

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Hugh Martinez 1/18/17
Name of Case Attorney Date

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

Case Docket Number TSCA-01-2017-0001

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:

Robert F. "BOB" Welsh, Individually
120 Center Hill Road
Landaff, NH 03585

Total Dollar Amount of Receivable \$ 3,500.00 Due Date: 2/17/17

SEP due? Yes No Date Due 2/17/17

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ _____ on _____
- 2nd \$ _____ on _____
- 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: _____ Phone Number
in the Financial Management Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912

HUGH W. MARTINEZ
direct: (617) 918-1867

RECEIVED

OFFICE OF
ENVIRONMENTAL STEWARDSHIP

JAN 18 2017

BY HAND

EPA ORC
Office of Regional Hearing Clerk January 17, 2017

Wanda I. Santiago, Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, MA 02109-3912

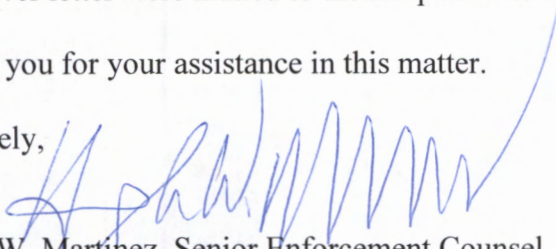
Re: *In Re Robert F. Welsh et al.*, Docket No. TSCA-01-2017-0001
Simultaneous Filing of Complaint and Consent Agreement and Final Order

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of a signed Complaint as well as the original and one copy of an approved Consent Agreement and Final Order (CAFO) that, together, will initiate and resolve the above-referenced enforcement case. Also enclosed is the original and one copy of a certificate of service documenting that, on this date, a copy of the Complaint, CAFO, and this cover letter were mailed to the Respondents in the manner indicated.

Thank you for your assistance in this matter.

Sincerely,


Hugh W. Martinez, Senior Enforcement Counsel
U.S. EPA Region 1

Enclosures

cc: Robert F. "Bob" Welsh, Contact for Named Respondents

M. Molly Magoon, Inspector, EPA Region 1

CERTIFICATE OF SERVICE

I hereby certify that the foregoing administrative Complaint and Notice of Opportunity for Hearing as well as the foregoing Consent Agreement and Final Order have been provided to the following persons on the date noted below:

Original and one copy,
hand-delivered to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA – Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109-3912

One copy by First Class Mail,
Return receipt Requested, to each
Respondent as follows:

Robert F. “Bob” Welsh, Individually
120 Center Hill Road
Landaff, New Hampshire 03585

and as point of contact for each Respondent,

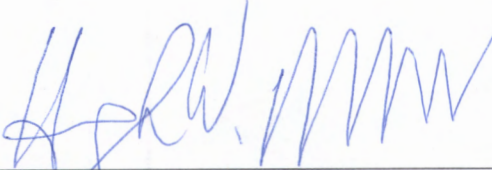
Robert F. “Rob” Welsh, Individually
Beebe Valley Family Ltd. Partnership
Bob’s Rentals, LLC
Robert F. “Rob” Welsh, Trustee,
Robert Welsh II Trust

and

Jettison, LLC

Date:

01-17-17



Hugh W. Martinez, Sr. Enforcement Counsel
U.S. EPA Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912

Phone (dir.): (617) 918-1867
Fax: (617) 918-0867
E-mail: Martinez.hugh@epa.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

In The Matter of:)
)
)
Robert F. "Bob" Welsh, Individually,)
Robert F. "Rob" Welsh, Individually,)
Beebe Valley Family Ltd. Partnership,)
Bob's Rentals, LLC,)
The Robert Welsh II Trust,)
and)
Jettison, LLC,)
)
Respondents.)

Docket No. TSCA-01-2017-0001

**CONSENT AGREEMENT
AND
FINAL ORDER**



CONSENT AGREEMENT

1. Complainant, the United States Environmental Protection Agency ("EPA"), having simultaneously filed an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondents, Robert F. "Bob" Welsh and Robert F. "Rob" Welsh (father and son, respectively), each in his individual capacity, the Beebe Valley Family Limited Partnership, Bob's Rentals, LLC, the Robert Welsh II Trust, and Jettison, LLC, with this Consent Agreement and Final Order ("CAFO"), and Respondents, having collectively elected to resolve this matter before the filing of any Answer to the Complaint, hereby agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter. As used herein, Complainant and Respondents are referred to, collectively, as the "Parties."

STATUTORY AND REGULATORY AUTHORITY

2. This CAFO resolves an administrative action for the assessment of monetary penalties brought pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), 40 C.F.R. §§ 745.87 and 745.118, and the Consolidated Rules of Practice

Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. 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.

3. EPA alleged in its Complaint that Respondents 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 federal regulations promulgated under TSCA and the Act, including 40 C.F.R. Part 745, Subpart F [*Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property*, 40 C.F.R. §§ 745.100-745.119], 40 C.F.R. Part 745, Subpart E [*Residential Property Renovation*, 40 C.F.R. §§ 745.80-745.92], and 40 C.F.R. Part 745, Subpart L [*Lead-Based Paint Activities*, 40 C.F.R. §§ 745.220-745.239]. As used herein, references to the “Disclosure Rule” are references to the regulations at 40 C.F.R. Part 745, Subpart F, as amended, and references to the “Renovation, Repair and Painting Rule” or “RRP Rule” are references to the regulations at 40 C.F.R. Part 745, Subparts E and L together, as amended.

TERMS OF SETTLEMENT

GENERAL

4. The provisions of this CAFO shall apply to and be binding on Respondents and any officers, directors, successors, and assigns.

5. Each Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Each 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.

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

7. Each Respondent hereby certifies that it is currently operating in compliance with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*, the Disclosure Rule at 40 C.F.R. Part 745, Subpart F, and the Renovation, Repair and Painting Rule at 40 C.F.R. Part 745, Subparts E and L. Each Respondent, to the best of its information and belief, after thorough inquiry, certifies that the information provided to EPA during the course of the EPA investigation of this matter is true and complete. Each Respondent also certifies, to the best of its information and belief, that the financial information submitted to EPA fairly, accurately, and materially sets forth Respondent's financial circumstances.

PENALTY

8. Pursuant to Section 16(a) of TSCA and in light of the nature of the violations, relevant statutory penalty criteria, including Respondents' financial ability to pay a penalty, and Respondents' agreement to perform a Supplemental Environmental Project ("SEP"), the total expenditure for which will not be less than \$31,500, EPA has determined that it is fair and proper to assess a civil penalty of \$3,500 for the violations alleged in this matter.

9. Respondents shall pay the civil penalty of \$3,500 within thirty (30) days of the effective date of this CAFO.

10. Respondents agree to pay the civil penalty of \$3,500 in the manner described below:

- a. Payment shall be in a single payment of \$3,500 due within 30 calendar days of the effective date of this CAFO. If the due date for the payment falls on a weekend or

federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard time to be considered as received that day.

- b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case (*In the Matter of Robert F. Welsh et al.*, TSCA-01-2017-0001), be in the amount stated above, and be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 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"

- c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (Mail Code ORA 18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Hugh W. Martinez, Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 (OES 04-3)
Boston, MA 02109-3912

11. The failure by Respondents to pay the penalty in full by the due date may subject Respondents to a civil action to collect the assessed penalty, plus all accrued interest as calculated pursuant to Paragraph 13, due to the United States upon such failure. Interest shall continue to accrue on all unpaid amounts until the total amount due has been received by the United States. Respondents shall be liable for such amounts regardless of whether EPA has notified Respondents of their failure to pay or made demand for payment. All payments to the United States under this Paragraph shall be made in accordance with Paragraph 10.

12. 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 costs of processing and handling a delinquent claim.

13. 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. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney's fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually 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). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

14. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, each Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

15. Respondents shall satisfactorily complete the SEP described below and in Appendix A to this CAFO (the SEP Scope of Work or “SOW”) which the Parties agree is intended to secure significant environmental and/or public health benefits. The SEP shall consist of lead-based paint abatement activities described in this CAFO and Appendix A, the terms of which are incorporated by reference into and enforceable by the CAFO. In particular, Respondents shall abate lead-based paint by removing and replacing “Target Components” (including, as appropriate, enclosing floors), namely, building components with friction-impact or chewable surfaces (e.g., windows, window sills, thresholds, floors, doors, stairs, porches, and railings) that were either installed and painted as part of the original (pre-1978) construction or otherwise proven through testing to have lead-based paint on them and that are located in residential dwelling units at the “SEP Properties” listed in the SEP Scope of Work. The SEP shall be implemented according to the terms and schedule set forth in this CAFO and in Appendix A (Scope of Work).

16. The SEP is anticipated to cost approximately \$31,500. “Satisfactory completion” of the SEP shall mean: (a) within 30 days of the effective date of this CAFO, establishing an

interest-bearing escrow account at an authorized bank or other comparable commercial entity and depositing into such account at least \$31,500 for use in implementing the SEP in accordance with this CAFO and the SOW; (b) implementing the SEP by removing and replacing (or, for floors, enclosing) Target Components within one or more of the SEP Properties in accordance with this CAFO and the SOW; and (c) spending approximately \$31,500 (plus any escrow-accrued interest) in eligible SEP costs for purposes of carrying out the SEP in accordance with this CAFO and the SOW.

