

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: JANET SHARKE 9/22/11
Name of Contact person Date

in the OBE Office at 215-814-2089
Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

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

Taylor and Boody, Inc.

The Total Dollar Amount of Receivable \$10,000

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number EDCRA 03-211-0283

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call:

Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005
2. Originating Office (ORC)
3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
2. Designated Program Office
3. Regional Hearing Clerk
3. Regional Counsel

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

In the Matter of:	:	
	:	
Taylor & Boody, Inc.	:	Docket No. EPCRA-03-2011-0283
d/b/a Taylor & Boody Organbuilders	:	
	:	
Respondent	:	CONSENT AGREEMENT
	:	
	:	
Taylor & Boody, Inc.	:	
d/b/a Taylor & Boody Organbuilders	:	
8 Hewett Road	:	
Staunton, Virginia 24401	:	
	:	Proceeding under EPCRA § 3205(a)(1)
	:	42 U.S.C. § 11045(c)
	:	
Facility.	:	

COMMUNICATIONS SECTION
EPA REGION III PHOENIX, PA

2011 SEP 26 AM 11:19

RECEIVED

**CONSENT AGREEMENT
Preliminary Statement**

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Taylor & Boody, Inc., d/b/a Taylor & Boody Organbuilders ("Respondent"), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA § 313 as set forth at 40 C.F.R. Part 372, and the "*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*" ("*Consolidated Rules*"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement ("CA") and the accompanying Final Order ("FO" and, collectively, "CAFO"), simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, 42 U.S.C. § 11023, as alleged herein, by Respondent at its facility located at 8 Hewett Road, Staunton, Virginia, 24401.

I. General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in Paragraph 1 herein, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.

3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of this CAFO.
4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.

II. Findings of Fact and Conclusions of Law

7. In accordance with Section 22.13(b) and .18(b)(2) of the *Consolidated Rules*, Complainant adopts the following findings of fact and conclusions of law.
8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that: 1) has 10 or more employees; 2) has a primary Standard Industrial Classification ("SIC") Code of 20[00] through 39[99] (as in effect on July 1, 1985), or other SIC or industry code as set forth in 40 C.F.R. Section 372.22(b); and 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located by July 1 of the following calendar year.
9. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
10. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" to include any corporation.
11. Respondent is incorporated in the Commonwealth of Virginia and is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
12. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated an organ manufacturing facility that is located at 8 Hewett Road, Staunton, Virginia 24401 ("Facility").
13. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

14. At the time of the violations alleged herein, Respondent employed 10 or more full-time employees at the Facility.
15. At the time of the violations alleged herein, the Facility had a primary SIC code of 3931.
16. Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed, or otherwise used at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, to EPA and the Commonwealth of Virginia by July 1 of the following calendar year.
17. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA Section 313 shall be liable to the United States for a civil penalty.

Counts 1-2

18. "Lead" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
19. As set forth in 40 C.F.R. § 372.28, the reporting threshold amount for lead which is manufactured, processed or otherwise used at a facility is 100 pounds.
20. Respondent processed more than 100 pounds of lead at the Facility during each of the 2007 and 2008 calendar years.
21. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Virginia by July 1 of 2008 and 2009, a completed Form R or Form A for the lead processed at the Facility during calendar years 2007 and 2008, respectively.
22. Respondent filed the required Form R for the toxic chemical lead processed at the Facility during calendar year 2007 to the Administrator of EPA on or about November 30, 2009.
23. Respondent filed the required Form R for the toxic chemical lead processed at the Facility during calendar year 2008 to the Administrator of EPA on or about August 29, 2009.
24. Respondent's failure to timely file its Form Rs for the toxic chemical lead processed at the Facility during calendar years 2007 and 2008 constitutes two separate violations of Section 313 of EPCRA, 42 U.S.C. § 11023.
25. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313 shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, (73 Fed. Reg. 74,346 (Dec. 11, 2008)), violations of Section 313 of EPCRA that occurred after January 12, 2009, are subject to an increased statutory maximum penalty of

\$37,500 per violation. Violations of Section 313 of EPCRA that occurred after March 15, 2004, but prior to January 13, 2009, are subject to a statutory maximum penalty of \$32,500 per violation. (64 Fed. Reg. 7121 (Feb. 13, 2004)).

