contractor/subcontractor Name and Title

Date

Signature of Authorized Officer

Date

Print Name of Authorized Officer

Title