17. SEP Reports

(a) Semi-Annual SEP Reports. Respondents shall submit written Semi-Annual SEP Reports to EPA no later than the 21st day of the month following each 6-month period after the effective date of this CAFO. Respondents shall continue to submit such written Semi-Annual SEP Reports to EPA for at least three full 6-month reporting periods after the effective date of this CAFO, unless the SEP has been previously completed and a written SEP Completion Report has been submitted to EPA under Subparagraph 17(b), below. Each Semi-Annual Report shall outline the work completed as well as any funds spent during the applicable reporting period. For each reporting period, as applicable, each Semi-Annual Report shall include copies of all invoices documenting any funds spent towards completion of the SEP as well as photographs of affected Target Components taken both before abatement begins and after work is completed.

(b) SEP Completion Report. Respondents shall submit a SEP Completion Report within 60 days of completion of the SEP and no later than 60 days from the date of two years after the effective date of the CAFO (or from such later date for completion agreed to by the Parties, in writing, under the SOW). The SEP Completion Report shall contain the following information:

- i. a detailed description of the SEP as implemented, including all lead abatement activities completed, along with photographs of affected Target Components taken both before abatement begins and after work is completed;
- ii. any wipe, clearance, or other sampling results and/or data not already submitted in the Semi-Annual SEP Reports including, but not necessarily limited to, all inspection and risk assessment reports, sampling locations and documentation of analytical quality assurance/quality control;
- iii. a list of itemized costs of goods and services used to complete the SEP;
- iv. a certification by Respondents that the SEP has been fully implemented pursuant to the provisions of this CAFO and Appendix A, including a certification that the individuals who performed any SEP work for which Respondents claim SEP cost credit are authorized to perform such work under federal and state law (New Hampshire), along with copies of all applicable state licenses;
- v. a description of the environmental and public health benefits resulting from implementation of the SEP;
- vi. a statement that no tax returns filed or to be filed by any Respondent will contain deductions or depreciations for any expense associated with the SEP (i.e., eligible SEP costs); and,
- vii. a description of any operating problems encountered and the solutions thereto.

In itemizing their costs in the SEP Completion Report and Semi-Annual SEP Reports, Respondents shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where any SEP report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

(c) Respondents shall maintain legible copies of documentation of the underlying documents or reports submitted to EPA pursuant to this CAFO and shall provide the documentation of any such underlying research and data to EPA not more than seven days after a request for such information. In all documents or reports, including, without limitation, any SEP reports, submitted to EPA pursuant to this CAFO, Respondents shall, by their duly-authorized representative(s), sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“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 penalties for submitting false information, including the possibility of fines and imprisonment.”

18. Respondents agree that failure to submit the reports required by Paragraph 17 shall be deemed a violation of this CAFO, and Respondents shall become liable for stipulated penalties pursuant to Paragraph 21 below.

19. Respondents shall submit all notices, submissions, and reports required by this CAFO and Appendix A to the following individuals, by First Class Mail or any other commercial delivery service, at the following addresses:

M. Molly Magoon, Inspector
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 05-4)
Boston, MA 02109-3912

and

Hugh W. Martinez, Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912

Except where the terms of this CAFO expressly indicate otherwise, the foregoing requirements for submitting notices, submissions, and reports to EPA required by this CAFO and Appendix A may be satisfied by transmitting an electronic copy thereof to Ms. Magoon and Mr. Martinez, provided that telephone notice be given to both individuals at the time of transmission, at:

Magoon.molly@epa.gov

phone: 617-918-1848

and

Martinez.hugh@epa.gov

phone: 617-918-1867

Respondents agree that any written notice or other communication by EPA to one or more of the Respondents under this CAFO and Appendix A may be provided to the following individual, by First Class Mail or any other commercial delivery service, at the following address:

Robert F. "Bob" Welsh
120 Center Hill Road
Landaff, NH 03585

Respondents also agree that, except where this CAFO expressly indicates otherwise, the foregoing notice or communication from EPA to one or more of the Respondents under this CAFO and Appendix A may be satisfied by transmitting an electronic copy thereof to the above-listed addressee for Respondents, with telephone notice given the same at the time of transmission, at:

robertwelsh60@yahoo.com

phone: 802-779-5607

Any party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

20. After receipt of the SEP Completion Report described in Paragraph 17 above, EPA will notify Respondents, in writing: (a) that EPA concludes that the SEP has been completed satisfactorily; (b) that EPA has determined that the project has not been completed satisfactorily and is specifying a reasonable schedule for correction of the SEP or the SEP Completion Report; or (c) that EPA has determined that the SEP does not comply with the terms of this CAFO and is seeking stipulated penalties in accordance with Paragraph 21 herein. If EPA notifies Respondents pursuant to Subparagraph 20(b) that the SEP itself or the SEP Completion Report does not comply with the requirements of this CAFO, Respondents shall make such corrections to the SEP and/or modify the SEP Completion Report in accordance with the schedule specified by EPA. If EPA notifies Respondents pursuant to Subparagraph 20(c) that the SEP itself does not comply with the requirements of this CAFO, Respondents shall pay stipulated penalties to EPA in accordance with Paragraph 21 herein.

21. Stipulated Penalties.

(a) In the event that Respondents fail to comply with any of the terms or provisions of this CAFO relating to performance of the SEP, Respondents shall be liable for stipulated penalties according to the provisions set forth below:

- i. For failure to submit any required Semi-Annual SEP Report or SEP Completion Report, for each report Respondents shall pay a stipulated penalty in the amount of \$50 for each day that Respondents are late;
- ii. For a SEP that has not been completed satisfactorily pursuant to this CAFO, Respondents shall pay a stipulated penalty to the United States of \$33,075, plus interest from the effective date of the CAFO. The definition of “satisfactory completion” is set out in Paragraph 16. However, if Respondents spend less than \$31,500 but otherwise satisfactorily complete the SEP, Respondents shall only be required to pay a stipulated penalty to the United States in the amount equal to the difference between \$31,500 and the actual amount of eligible costs spent on the Project.

(b) The determinations of whether the SEP has been satisfactorily completed and whether the Respondents have made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

(c) Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

(d) Respondents shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 10. Interest and late charges shall be paid as stated in Paragraph 13.

(e) Payment of stipulated penalties shall be in addition to any other relief available under federal law.

(f) EPA may, in its sole discretion, decide not to seek stipulated penalties or to waive any portion of the stipulated penalties that accrue pursuant to this CAFO.

22. Each Respondent hereby certifies as follows:

(a) that, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation, and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

(b) Respondent is not party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP; To the best of Respondent's knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP; For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant,

cooperative agreement loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired;

(c) the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

(d) Respondent has not received and will not receive credit for the SEP in any other enforcement action; and,

(e) Respondent has not received and will not receive any reimbursement for any portion of the SEP from any other person or entity.

23. Each Respondent agrees that any public statement, oral or written, in print, film, electronic, or other media, made by Respondent making reference to the SEP shall include the following qualifying language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the Toxic Substances Control Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and federal regulations promulgated thereunder against [applicable Respondent name].”

24. Each Respondent agrees that it will not implement the SEP for the purpose of advancing or advocating any sales or marketing strategy. Reference in the SEP to any type of product or technology is not intended and shall not be construed as an endorsement or approval by EPA of any particular brand of such product or technology. Also, the involvement of any third party in the implementation of the SEP is not intended and shall not be construed as a specific endorsement or approval by EPA of such third party or of any product or service provided by such third party.

25. Each Respondent agrees that EPA may inspect any property at which the SEP is being conducted at any time, including before work commences, in order to confirm that the SEP is being undertaken in conformity with the representations made herein and in Appendix A.

EFFECT OF SETTLEMENT AND RESERVATION OF RIGHTS

26. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and regulations implementing TSCA, at 40 C.F.R. §§ 745.87 and 745.118, for the violations alleged in the Complaint. Payment of any civil and stipulated penalties required under this CAFO and completion of the SEP as set forth in this CAFO and Appendix A shall be deemed to resolve all civil and administrative claims for matters addressed in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law.

27. This CAFO in no way relieves Respondents or their employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against one or more of the Respondents in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

28. This CAFO shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

29. Except as specifically settled herein, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or

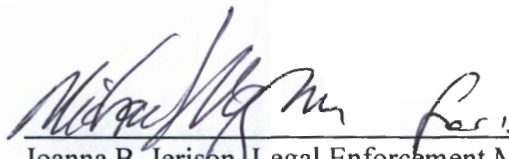
sanctions available by virtue of Respondents' violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondents' violation of any applicable provision of law.

30. The Parties shall bear their own costs and fees in this action, including attorneys' fees, and specifically waive any right to recover such costs from any other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

31. Except for any SEP schedule changes agreed to by the Parties under the SEP Scope of Work at Appendix A, this CAFO may not be amended or modified without the written agreement of both Parties and approval by the Regional Judicial Officer.