IX. Civil Penalty

26. Complainant has determined the appropriate penalty for the violations identified and described in this CA by considering a number of factors, including the facts and circumstances of this case, the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)[amended]*(April 12, 2001), the Adjustment of Civil Monetary Penalties for Inflation, and 40 C.F.R. Part 19.
27. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA, Respondent consents to the assessment of a civil penalty in the amount of **Ten Thousand Dollars (\$10,000.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk subject to paragraph 28, below.
28. The civil penalty of Ten Thousand Dollars (\$10,000.00) set forth in paragraph 27, above, may be paid in twelve installments with interest at a rate of 1 percent per annum on the outstanding principal balance in accordance with the following schedule:
 - a. 1st Payment: The first payment in the amount of \$3000.00, consisting of a principal payment of \$3000.00 and an interest payment of zero, shall be paid within thirty (30) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent;
 - b. 2nd Payment: The second payment in the amount of \$639.55, consisting of a principal payment of \$633.72 and an interest payment of \$5.83, shall be paid within sixty (60) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
 - c. 3rd Payment: The third payment in the amount of \$639.55, consisting of a principal payment of \$634.24 and an interest payment of \$5.31, shall be paid within ninety (90) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent;
 - d. 4th Payment: The fourth payment in the amount of \$639.55, consisting of a principal payment of \$634.77 and an interest payment of \$4.78, shall be paid within one hundred twenty (120) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.

- e. 5th Payment: The fifth payment in the amount of \$639.55, consisting of a principal payment of \$635.30 and an interest payment of \$4.25, shall be paid within one hundred fifty (150) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- f. 6th Payment: The sixth payment in the amount of \$639.55, consisting of a principal payment of \$635.83 and an interest payment of \$3.72, shall be paid within one hundred eighty (180) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- g. 7th Payment: The seventh payment in the amount of \$639.55, consisting of a principal payment of \$636.36 and an interest payment of \$3.19, shall be paid within two hundred ten (210) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- h. 8th Payment: The eighth payment in the amount of \$639.55, consisting of a principal payment of \$636.89 and an interest payment of \$2.66, shall be paid within two hundred forty (240) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- i. 9th Payment: The ninth payment in the amount of \$639.55, consisting of a principal payment of \$637.42 and an interest payment of \$2.13, shall be paid within two hundred seventy (270) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- j. 10th Payment: The tenth payment in the amount of \$639.55, consisting of a principal payment of \$637.95 and an interest payment of \$1.60, shall be paid within three hundred (300) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- k. 11th Payment: The eleventh payment in the amount of \$639.55, consisting of a principal payment of \$638.49 and an interest payment of \$1.06, shall be paid within three hundred thirty (330) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- l. 12th Payment: The twelfth payment in the amount of \$639.56, consisting of a principal payment of \$639.03 and an interest payment of \$00.53, shall be paid within three hundred sixty (360) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Ten Thousand Dollars (\$10,000) and total interest payments in the amount of Thirty Five Dollars and Six Cents (\$35.06).

29. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in paragraph 28 above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in paragraphs 32, 33, 34 and 35, below, in the event of any such failure or default.
30. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in paragraph 28 above, Respondent may pay the entire civil penalty of Ten Thousand Dollars (\$10,000) within thirty (30) calendar days after the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent, and thereby avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as described in paragraph 33, below. In addition, at any time after commencement of payments under the installment schedule, Respondent may elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
31. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to paragraph 28, above, and/or the full penalty, pursuant to paragraph 30, above, and/or any administrative fees and late payment penalties, in accordance with paragraphs 32, 33, 34, and 35, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2011-0283;
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000
Contacts: Craig Steffen 513-487-2091
Eric Volck 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Contacts: Craig Steffen 513-487-2091
Eric Volck 513-487-2105

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W ML King Drive
Cincinnati, OH 45268-0001

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

Federal Reserve Bank of New York
ABA: 021030004
Account No: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 -checking

Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid 202-874-7026
REX (Remittance Express) 1-866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter sfo 1.1 in the search field. Open and complete the form.

i. Additional payment guidance is available at:

www.epa.gov/ocfo/finservices/payment_instructions.htm

j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO (EPCRA-03-2011-0283). A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Janet E. Sharke, Sr. Asst. Regional Counsel
U.S. EPA, Region III (3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy, Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

32. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
33. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
34. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

35. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
36. The settlement in this proceeding is consistent with the provisions and objectives of EPCRA Section 313 and 40 C.F.R. Part 372.
37. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

X. Certification

38. The individual who signs this CA on behalf of Respondent certifies that the Facility referred to in this CA is currently in compliance with all applicable requirements of EPCRA Section 313.

XI. Reservation of Rights

39. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to public health, welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in the Consolidated Rules of Practice at 40 C.F.R. § 22.18(c). Further, EPA reserves any rights or remedies available under EPCRA, the regulations promulgated thereunder, and any other federal laws and regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

XII. Other Applicable Laws

40. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

XIII. Parties Bound

41. This CA and the accompanying FO shall apply to and be binding upon Complainant, Respondent, Respondent's officers and/or directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind Respondent to the terms and conditions of this CA and the accompanying FO.