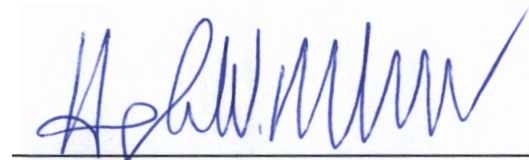
32. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

For Complainant, U.S. Environmental Protection Agency:



Joanna B. Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

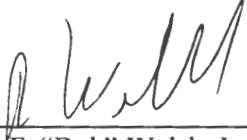
Date: 1-17-17



Hugh W. Martinez, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date: 1-10-17

For Respondent, Robert F. "Bob" Welsh:



Robert F. "Bob" Welsh, Individually

Date: 12/22/14

For Respondent, Robert F. "Rob" Welsh:



Robert F. "Rob" Welsh, Individually

Date: 12/22/16

For Respondent, Beebe Valley Family Ltd. Partnership:

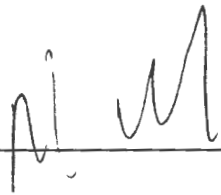
 R Will
Signature

Date: 7/22/16

Print Name and Title:

Robert Welsh
CEO

For Respondent, Bob's Rentals, LLC:

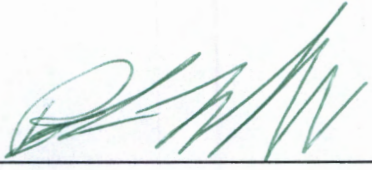


Signature

Date: 11/22/17

Print Name and Title:

For Respondent, Robert Welsh II Trust:



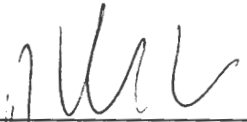
Signature

Date: 1/3/17

Print Name and Title:

Robert Welsh, Trustee

For Respondent, Jettison, LLC:



Signature

Date: 11/22/19

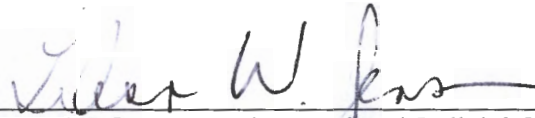
Print Name and Title:

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondents, Robert F. "Bob" Welsh, Individually, Robert F. "Rob" Welsh, Individually, the Beebe Valley Family Limited Partnership, Bob's Rentals, LLC, the Robert Welsh II Trust, and Jettison, LLC, are hereby ordered to comply with the terms of the above Consent Agreement, which will be effective on the date it is filed with the Regional Hearing Clerk.

Date:

1/17/17



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

SUPPLEMENTAL ENVIRONMENTAL PROJECT: SCOPE OF WORK (SOW)

In Re Robert F. Welsh et al., Docket No. TSCA-01-2017-0061

1. Description of Project and Statement of Value

- a. Respondents shall spend at least \$31,500 in eligible SEP costs within 2 years of the effective date of the Consent Agreement and Final Order (“CAFO”) to complete the lead-based paint abatement activities involved in the Supplemental Environmental Project (“SEP”) described in the CAFO and this Appendix A, the terms of which are incorporated by reference into and enforceable by the CAFO.
- b. Respondents shall complete all work described in this Appendix A in accordance with the requirements and schedules set forth herein, and subject to the terms and stipulated penalty provisions of the CAFO.
- c. Under the SEP, Respondents shall abate lead-based paint (“LBP”) by removing and replacing building components (or enclosing floors pursuant to the New Hampshire lead rules at He-P 1609.02, including He-P 1609.02(a)(3)) that have friction-impact or chewable surfaces –such as windows, window sills, thresholds, floors, doors, stairs, porches, and railings– and were either installed and painted as part of the original construction or proven through testing or otherwise to have LBP on them (hereinafter, “Target Components”) and that are found in residential dwelling units at one or more of the following rental properties owned and/or operated by Respondents (collectively referred to as the “SEP Properties”):

	<u>Property Location and Owner Name</u>	<u>Year Built</u>
1.	19 Back St., Campton, NH – Beebe Valley LP	cir. 1930
2.	23 Back St., Campton, NH – Beebe Valley LP	cir. 1930
3.	24 Back St., Campton, NH – Beebe Valley LP	cir. 1930
4.	27 Back St., Campton, NH – Beebe Valley LP	cir. 1930
5.	30 Back St., Campton, NH – Beebe Valley LP	cir. 1930
6.	33 Back St., Campton, NH – Beebe Valley LP	cir. 1930
7.	39 Back St., Campton, NH – Beebe Valley LP	cir. 1930
8.	41 Back St., Campton, NH – Beebe Valley LP	cir. 1930

SEP SCOPE OF WORK (Appendix A to CAFO)

In Re Robert F. Welsh et al., TSCA-01-2017-0001

9.	43 Back St., Campton, NH – Beebe Valley LP	cir. 1930
10.	45 Back St., Campton, NH – Beebe Valley LP	cir. 1930
11.	16 Tie St., Campton, NH – Beebe Valley LP	cir. 1930
12.	18 Tie St., Campton, NH – Beebe Valley LP	cir. 1930
13.	20 Tie St., Campton, NH – Beebe Valley LP	cir. 1930
14.	22 Tie St., Campton, NH – Beebe Valley LP	cir. 1930

- d. The purpose of the SEP is to mitigate hazards associated with LBP. Implementation of the SEP is intended to secure significant environmental and/or public health benefits through LBP abatement activities, namely, the removal and replacement (or enclosure, for floors) of Target Components within the SEP Properties. Respondents acknowledge that, wherever possible during implementation of the SEP, abatement priority will be given to Target Components found in residential units at the SEP Properties that are child occupied or are the most likely to be child occupied.
- e. The SEP work may be carried out by properly trained and certified employees or agents of the Respondents or by third-party contractors *provided* that, when abatement work is carried out by Respondents' own employees/agents, any and all clearance sampling shall be conducted using only third-party contractors not affiliated with any Respondent.

2. Standard of Care

- a. The SEP shall be performed in accordance with and the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (rev. 2012) (“HUD Guidelines”) and, in particular, Chapter 12 (Abatement) and Chapter 15 (Clearance) of the HUD Guidelines.
- b. The SEP shall be performed in compliance with all applicable requirements of the State of New Hampshire Lead Paint Poisoning Prevention and Control Act, RSA 130-A, and the Lead Poisoning Prevention and Control Rules, N.H. Admin. Rules, He-P 1600.
- c. The SEP work shall be performed by properly licensed New Hampshire lead abatement professionals. Any clearance activities shall be conducted by an independent party not

involved in the underlying abatement or the affected property, in accordance with N.H. Admin. Rule He-P 1608-12(a).

- d. While Respondents expect to employ third-party contractors to carry out at least some of the work under this SEP, Respondents acknowledge that they each remain fully responsible for satisfactory completion of the SEP.

3. Project Schedule

- a. Respondents shall begin implementation of the SEP within 30 days after the effective date of the CAFO and shall complete the SEP within 2 years from the effective date of the CAFO.
- b. Respondents shall submit the Semi-Annual SEP Reports and the SEP Completion Report as specified in Paragraph 17 of the CAFO.
- c. The SEP schedule may not be modified except upon written agreement between the Parties.

4. Costs

- a. Respondents estimate that the cost to complete this SEP will be \$31,500 for the removal and replacement (or enclosure, for floors) of Target Components installed in the SEP Properties as part of the original construction.
- b. To fund the SEP, on or before 30 days after the effective date of the CAFO, Respondents shall establish an interest-bearing escrow account at an authorized bank or other comparable commercial entity and shall deposit into such account at least \$31,500 for use in implementing the SEP in accordance with the CAFO and this SOW.
- c. Within 14 days after the establishment of the escrow account under Subparagraph 4.b., above, Respondents shall provide EPA with written confirmation of the establishment of the escrow account (using the contact information in Paragraph 19 of the CAFO) and shall include, at a minimum, the name of the authorized bank or other comparable commercial entity, the account number, and the amount deposited.
- d. The total cost for the SEP reflects the following estimated costs: (i) \$410 for replacement of each window; (ii) \$4.10 per square foot of floor enclosure; (iii) \$254 for replacement of each door and casing; and, (iv) \$400 for disposal fees for each SEP Property where SEP work is completed.

SEP SCOPE OF WORK (Appendix A to CAFO)

In Re Robert F. Welsh et al., TSCA-01-2017-0001

- e. Costs that are eligible for credit under the SEP (i.e., eligible SEP costs) include the cost of materials and labor actually incurred in completing the SEP under the CAFO and this Appendix A, as well the cost of post-work inspections by an independent licensed lead inspector.

- f. Eligible SEP costs do not include Respondents' overhead, cost mark-ups on materials or labor, administrative expenses, legal fees, and/or any time and salary spent by Respondents' own personnel supervising, administering, managing, or overseeing SEP contractors. Also, costs incurred by any Respondent and/or its employees to obtain training or certifications required for conducting lead abatement work or for meeting any New Hampshire laws and regulations to perform SEP-related work are not eligible for SEP credit. In addition, costs for repairs or improvements that do not involve LBP abatement or the mitigation of LBP hazards are not eligible for SEP cost credit.

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

In the Matter of:)
)
ROBERT F. “Bob” WELSH, Individually)
120 Center Hill Road)
Landaff, New Hampshire 03585)
)
ROBERT F. “Rob” WELSH, Individually)
120 Center Hill Road)
Landaff, New Hampshire 03585)
)
BEEBE VALLEY FAMILY)
LTD. PARTNERSHIP)
120 Center Hill Road)
Landaff, New Hampshire 03585)
)
BOB’S RENTALS, LLC)
120 Center Hill Road)
Landaff, New Hampshire 03585)
)
ROBERT WELSH II TRUST AND)
ROBERT F. “ROB” WELSH, TRUSTEE)
120 Center Hill Road)
Landaff, New Hampshire 03585)
)
JETTISON, LLC)
120 Center Hill Road)
Landaff, New Hampshire 03585)
)
Respondents.)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
42 U.S.C. § 2615(a).)
)

Docket No.
TSCA-01-2017-0001

**COMPLAINT
AND
NOTICE OF OPPORTUNITY
FOR HEARING**

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued by Complainant, the U. S. Environmental Protection Agency (“EPA”), pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a),

regulations implementing TSCA at 40 C.F.R. §§ 745.87 and 745.118, and 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. The Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, United States Environmental Protection Agency (“EPA”), Region 1 – New England.

2. The Respondents in this action, Robert F. “Bob” Welsh, individually, of Landaff, New Hampshire, Robert F. “Rob” Welsh, individually, of Landaff, New Hampshire, Beebe Valley Family Limited Partnership (“Beebe Valley LP”), Bob’s Rentals, LLC (“Bob’s Rentals”), the Robert Welsh II Trust and its Trustee, Robert F. “Rob” Welsh (the “Welsh Trust”), and Jettison, LLC (“Jettison”), are hereby notified of Complainant’s determination that they have 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 federal regulations promulgated under TSCA and the Act, including 40 C.F.R. Part 745, Subpart F [*Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property*, 40 C.F.R. §§ 745.100-745.119], 40 C.F.R. Part 745, Subpart E [*Residential Property Renovation*, 40 C.F.R. §§ 745.80-745.92], and 40 C.F.R. Part 745, Subpart L [*Lead-Based Paint Activities*, 40 C.F.R. §§ 745.220-745.239]. Respondents are also hereby notified that Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of TSCA Sections 15 or 409 are subject to the assessment

by Complainant of civil and/or criminal penalties.

I. STATUTORY AND REGULATORY AUTHORITY

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. Among the stated purposes of the Act is ensuring that the existence of lead-based paint hazards be taken into account in the rental and renovation of homes and apartments. To carry out these purposes, Congress added a new section to TSCA, entitled *Subchapter IV – Lead Exposure Reduction*, which includes TSCA Sections 401-412, 15 U.S.C. §§ 2681-2692.

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

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

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

6. The Disclosure Rule, in pertinent part, requires lessors of target housing to do the following before a lessee is obligated under a lease contract:

- i. Provide to lessees an EPA–approved lead hazard information pamphlet;
- ii. Ensure that the contract to lease includes a Lead Warning Statement;
- iii. Ensure that the contract to lease includes a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards, or indicating no knowledge thereof; and,
- iv. Ensure that the contract to lease includes a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or, otherwise, indicates no such records or reports are available.

See 40 C.F.R. §§ 745.100, 745.103, 745.107(a)(1), and 745.113(b)(1)-(3).

7. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), failure to comply with any requirements of the Disclosure Rule is a violation of

TSCA Section 409, 15 U.S.C. § 2689. Section 1018(b)(5) of the Act also provides that, for each such violation of TSCA Section 409, specific civil penalties apply under TSCA Section 16.

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

9. Pursuant to Section 401(17) of TSCA, 15 U.S.C. § 2681(17), 40 C.F.R. § 745.103, and 40 C.F.R. § 745.83, the housing stock addressed by the Act, the Disclosure Rule, and the RRP Rule is “target housing,” defined as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (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,” as defined at 40 C.F.R. § 745.103.

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

11. Pursuant to Section 401(14) of TSCA, 15 U.S.C. § 2681(14), 40 C.F.R. § 745.103, and 40 C.F.R. § 745.83, the term “residential dwelling” means either a single-family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the

residence of one or more persons.

12. For purposes of complying with the Act and the Disclosure Rule, pursuant to 40 C.F.R. § 745.107(a)(1), the term “pamphlet” as used herein means the EPA-approved lead hazard information pamphlet developed under Section 406(a) of TSCA, entitled “*Protect Your Family From Lead in Your Home*” (EPA # 747-K-94-001), or an equivalent pamphlet that has been approved for use in the State of New Hampshire.

13. For purposes of complying with Section 406(b) of TSCA and the RRP Rule, pursuant to 40 C.F.R. § 745.83, the term “pamphlet” as used herein means the EPA-approved pamphlet developed under TSCA Section 406(a), entitled “*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*” (EPA # 740-K-10-001), or any State or Tribal pamphlet developed for the same purpose and approved by EPA under 40 C.F.R. § 745.326.

14. Pursuant to 40 C.F.R. § 745.83, the term “firm” means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

15. Pursuant to 40 C.F.R. § 745.83, the term “renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an “abatement,” as defined by 40 C.F.R. § 745.223. The term renovation includes, but is not limited to: the removal or modification of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window

repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceiling, plumbing, windows); weatherization projects (e.g. cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather-stripping), and interim controls that disturb painted surfaces. The term renovation does not include minor repair and maintenance activities.

16. Pursuant to 40 C.F.R. § 745.83, the term “minor repair and maintenance activities” means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by 40 C.F.R. § 745.85(a)(3) are used and where the work does not involve window replacement or demolition of painted surface areas.

17. Pursuant to 40 C.F.R. § 745.83, the term “renovator” means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or by an EPA-authorized State or Tribal program.

18. Under the RRP Rule, except in circumstances specified by the regulations that are not relevant to Respondents or the violations alleged in this Complaint, firms performing renovations in target housing are, among other things, required to:

- i. Obtain an EPA certification for the firm prior to performing renovations;

- ii. Provide the EPA-approved pamphlet to a lessee or adult occupant before renovation activities begin and obtain written verification that the pamphlet was provided;
- iii. Ensure that a certified renovator either performs the renovation or directs a properly trained worker to perform the renovation;
- iv. For exterior renovations, sufficiently cover the ground with plastic or other disposable impermeable material to collect falling paint debris; and,
- v. Retain all records necessary to demonstrate compliance with the same.

See 40 C.F.R. §§ 745.81(a)(2), 745.84(a)(2), 745.89(d)(1)-(5), 745.85(a)(2)(ii)(C), and 745.86(a) and (b).

19. Pursuant to Section 409 of TSCA, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA (such as the Disclosure Rule or the RRP Rule). Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with a requirement of the RRP Rule is a violation of Section 409 of TSCA. Pursuant to 40 C.F.R. § 745.87(b), the failure to establish and maintain the records required by the RRP Rule is a violation of Sections 15 and 409 of TSCA.

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

21. Section 16(a) of TSCA, Section 1018(b)(5) of the Act, and 40 C.F.R. § 745.118(f) authorize the assessment of a civil penalty of \$10,000 per violation per day of the Disclosure Rule. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (“Debt Collection Improvement Act”), and 40 C.F.R. Part 19, violations that occurred after January 30,

1997 through January 12, 2009, are subject to civil penalties of up to \$11,000 per violation per day and violations that occurred after January 12, 2009 are subject to civil penalties of up to \$16,000 per violation per day. *See* 78 Fed. Reg. 66643, 66647 (November 6, 2013).

22. TSCA Section 16(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. § 745.235(e) authorize the assessment of a civil penalty of up to \$25,000 per violation per day of the RRP Rule. Under the Debt Collection Improvement Act and 40 C.F.R. Part 19, violations that occurred after March 15, 2004 through January 12, 2009, are subject to penalties of up to \$32,500 per violation per day and violations that occurred after January 12, 2009, are subject to penalties of up to \$37,500 per violation per day. *See* 78 Fed. Reg. 66643, 66647.

II. GENERAL ALLEGATIONS

23. Respondent Robert F. “Bob” Welsh (“Bob Welsh”) is an individual residing at 120 Center Hill Road in Landaff, New Hampshire. Upon information and belief, Bob Welsh does business owning, developing, leasing, and/or selling real property and improvements thereon. Upon information and belief, Bob Welsh does business using one or more of the names “Welsh Real Estate, Inc.,” “Welsh Realty Company,” “Welsh Realty Company, Inc.,” “Bob’s Rentals, LLC,” and/or the “Robert F. Welsh II Trust Income Account.”

24. Bob Welsh, individually, or doing business as “Welsh Real Estate, Inc.,” “Welsh Realty Company,” “Welsh Realty Company, Inc.,” “Bob’s Rentals, LLC,” and/or the “Robert F. Welsh II Trust Income Account,” owns and/or operates a number of residential properties in New Hampshire and/or Vermont that qualify as target housing and contain one or more

residential dwelling units. At all times relevant to the RRP Rule violations alleged in this Complaint, Bob Welsh utilized his own employees or agents to conduct renovation activities in the target housing he owns or operates.