XIV. Full and Final Satisfaction

42. The settlement set forth herein shall resolve only Respondent's liability for federal civil penalties for the specific violations alleged herein. Compliance with the CAFO shall not be

a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

XV. Effective Date

43. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

XVI. Entire Agreement

44. This CA and the attached FO constitute the entire agreement and understanding of the Parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the Parties other than those expressed in this CA and the attached FO.

For Respondent:

Date: 6 Sep 2011

By: John H. Boody
John H. Boody
~~President~~ *Sec. of corp* JHB
Taylor & Boody, Inc.
d/b/a Taylor and Boody Organbuilders

For Complainant:

Date: 9/21/11

By: Janet E. Sharke
Janet E. Sharke
Senior Assistant Regional Counsel

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

Date: 9/22/11

By: Abraham Ferdas
Abraham Ferdas, Director
for Land and Chemicals Division

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

In the Matter of:	:	
	:	
Taylor & Boody, Inc.	:	Docket No. EPCRA-03-2011-0283
d/b/a Taylor & Boody Organbuilders	:	
	:	
Respondent	:	FINAL ORDER
	:	
Taylor & Boody, Inc.	:	
d/b/a Taylor & Boody Organbuilders	:	
8 Hewett Road	:	
Staunton, Virginia 24401	:	
	:	Proceeding under EPCRA § 325(c),
	:	42 U.S.C. § 11045(c)
Facility.	:	

FINAL ORDER

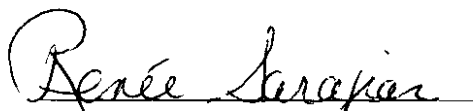
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Taylor & Boody, Inc., d/b/a Taylor and Boody Organbuilders, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the civil penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)[amended]* (April 12, 2001) and the provisions and objectives of EPCRA § 313. **NOW, THEREFORE, PURSUANT TO** Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11045(c), and the *Consolidated Rules of Practice*, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Ten Thousand Dollars (\$10,000.00)** and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date:

9/26/11


Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

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

In the Matter of:	:	
	:	
Taylor & Boody, Inc.	:	Docket No. EPCRA-03-2011-0283
d/b/a Taylor & Boody Organbuilders	:	
	:	
Respondent	:	CONSENT AGREEMENT
	:	
	:	
Taylor & Boody, Inc.	:	
d/b/a Taylor & Boody Organbuilders	:	
8 Hewett Road	:	
Staunton, Virginia 24401	:	
	:	Proceeding under EPCRA § 325(c),
	:	42 U.S.C. § 11045(c)
Facility.	:	

**CONSENT AGREEMENT
Preliminary Statement**

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”), and Taylor & Boody, Inc., d/b/a Taylor & Boody Organbuilders (“Respondent”), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA § 313 as set forth at 40 C.F.R. Part 372, and the “*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*” (“*Consolidated Rules*”), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement (“CA”) and the accompanying Final Order (“FO” and, collectively, “CAFO”) simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, 42 U.S.C. § 11023, as alleged herein, by Respondent at its facility located at 8 Hewett Road, Staunton, Virginia, 24401.

I. General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in Paragraph 1 herein, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.

14. At the time of the violations alleged herein, Respondent employed 10 or more full-time employees at the Facility.
15. At the time of the violations alleged herein, the Facility had a primary SIC code of 3931.
16. Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed, or otherwise used at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, to EPA and the Commonwealth of Virginia by July 1 of the following calendar year.
17. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA Section 313 shall be liable to the United States for a civil penalty.

Counts 1-2

18. "Lead" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
19. As set forth in 40 C.F.R. § 372.28, the reporting threshold amount for lead which is manufactured, processed or otherwise used at a facility is 100 pounds.
20. Respondent processed more than 100 pounds of lead at the Facility during each of the 2007 and 2008 calendar years.
21. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Virginia by July 1 of 2008 and 2009, a completed Form R or Form A for the lead processed at the Facility during calendar years 2007 and 2008, respectively.
22. Respondent filed the required Form R for the toxic chemical lead processed at the Facility during calendar year 2007 to the Administrator of EPA on or about November 30, 2009.
23. Respondent filed the required Form R for the toxic chemical lead processed at the Facility during calendar year 2008 to the Administrator of EPA on or about August 29, 2009.
24. Respondent's failure to timely file its Form Rs for the toxic chemical lead processed at the Facility during calendar years 2007 and 2008 constitutes two separate violations of Section 313 of EPCRA, 42 U.S.C. § 11023.
25. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313 shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, (73 Fed. Reg. 74,346 (Dec. 11, 2008)), violations of Section 313 of EPCRA that occurred after January 12, 2009, are subject to an increased statutory maximum penalty of