25. Respondent Robert F. “Rob” Welsh (“Rob Welsh”) is an individual with a mailing address at 120 Center Hill Road in Landaff, New Hampshire, and is the son of Bob Welsh. Upon information and belief, Rob Welsh does business owning, developing, leasing, and/or selling real property and improvements thereon. Upon information and belief, Rob Welsh does business using one or more of the names “Welsh Real Estate, Inc.,” “Welsh Realty Company,” “Welsh Realty Company, Inc.,” “Bob’s Rentals, LLC,” and/or the “Robert F. Welsh II Trust Income Account.”

26. Rob Welsh, individually, or doing business as “Welsh Real Estate, Inc.,” “Welsh Realty Company,” “Welsh Realty Company, Inc.,” “Bob’s Rentals, LLC,” and/or the “Robert F. Welsh II Trust Income Account,” owns and/or operates a number of residential properties in New Hampshire and/or Vermont that qualify as target housing and contain one or more residential dwelling units. At all times relevant to the RRP Rule violations alleged in this Complaint, Rob Welsh utilized his own employees or agents to conduct renovation activities in the target housing he owns or operates.

27. Beebe Valley Family Limited Partnership is a limited partnership organized in or around 1998 with a principal office address listed at 120 Center Hill Road in Landaff, New Hampshire and Rob Welsh listed as registered agent. Beebe Valley LP does business owning,

developing, leasing, and/or selling real property and improvements thereon.

28. Beebe Valley LP owns and/or operates at least five residential properties in New Hampshire and/or Vermont that qualify as target housing and contain one or more residential dwelling units. At all times relevant to the RRP Rule violations alleged in this Complaint, Beebe Valley LP utilized its own employees or agents to conduct renovation activities in the target housing it owns or operates.

29. Jettison, LLC is a limited liability company organized in or around 2002, with a principal office address at 120 Center Hill Road in Landaff, New Hampshire. Jettison does business owning, developing, leasing, and/or selling real property and improvements thereon. Jettison owns and/or operates at least one residential property in New Hampshire and/or Vermont that qualifies as target housing and contains one or more residential dwelling units.

30. Bob's Rentals, LLC is a limited liability company with a principal office address at 120 Center Hill Road in Landaff, New Hampshire. Bob's Rentals is the owner of at least two properties at which violations alleged in this Complaint occurred. Bob's Rentals owns and/or operates at least two residential properties in New Hampshire and/or Vermont that qualify as target housing and contain one or more residential dwelling units.

31. The Robert Welsh II Trust, through Trustee, Robert F. "Rob" Welsh, is the owner of at least two properties at which violations alleged in this Complaint occurred. The Welsh Trust owns and/or operates at least two residential properties in New Hampshire and/or Vermont that qualify as target housing and contain one or more residential dwelling units.

32. On or about July 16, 2015, EPA was contacted by the New Hampshire Department of Health and Human Services (“NH-HHS”). NH-HHS informed EPA that NH-HHS had received a complaint from a woman who was one of Respondents’ tenants indicating that her young child recently had undergone laboratory testing and that the results of the testing established that the child had an elevated blood lead level (EBL). Information from NH-HHS, later confirmed by EPA, also indicated that the circa-1930, single-family home that the woman was renting at the time from one or more of the Respondents (located on Back Street in Campton, New Hampshire) had been undergoing a process of renovation, including disturbance of suspected lead-based paint.

33. On July 17, 2015, a duly-authorized EPA inspector conducted a compliance inspection at 37 Back Street in Campton, New Hampshire (the “Inspection”). The property located at 37 Back Street in Campton is a single-family residence owned by Beebe Valley LP and is leased and/or managed by Beebe Valley LP and/or by one or both of Bob Welsh and/or Rob Welsh.

34. Messrs. Bob Welsh and Rob Welsh were present at, and participated in, the Inspection. Johnny Lopez, an employee or agent of Respondent Beebe Valley LP, Bob Welsh, and/or Rob Welsh was also present at, and participated in, the Inspection.

35. During the Inspection, Messrs. Bob Welsh and Rob Welsh indicated that they were unaware of both the Disclosure Rule requirements relating to the sale or leasing of target housing and the RRP Rule requirements pertaining to renovation activities in target housing.

36. At the time of the violations alleged in this Complaint, Respondents offered residential housing units for lease in the properties described in Paragraph 37, below.

Accordingly, each of the Respondents is a “lessor” as defined in 40 C.F.R. § 745.103.

37. At all times relevant to the allegations in this Complaint, Respondents offered for lease houses or apartments that were “residential dwellings,” as defined in 40 C.F.R. § 745.103, located at the following addresses, also identified by the owner name and approximate year of construction:

	Property Location and Owner Name	Year Built
1.	33 Back St., Campton, NH – Beebe Valley LP	cir. 1930
2.	37 Back St., Campton, NH – Beebe Valley LP	cir. 1930
3.	18 Tie St., Campton, NH – Beebe Valley LP	cir. 1930
4.	13 Locust St., Woodsville, NH – Beebe Valley LP	cir. 1900
5.	68 Main St., Wells River, VT – Beebe Valley LP	cir. 1900
6.	2191 Dartmouth College Highway, N. Haverhill, NH – Rob Welsh	cir. 1880
7.	10 Railroad St., Woodsville, NH – Rob Welsh	cir. 1900
8.	7 Pine St., Woodsville, NH – Rob Welsh	cir. 1870
9.	22 Maple St., Woodsville, NH – Rob Welsh	cir. 1880
10.	297 North Pleasant St., Bradford, VT – Bob’s Rentals, LLC	cir. 1880s
11.	557 Union St., Littleton, NH – Bob’s Rentals, LLC	cir. 1860
12.	9 Norwich Ave., Wilder, VT – Robert Welsh II Trust	cir. 1900
13.	70 Main St., Wells River, VT – Robert Welsh II Trust	cir. 1900
14.	29 Railroad St., Wells River, VT – Jettison, LLC	cir. 1900

38. All of the residential units in the properties referenced in Paragraph 37 above that are identified in the violations alleged in this Complaint are or were, at the time of the alleged violations, target housing as defined in 40 C.F.R. § 745.103. Furthermore, none of those residential units satisfies the requirements for an exemption under the provisions of the Act,

TSCA (including 15 U.S.C. § 2681(17)), the Disclosure Rule (including 40 C.F.R. § 745.101), or the RRP Rule (including 40 C.F.R. § 745.82).

39. At all times relevant to the RRP Rule violations alleged in this Complaint, each of the Respondents Beebe Valley LP, Bob Welsh, and Rob Welsh was a “firm,” as defined in 40 C.F.R. § 746.83.

40. At all times relevant to the RRP Rule violations alleged in this Complaint, Respondents’ employee or agent, Johnny Lopez, performed renovation activities at 37 Back Street in Campton, NH that constituted a “renovation” within the meaning of 40 C.F.R. § 745.83.

41. The renovation activities performed by Respondents’ employee, Johnny Lopez, at 37 Back Street in Campton constituted a renovation for compensation within the meaning of TSCA Section 406(b) and the RRP Rule.

III. VIOLATIONS

DISCLOSURE RULE VIOLATIONS

42. EPA has identified the following violations of the Act and the Disclosure Rule based on documents and other information obtained from Respondents during or as a result of the Inspection and EPA’s investigation of the facts and circumstances underlying the violations.

FIRST COUNT

Failure to Provide Lead Hazard Information Pamphlet

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

44. Pursuant to 40 C.F.R. § 745.107(a)(1), a lessor is required to provide a lessee, before the lessee is obligated under any contract to lease target housing, with an EPA-approved lead hazard information pamphlet (*Protect Your Family From Lead in Your Home*) or an equivalent pamphlet that has been approved for use in particular states by EPA.

45. Respondents Bob Welsh, Rob Welsh, and/or Beebe Valley LP each failed to provide the following tenants with an EPA-approved lead hazard information pamphlet before the tenants entered into a contract to lease the specific residential units indicated below:

- i. The lessee(s) who became obligated to rent 33 Back Street in Campton, NH, on or about August 1, 2014;
- ii. The lessee(s) who became obligated to rent 37 Back Street in Campton, NH, on or about July 1, 2013;
- iii. The lessee(s) who became obligated to rent 18 Tie Street in Campton, NH, on or about June 1, 2015;
- iv. The lessee(s) who became obligated to rent 13 Locust Street in Woodsville, NH, on or about April 1, 2015; and,
- v. The lessee(s) who became obligated to rent 68 Main Street in Wells River, VT, on or about April 1, 2014.

46. Respondents Bob Welsh and/or Rob Welsh each failed to provide the following tenants with an EPA-approved lead hazard information pamphlet before the tenants entered into a contract to lease the specific residential units indicated below:

- i. The lessee(s) who became obligated to rent 2191 Dartmouth College Highway in North Haverhill, NH, on or about June 1, 2014;
- ii. The lessee(s) who became obligated to rent 10 Railroad Street in Woodsville, NH, on or about December 1, 2013;
- iii. The lessee(s) who became obligated to rent 7 Pine Street in Woodsville, NH, on or about January 1, 2015; and,

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- iv. The lessee(s) who became obligated to rent 22 Maple Street in Woodsville, NH, on or about February 1, 2015.

47. Respondents Bob Welsh, Rob Welsh, and/or Bob's Rentals, LLC each failed to provide the following tenants with an EPA-approved lead hazard information pamphlet before the tenants entered into a contract to lease the specific residential units indicated below:

- i. The lessee(s) who became obligated to rent 297 North Pleasant Street in Bradford, VT, on or about December 1, 2014; and,
- ii. The lessee(s) who became obligated to rent 557 Union Street in Littleton, NH, on or about October 1, 2014.

48. Respondents Bob Welsh, Rob Welsh, and/or the Welsh Trust each failed to provide the following tenants with an EPA-approved lead hazard information pamphlet before the tenants entered into a contract to lease the specific residential units indicated below:

- i. The lessee(s) who became obligated to rent 9 Norwich Avenue in Wilder, VT, on or about April 1, 2015; and,
- ii. The lessee(s) who became obligated to rent 70 Main Street in Wells River, VT, on or about January 1, 2015.

49. Respondents Bob Welsh, Rob Welsh, and/or Jettison, LLC each failed to provide the following tenant with an EPA-approved lead hazard information pamphlet before the tenant entered into a contract to lease the specific residential unit indicated below:

- i. The lessee(s) who became obligated to rent 29 Railroad Street in Wells River, VT, on or about November 20, 2013.

50. Bob Welsh, Rob Welsh, and/or Beebe Valley LP's failure to provide the lessees of target housing listed in Paragraph 45 with an EPA-approved lead hazard information pamphlet

prior to those lessees becoming obligated under a contract to lease target housing on at least five occasions constitutes at least five separate violations of 40 C.F.R. § 745.107(a)(1) and TSCA Section 409, 15 U.S.C. § 2689.

51. Bob Welsh and/or Rob Welsh's failure to provide the lessees of target housing listed in Paragraph 46 with an EPA-approved lead hazard information pamphlet prior to those lessees becoming obligated under a contract to lease target housing on at least four occasions constitutes at least four separate violations of 40 C.F.R. § 745.107(a)(1) and TSCA Section 409.

52. Bob Welsh, Rob Welsh, and/or Bob's Rentals's failure to provide the lessees of target housing listed in Paragraph 47 with an EPA-approved lead hazard information pamphlet prior to those lessees becoming obligated under a contract to lease target housing on at least two occasions constitutes at least two separate violations of 40 C.F.R. § 745.107(a)(1) and TSCA Section 409.

53. Bob Welsh, Rob Welsh, and/or the Welsh Trust's failure to provide the lessees of target housing listed in Paragraph 48 with an EPA-approved lead hazard information pamphlet prior to those lessees becoming obligated under a contract to lease target housing on at least two occasions constitutes at least two separate violations of 40 C.F.R. § 745.107(a)(1) and TSCA Section 409.

54. Bob Welsh, Rob Welsh, and/or Jettison's failure to provide the lessee of target housing listed in Paragraph 49 with an EPA-approved lead hazard information pamphlet prior to that lessee becoming obligated under a contract to lease target housing on at least one occasion

constitutes at least one separate violation of 40 C.F.R. § 745.107(a)(1) and TSCA Section 409.

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

SECOND COUNT

Failure to Include Lead Warning Statement

56. Paragraphs 1 through 55, above, are incorporated by reference as if fully set forth herein.

57. Pursuant to 40 C.F.R. § 745.113(b)(1), a lessor must ensure that, before a lessee is obligated under any contract to lease target housing, each contract to lease target housing includes a Lead Warning Statement within, or as an attachment to, the contract.

58. Respondents Bob Welsh, Rob Welsh, and/or Beebe Valley LP each failed to include a Lead Warning Statement in, or attached to, their contracts with each of the lessees listed in Paragraph 45, above.

59. Respondents Bob Welsh and/or Rob Welsh each failed to include a Lead Warning Statement in, or attached to, their contracts with each of the lessees listed in Paragraph 46, above.

60. Respondents Bob Welsh, Rob Welsh, and/or Bob's Rentals, LLC each failed to include a Lead Warning Statement in, or attached to, their contracts with each of the lessees listed in Paragraph 47, above.

61. Respondents Bob Welsh, Rob Welsh, and/or the Welsh Trust each failed to include a Lead Warning Statement in, or attached to, their contracts with each of the lessees listed in Paragraph 48, above.

62. Respondents Bob Welsh, Rob Welsh, and/or Jettison each failed to so include a Lead Warning Statement in, or attached to, their contract with the lessee listed in Paragraph 49, above.

63. Bob Welsh, Rob Welsh, and/or Beebe Valley LP's failure to include a Lead Warning Statement in or attached to at least five lease contracts constitutes at least five separate violations of 40 C.F.R. § 745.113(b)(1), and TSCA Section 409, 15 U.S.C. § 2689.

64. Bob Welsh and/or Rob Welsh's failure to include a Lead Warning Statement in or attached to at least four lease contracts constitutes at least four separate violations of 40 C.F.R. § 745.113(b)(1), and TSCA Section 409.

65. Bob Welsh, Rob Welsh, and/or Bob's Rentals's failure to include a Lead Warning Statement in or attached to at least two lease contracts constitutes at least two separate violations of 40 C.F.R. § 745.113(b)(1), and TSCA Section 409.

66. Bob Welsh, Rob Welsh, and/or the Welsh Trust's failure to include a Lead Warning Statement in or attached to at least two lease contracts constitutes at least two separate violations of 40 C.F.R. § 745.113(b)(1), and TSCA Section 409.

67. Bob Welsh, Rob Welsh, and/or Jettison's failure to include a Lead Warning Statement in or attached to at least one lease contract constitutes at least one separate violation of

40 C.F.R. § 745.113(b)(1), and TSCA Section 409.

68. Each of the above-listed instances of violation alleged in this Second Count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e) and each is a violation for which penalties may be assessed pursuant to Section 1018(b)(5) of the Act and Section 16 of TSCA.

THIRD COUNT

Failure to Include Disclosure Statement Regarding Lead-Based Paint/Hazards

69. Paragraphs 1 through 68, above, are incorporated by reference as if fully set forth herein.

70. Pursuant to 40 C.F.R. § 745.113(b)(2), a lessor must ensure that, before a lessee is obligated under any contract to lease target housing, a contract to lease target housing includes as an attachment to or within the lease contract a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

71. Respondents Bob Welsh, Rob Welsh, and/or Beebe Valley LP each failed to include, before lessees became obligated to lease the target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or a statement indicating no knowledge of the same in, or attached to, their contracts with each of the lessees listed in Paragraph 45, above.

72. Respondents Bob Welsh and/or Rob Welsh each failed to include, before lessees became obligated to lease the target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or a statement indicating no knowledge of the same in, or attached to, their contracts with each of the lessees listed in Paragraph 46, above.

73. Respondents Bob Welsh, Rob Welsh, and/or Bob's Rentals, LLC each failed to include, before lessees became obligated to lease the target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or a statement indicating no knowledge of the same in, or attached to, their contracts with each of the lessees listed in Paragraph 47, above.

74. Respondents Bob Welsh, Rob Welsh, and/or the Welsh Trust each failed to include, before lessees became obligated to lease the target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or a statement indicating no knowledge of the same in, or attached to, their contracts with each of the lessees listed in Paragraph 48, above.

75. Respondents Bob Welsh, Rob Welsh, and/or Jettison each failed to include, before lessees became obligated to lease the target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or a statement indicating no knowledge of the same in, or attached to, their contract with the lessee listed in Paragraph 49, above.

76. Bob Welsh, Rob Welsh, and/or Beebe Valley LP's failure to include a statement

disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in, or attached to, at least five lease contracts constitutes at least five separate violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409.

77. Bob Welsh and/or Rob Welsh's failure to include a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in, or attached to, at least four lease contracts constitutes at least four separate violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409.

78. Bob Welsh, Rob Welsh, and/or Bob's Rentals's failure to include a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in, or attached to, at least two lease contracts constitutes at least two separate violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409.

79. Bob Welsh, Rob Welsh, and/or the Welsh Trust's failure to include a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in, or attached to, at least two lease contracts constitutes at least two separate violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409

80. Bob Welsh, Rob Welsh, and/or Jettison's failure to include a statement disclosing

the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in, or attached to, at least one lease contract constitutes at least one separate violation of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409

81. Each of the above-listed instances of violation alleged in this Third Count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e) and each is a violation for which penalties may be assessed pursuant to Section 1018(b)(5) of the Act and Section 16 of TSCA.

FOURTH COUNT

Failure to Include Disclosure Regarding Records or Reports of Lead-Based Paint/Hazards

82. Paragraphs 1 through 81, above, are incorporated by reference as if fully set forth herein.

83. Pursuant to 40 C.F.R. § 745.113(b)(3), a lessor must ensure that, before the lessee is obligated under any contract to lease target housing, a contract to lease target housing includes as an attachment to or within the lease contract a list of any available records or reports pertaining to lead-based paint and/or lead-based paint hazards in the housing being leased or, if no such records or reports are available, an indication of that.