- e. 5th Payment: The fifth payment in the amount of \$639.55, consisting of a principal payment of \$635.30 and an interest payment of \$4.25, shall be paid within one hundred fifty (150) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- f. 6th Payment: The sixth payment in the amount of \$639.55, consisting of a principal payment of \$635.83 and an interest payment of \$3.72, shall be paid within one hundred eighty (180) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- g. 7th Payment: The seventh payment in the amount of \$639.55, consisting of a principal payment of \$636.36 and an interest payment of \$3.19, shall be paid within two hundred ten (210) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- h. 8th Payment: The eighth payment in the amount of \$639.55, consisting of a principal payment of \$636.89 and an interest payment of \$2.66, shall be paid within two hundred forty (240) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- i. 9th Payment: The ninth payment in the amount of \$639.55, consisting of a principal payment of \$637.42 and an interest payment of \$2.13, shall be paid within two hundred seventy (270) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- j. 10th Payment: The tenth payment in the amount of \$639.55, consisting of a principal payment of \$637.95 and an interest payment of \$1.60, shall be paid within three hundred (300) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- k. 11th Payment: The eleventh payment in the amount of \$639.55, consisting of a principal payment of \$638.49 and an interest payment of \$1.06, shall be paid within three hundred thirty (330) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
- l. 12th Payment: The twelfth payment in the amount of \$639.56, consisting of a principal payment of \$639.03 and an interest payment of \$0.53, shall be paid within three hundred sixty (360) calendar days of the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Ten Thousand Dollars (\$10,000) and total interest payments in the amount of Thirty Five Dollars and Six Cents (\$35.06).

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Contacts: Craig Steffen 513-487-2091
Eric Volck 513-487-2105

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W ML King Drive
Cincinnati, OH 45268-0001

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

Federal Reserve Bank of New York
ABA: 021030004
Account No: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 -checking

Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid 202-874-7026
REX (Remittance Express) 1-866-234-5681

35. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
36. The settlement in this proceeding is consistent with the provisions and objectives of EPCRA Section 313 and 40 C.F.R. Part 372.
37. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

X. Certification

38. The individual who signs this CA on behalf of Respondent certifies that the Facility referred to in this CA is currently in compliance with all applicable requirements of EPCRA Section 313.

XI. Reservation of Rights

39. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to public health, welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in the Consolidated Rules of Practice at 40 C.F.R. § 22.18(c). Further, EPA reserves any rights or remedies available under EPCRA, the regulations promulgated thereunder, and any other federal laws and regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

XII. Other Applicable Laws

40. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

XIII. Parties Bound

41. This CA and the accompanying FO shall apply to and be binding upon Complainant, Respondent, Respondent's officers and/or directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind Respondent to the terms and conditions of this CA and the accompanying FO.

XIV. Full and Final Satisfaction

42. The settlement set forth herein shall resolve only Respondent's liability for federal civil penalties for the specific violations alleged herein. Compliance with the CAFO shall not be

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

In the Matter of:	:	
	:	
Taylor & Boody, Inc.	:	Docket No. EPCRA-03-2011-0283
d/b/a Taylor & Boody Organbuilders	:	
	:	
Respondent	:	FINAL ORDER
	:	
Taylor & Boody, Inc.	:	
d/b/a Taylor & Boody Organbuilders	:	
8 Hewett Road	:	
Staunton, Virginia 24401	:	
	:	Proceeding under EPCRA § 325(c),
	:	42 U.S.C. § 11045(c)
Facility.	:	

FINAL ORDER

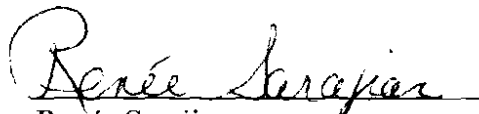
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Taylor & Boody, Inc., d/b/a Taylor and Boody Organbuilders, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the civil penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)[amended]*(April 12, 2001) and the provisions and objectives of EPCRA § 313. **NOW, THEREFORE, PURSUANT TO** Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11045(c), and the *Consolidated Rules of Practice*, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Ten Thousand Dollars (\$10,000.00)** and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date:

9/26/11



Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

CERTIFICATE OF SERVICE


I hereby certify that on the date set forth below, I hand-delivered to the Regional Hearing Clerk of the U.S. Environmental Protection Agency, Region III, the original and one copy of the foregoing Consent Agreement and Final Order (Docket No. EPCRA-03-2011-0283).

I further certify that on the date set forth below, I caused a true and correct copy of the Consent Agreement and Final Order to be transmitted via certified mail, return receipt requested to the following addressees:

John H. Boody
Secretary of Corporation
Taylor & Boody, Inc.
8 Hewett Road
Staunton, VA 24401

Wilson F. Vellines, Jr., Esq.
Vellines, Cobbs, Goodwin & Glass
9 Court Square
Staunton, VA 24401

3/20/11
Date



Janet E. Sharke
Senior Assistant Regional Counsel
U.S. EPA, Region III
Office of Regional Counsel (3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029