84. Respondents Bob Welsh, Rob Welsh, and/or Beebe Valley LP failed to include, before lessees became obligated to lease the target housing, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or an indication that no such records or reports are available in or attached to its contracts with each of the lessees listed in

Paragraph 45, above.

85. Respondents Bob Welsh and/or Rob Welsh failed to include, before lessees became obligated to lease the target housing, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or an indication that no such records or reports are available in or attached to its contracts with each of the lessees listed in Paragraph 46, above.

86. Respondents Bob Welsh, Rob Welsh, and/or Bob's Rentals failed to include, before lessees became obligated to lease the target housing, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or an indication that no such records or reports are available in or attached to its contracts with each of the lessees listed in Paragraph 47, above.

87. Respondents Bob Welsh, Rob Welsh, and/or the Welsh Trust failed to include, before lessees became obligated to lease the target housing, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or an indication that no such records or reports are available in or attached to its contracts with each of the lessees listed in Paragraph 48, above.

88. Respondents Bob Welsh, Rob Welsh, and/or Jettison failed to include, before lessees became obligated to lease the target housing, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or an indication that no such records or reports are available in or attached to its contracts with each of the lessees listed in Paragraph 49, above.

89. Bob Welsh, Rob Welsh, and/or Beebe Valley LP's failure to include a list of records or reports, or a statement indicating none is available, in or attached to at least five lease contracts constitutes at least five separate violations of 40 C.F.R. § 745.113(b)(3), and TSCA Section 409.

90. Bob Welsh and/or Rob Welsh's failure to include a list of records or reports, or a statement indicating none is available, in or attached to at least four lease contracts constitutes at least four separate violations of 40 C.F.R. § 745.113(b)(3), and TSCA Section 409.

91. Bob Welsh, Rob Welsh, and/or Bob's Rentals' failure to include a list of records or reports, or a statement indicating none is available, in or attached to at least two lease contracts constitutes at least two separate violations of 40 C.F.R. § 745.113(b)(3), and TSCA Section 409.

92. Respondents Bob Welsh, Rob Welsh, and/or the Welsh Trust's failure to include a list of records or reports, or a statement indicating none is available, in or attached to at least two lease contracts constitutes at least two separate violations of 40 C.F.R. § 745.113(b)(3), and TSCA Section 409.

93. Respondents Bob Welsh, Rob Welsh, and/or Jettison's failure to include a list of records or reports, or a statement indicating none is available, in or attached to at least one lease contract constitutes at least one separate violation of 40 C.F.R. § 745.113(b)(3), and TSCA Section 409.

94. Each of the above-listed instances of violation alleged in this Fourth Count is a

prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e) and each is a violation for which penalties may be assessed pursuant to Section 1018(b)(5) of the Act and Section 16 of TSCA.

RENOVATION, REPAIR AND PAINTING RULE VIOLATIONS

95. EPA has identified the following violations of TSCA and the RRP Rule based on documents and other information obtained from Respondents during or as a result of the Inspection and EPA's investigation of the facts and circumstances underlying the violations.

FIFTH COUNT

Failure of Firm to Obtain Certification

96. Paragraphs 1 through 95, above, are incorporated by reference as if fully set forth herein.

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

98. On or about July 17, 2015, an employee or agent of Bob Welsh, Rob Welsh, and/or Beebe Valley LP, Johnny Lopez, conducted renovation activities on the exterior of the rental property located at 37 Back Street in Campton, New Hampshire (the "Campton Renovation"). This work involved the disturbance of over twenty (20) square feet of exterior painted surface and, in particular, surface preparation including sanding and scraping that can generate paint dust.

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99. The Campton Renovation did not qualify as minor maintenance and repair activities under 40 C.F.R. § 745.83, nor was it exempt under 40 C.F.R. § 745.82.

100. As of the date of the Campton Renovation, neither Bob Welsh, Rob Welsh, nor Beebe Valley LP had obtained initial EPA-certification as a firm under 40 C.F.R. § 745.89(a).

101. At no time before or during the Campton Renovation was Respondent Bob Welsh, Rob Welsh, or Beebe Valley LP certified as a firm under 40 C.F.R. § 745.89.

102. Bob Welsh, Rob Welsh, and/or Beebe Valley LP's performance of the Campton Renovation without being certified as a firm under 40 C.F.R. § 745.89 constitutes a violation of 40 C.F.R. § 745.81(a)(2), and TSCA Section 409.

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

SIXTH COUNT

Failure to Provide Pre-Renovation Education Information

104. Paragraphs 1 through 103, above, are incorporated by reference as if fully set forth herein.

105. Pursuant to 40 C.F.R. § 745.84(a)(2), with respect to a rented residential dwelling unit in target housing, a firm must provide lead hazard information in the form of an EPA pamphlet to a tenant or adult occupant no more than 60 days prior to performing renovation activities therein and, also, obtain a written acknowledgement of receipt or certificate of mailing such pamphlet, in the manner specified at 40 C.F.R. § 745.84(a)(2)(i) or (a)(2)(ii).

106. Respondents Bob Welsh, Rob Welsh, and Beebe Valley LP each failed to provide an EPA-approved pamphlet to the tenant or adult occupant before commencing the Campton Renovation.

107. Bob Welsh, Rob Welsh, and Beebe Valley LP's failure to distribute a lead hazard information pamphlet to the adult occupant of the dwelling unit at which the Campton Renovation was performed constitutes a violation of 40 C.F.R. § 745.84(a)(2) and Section 409 of TSCA.

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

SEVENTH COUNT

Failure to Ensure Certified Renovator Performs or Directs Work

109. Paragraphs 1 through 108, above, are incorporated by reference as if fully set forth herein.

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

111. At no time before or during the Campton Renovation was the person performing

the renovation activities either a certified renovator or trained by a certified renovator, nor was a certified renovator assigned to the Campton Renovation, as specified under 40 C.F.R.

§§ 745.89(d)(1) and (d)(2).

112. Bob Welsh, Rob Welsh, and Beebe Valley LP's failure to ensure that the individual performing renovation activities at the Campton Renovation was either a certified renovator or trained by a certified renovator and their failure to ensure that a certified renovator was assigned to the Campton Renovation to carry out all of the responsibilities in 40 C.F.R. § 745.90 constituted violations of 40 C.F.R. §§ 745.89(d)(1) and (d)(2).

113. Each of the above-listed violations alleged in this Seventh Count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87 and each is a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

EIGHTH COUNT

Failure to Properly Contain Exterior Work Area

114. Paragraphs 1 through 113, above, are incorporated by reference as if fully set forth herein.

115. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. Pursuant to 40 C.F.R. § 745.85(a)(2)(ii)(C), in pertinent part, firms performing exterior renovations in target housing must cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of the surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever

is greater.

116. With regard to the Campton Renovation, Respondents Bob Welsh, Rob Welsh, and Beebe Valley LP failed to cover the ground with plastic sheeting or other disposable impermeable material in accordance with the RRP Rule and such failure constituted a violation of 40 C.F.R. §§ 745.89(d)(3) and 745.85(a)(2)(ii)(C).

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

NINTH COUNT

Failure to Retain Compliance Records

118. Paragraphs 1 through 117, above, are incorporated by reference as if fully set forth herein.

119. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations at target housing must retain for a period of at least three years following completion of a renovation all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E. The records to be retained include, in pertinent part, written proof of receipt or delivery of pre-renovation education information (the pamphlet) pursuant to 40 C.F.R. § 745.86(b)(2)-(4), as well as documentation of compliance with work practice standards and certified renovator requirements pursuant to 40 C.F.R. § 745.86(b)(6).

120. With regard to the Campton Renovation, Respondents failed to retain all records necessary to demonstrate compliance with the RRP Rule and such failure constituted a violation

of 40 C.F.R. §§ 745.86(a) and (b).

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

PROPOSED PENALTY

122. Section 1018(b)(5) of the Act, 42 U.S.C. § 4825d(b)(5), and 40 C.F.R. § 745.118(f) provide that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation under Section 16 of TSCA shall be no more than \$10,000. Pursuant to the Debt Collection Improvement Act and 40 C.F.R. Part 19, the maximum penalty shall be no more than \$16,000 for each such violation occurring after January 12, 2009.

123. Section 409 of TSCA and 40 C.F.R. § 745.87 provide that, for purposes of enforcing the RRP Rule under TSCA, the penalty for each violation under Section 16 of TSCA shall be no more than \$25,000. Pursuant to the Debt Collection Improvement Act and 40 C.F.R. Part 19, the maximum penalty shall be no more than \$37,500 for each such violation occurring after January 12, 2009.

124. In determining the amount of any penalty to be assessed, Section 16(a) of TSCA requires EPA to consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, ability to pay, the effect of the proposed penalty on the ability of the violator to continue to do business, any history of prior such violations, the degree of culpability of the violator, and such other matters as justice may require. *See* 15 U.S.C. § 2615(a)(2)(B). To

assess a penalty for the violations alleged herein, Complainant will take into account the particular facts and circumstances of this case with specific reference to the following EPA policy documents: (i) for Disclosure Rule violations, the December 2007 *Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy* (“Disclosure Penalty Policy”); and (ii) for RRP Rule violations, the August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (“RRP Penalty Policy”). Copies of the Disclosure Penalty Policy and the RRP Penalty Policy (collectively, “Penalty Policies”) have been provided to the Respondents. The Penalty Policies provide a rational, consistent, and equitable calculation methodology for applying the above-listed statutory penalty factors to specific cases.

125. By this Complaint, Complainant seeks to assess civil penalties of up to the statutory maximum per violation against the Respondents for the following violations:

- i. FIRST COUNT: At least fourteen (14) separate violations of 40 C.F.R. § 745.107(a)(1) for failure to provide an EPA-approved lead hazard information pamphlet – A lessor’s failure to provide an EPA-approved lead hazard information pamphlet before a tenant is obligated under the lease has a high probability of impairing a lessee’s ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information when leasing target housing. The pamphlet describes the hazards associated with lead-based paint and provides information about how lessees can protect themselves against potential lead exposure. The pamphlet also explains that lead exposure is especially harmful to young children and pregnant women.
- ii. SECOND COUNT: At least fourteen (14) separate violations of 40 C.F.R. § 745.113(b)(1) for failure to provide a Lead Warning Statement – A lessor’s failure to include a Lead Warning Statement in or attached to a lease contract before a tenant is obligated under the lease has a high probability of impairing a lessee’s

ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. The Lead Warning Statement explains that lead exposure is especially harmful to young children and pregnant women.

- iii. THIRD COUNT: At least fourteen (14) separate violations of 40 C.F.R. § 745.113(b)(2) for failure to provide a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards – A lessor’s failure to include a statement disclosing knowledge of lead-based paint and/or lead-based paint hazards (or indicating no knowledge thereof) before a tenant is obligated under the lease has a medium probability of impairing a lessee’s ability to properly assess the risks associated with leasing target housing. The intent of this provision is to put potential lessees on notice of specific information (or lack thereof) relating to the presence of lead in housing. Violations of this provision deprive lessees of their ability to make decisions based upon risk and, without this statement, a lessee may unwittingly lease a unit that contains lead-based paint.
- iv. FOURTH COUNT: At least fourteen (14) separate violations of 40 C.F.R. § 745.113(b)(3) for failure to include a list of records and reports (or to indicate the lack thereof) regarding lead-based paint and/or lead-based paint hazards – A lessor’s failure to include within or attached to a lease contract a list of available records and reports pertaining to lead-based paint and/or lead-based paint hazards in rental housing (or to indicate no such records or reports are available) before a tenant is obligated under the lease has a low probability of impairing the lessee’s ability to properly assess and weigh the potential health risks associated with leasing target housing and of increasing the likelihood of exposure to lead-based paint hazards.
- v. FIFTH COUNT: At least one (1) violation of 40 C.F.R. § 745.81(a)(2) for performing renovation activities without EPA certification as a firm – The RRP Rule requirements are intended to prevent exposure to lead during renovations. A firm’s failure to obtain initial EPA certification prior to offering or performing renovations in target housing has a medium probability of impacting human health and the environment through, for example, failure to use best work practices, failure to convey to tenants the risks associated with renovations, and failure to have adequate knowledge for meeting all RRP Rule obligations.
- vi. SIXTH COUNT: At least one (1) violation of 40 C.F.R. § 745.84(a)(2) for failure to provide pre-renovation education information (EPA-approved pamphlet) – A lessor/firm’s failure to provide an EPA-approved lead hazard information pamphlet to an adult occupant prior to renovating has a high probability of impacting human

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health and the environment. Without receiving a pamphlet, it is highly probable that the tenant's ability to properly assess information about the risks of exposure to lead-based paint and to weigh this information with regard to renovations in the target housing will be impaired. The pamphlet describes the hazards associated with lead-based paint and provides information about how lessees can protect themselves against potential lead exposure. The pamphlet also explains that lead exposure is especially harmful to young children and pregnant women, and explains how lessees can protect themselves during and after any renovations.

- vii. SEVENTH COUNT: At least one (1) violation of 40 C.F.R. §§ 745.89(d)(1) and (d)(2) for failure to use certified renovators – A lessor/firm's failure to assign and use certified renovators for renovation activities performed in target housing has a medium probability of impacting human health and the environment. The failure to assign and use certified renovators to discharge all renovator duties under the RRP Rule presents a medium probability that renovators will not, for example, use best renovation practices and EPA-approved methods during the work and, thereby, will increase the chances of a lessee's or other occupant's exposure to lead during and/or after the renovation.

- viii. EIGHTH COUNT: At least one (1) violation of 40 C.F.R. § 745.85(a)(2)(ii)(C) for failure to contain exterior renovation work area – A lessor/firm's failure to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet or more beyond the surfaces undergoing renovation so as to collect falling paint debris has a high probability of impacting human health and the environment. Without containing the work area and any paint debris generated by the renovation work, it is highly probable that the risks associated with exposure to lead-based paint debris and dust will increase for anyone who may have access to the uncontained work area.

- ix. NINTH COUNT: At least one (1) violation of 40 C.F.R. §§ 745.86(a) and (b) for failure to retain records – A lessor/firm's failure to make and retain all records demonstrating compliance with requirements for renovations performed in target housing has a low probability of impacting human health and the environment.

126. The number of violations alleged in this Complaint for each respective

Respondent is as follows:

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Respondent	Violation(s) per Respondent
Robert F. Welsh II, individually	61
Robert F. Welsh III, individually	61
Beebe Valley Family Limited Partnership	25
Bob's Rentals, LLC	8
Robert Welsh II Trust	8
Jettison, LLC	4

127. Prior to any hearing on this case, EPA will file a document specifying a proposed penalty amount for all of the violations alleged in this proceeding and explaining how the amount was calculated, as required by the Consolidated Rules of Practice. Complainant will calculate a proposed penalty based, in part, on its current knowledge of the Respondents' financial condition. The proposed penalty may be adjusted if Respondents establish *bona fide* issues or defenses relevant to the appropriate amount of the penalty. Respondents shall pay the civil penalty with a cashier's or certified check, payable to the "Treasurer, United States of America." Respondents should note on the check the docket number of this Complaint (EPA Docket No. TSCA-01-2017-0001). The check shall be forwarded to:

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

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check should be forwarded to:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109-3912

and

Hugh W. Martinez, Senior Enforcement Counsel
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912

Notice may be given to Mr. Martinez via e-mail, at Martinez.hugh@epa.gov.

128. Neither the assessment nor payment of an administrative penalty shall affect Respondents' continuing obligation to comply with all applicable requirements of federal law.

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

129. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14 of the Consolidated Rules of Practice, Respondents have a right to request a hearing on any material fact alleged in this Complaint or on the appropriateness of the proposed penalty. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22. A request for a hearing must be incorporated into a written Answer. **Respondents must file the original and one copy of the written Answer to this Complaint within thirty (30) days of receipt of this Complaint.** Respondents shall send the Answer to the Regional Hearing Clerk at the following address:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109-3912

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Respondents shall serve copies of the Answer(s), and any other documents submitted in this proceeding, to Complainant's counsel at the following address:

Hugh W. Martinez, Senior Enforcement Counsel
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912

In their Answer(s), Respondents may contest any material fact contained in the Complaint. The Answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (i) the circumstances or arguments alleged to constitute the grounds of any defense; (ii) the facts Respondents dispute; (iii) the basis for opposing any proposed relief; and, (iv) whether a hearing is requested. Where Respondents have no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Any failure of Respondents to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation. *See* 40 C.F.R. § 22.15 for the required contents of an Answer.

130. The filing of service of documents other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the “Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer,” a copy of which has been provided to the Respondents, along with a copy of the Consolidated Rules.

V. DEFAULT ORDER

131. If Respondents fail to file a timely Answer to the Complaint, Respondents may be found to be in default, pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondents constitutes an admission of all facts alleged in the Complaint and a waiver of Respondents' right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondents without further proceedings thirty (30) days after the default order becomes final.

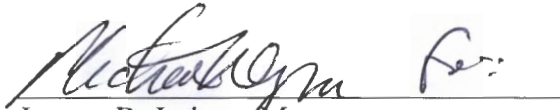
VI. SETTLEMENT CONFERENCE

132. Whether or not a hearing is requested upon filing an Answer, Respondents may confer informally with the EPA concerning the alleged violations. Such conference provides Respondents with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region 1.

133. Please note that a request for an informal settlement conference does not extend the period within which a written Answer must be submitted in order to avoid default but that the deadline by which Respondents must file an Answer is only extended on a motion granted by the Regional Judicial Officer in accordance with the Consolidated Rules of Practice. To explore the possibility of settlement in this matter, Respondents should contact Hugh W. Martinez, Senior Enforcement Counsel, at the address provided above, or by calling him at (617) 918-1867

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(direct). Mr. Martinez has been designated to represent Complainant in this matter and is authorized, under 40 C.F.R. § 22.5(c)(4), to receive service on behalf of Complainant.


Joanna B. Jerison, Manager
Regulatory Legal Enforcement Office
Office of Environmental Stewardship
EPA Region 1 – New England

Date: 1/12/17