



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
June 4, 2014

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL 7009 1680 0000 7649 6599
RETURN RECEIPT REQUESTED

Mr. Dennis Papczynski
Michiana Window World, Inc.
12748 Sandy Drive, Unit 109
Granger, Indiana 46530

Consent Agreement and Final Order in the Matter of
Michiana Window World, Inc. Docket No. TSCA-05-2014-0009

Dear Mr. Papczynski:

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on June 4, 2014 with the Regional Hearing Clerk.

The civil penalty in the amount of \$684 is to be paid in the manner described in paragraphs 41 and 42. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by July 4, 2014 (within 120 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

for 
Paul Fericelli
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
Michiana Window World, Inc.)
Granger, Indiana)
)
Respondent,)
_____)

Docket No. TSCA-05-2014-0009
Proceeding to Assess a Civil Penalty
Under Section 16(a) of the Toxic Substances
Control Act, 15 U.S.C. § 2615(a)



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region 5.

3. Respondent is Michiana Window World, Inc. ("Window World" or "Respondent"), with a place of business located at 12748 Sandy Drive, Unit 109, Granger, Indiana 46530.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, the requirements to perform the Supplemental Environmental Project (SEP) specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the general allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, at 42 U.S.C. § 4851 *et seq.*, Congress found, among other things, that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under the age of 6; at low levels, lead poisoning in children causes intelligence deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems; and the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children. A key component of the national strategy to reduce and eliminate the threat of childhood lead poisoning is to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

10. Section 1021 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 amended TSCA, 15 U.S.C. § 2601 *et. seq.*, by adding Title IV – Lead Exposure Reduction. Section 406(b) of TSCA, 15 U.S.C. § 2686, required the Administrator of EPA to promulgate regulations to require each person who performs for compensation a renovation of target housing

to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

11. Section 407 of TSCA, 15 U.S.C. § 2687, requires that the regulations promulgated by the Administrator include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of TSCA Subchapter IV (TSCA §§ 2681-2692).

12. On June 1, 1998, EPA promulgated regulations codified at 40 C.F.R. Part 745, Subpart E, Requirements for Hazard Education Before Renovation of Target Housing (Pre-Renovation Education Rule or PRE Rule) pursuant to 15 U.S.C. §§ 2686 and 2687, which was subsequently amended and recodified on April 22, 2008 at 40 C.F.R. Part 745, Subpart E, Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet (RRP Rule).

13. The PRE Rule and the information distribution requirements of the RRP Rule, at 40 C.F.R. § 745.84, implement the provisions of 15 U.S.C. §§ 2686 and 2687, which impose certain requirements prior to renovation of target housing. Each person who performs for compensation a renovation of target housing must provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation and must comply with the PRE Rule by June 1, 1999, and with the amended information distribution requirements of the RRP Rule by April 22, 2008.

14. 40 C.F.R. § 745.82(a)(1) makes 40 C.F.R. Subpart E applicable to renovations of target housing performed for compensation.

15. 40 C.F.R. § 745.83 defines *firm* to mean 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.

16. 40 C.F.R. § 745.83 defines *pamphlet* to mean the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information). Before December 22, 2008, 40 C.F.R. § 745.83 defined the term “pamphlet” to mean any pamphlet developed by EPA under section 406(a) of TSCA or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326.

17. 40 C.F.R. § 745.83 defines *renovation* to mean 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 this part (40 C.F.R. § 745.223). The term renovation includes (but is not limited to): the removal, modification or repair 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, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather stripping), and interim controls that disturb painted surfaces.

18. 40 C.F.R. § 745.83 defines *renovator* to mean 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 an EPA-authorized State or Tribal program.

19. 40 C.F.R. § 745.103 defines *residential dwelling* to mean 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.

20. 40 C.F.R. § 745.103 defines *target housing* to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

21. 40 C.F.R. § 745.84(a)(1) requires that the firm performing renovation in dwelling units on or after April 22, 2008, must provide the owner of the dwelling unit of target housing with the pamphlet; obtain from the owner a written acknowledgement that the owner has received the pamphlet; or obtain a certificate of mailing at least 7 days prior to the renovation.

22. Under 15 U.S.C. § 2689, failing to comply with Section 406(b) of TSCA violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

23. Section 16(a) of TSCA, 42 U.S.C. § 2615, and 40 C.F.R. § 745.87(d), authorize the EPA Administrator to assess a civil penalty of up to \$25,000 for each violation of Section 409 of TSCA. Each day that such a violation continues constitutes a separate violation of Section 15 of TSCA, 15 U.S.C. § 2614. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$32,500 per day of violation for violations that occurred from March 16, 2004 through January 12, 2009, and to \$37,500 for violations that occurred after January 12, 2009.

General Allegations

24. Complainant incorporates paragraphs 1 through 23 of this Complaint as if set forth in this paragraph.

25. On December 22, 2011, EPA issued an administrative subpoena to Respondent, under authority of Section 11 of TSCA, 15 U.S.C. § 2610, seeking, among other things: contracts, copies of all acknowledgement of receipt of a pamphlet by the owners or occupants of residential housing, copies of all certificates of attempted delivery of a pamphlet, and all certificates of mailing of a pamphlet since January 1, 2008.

26. On January 31, 2012, Respondent provided EPA with documents responsive, in part, to the TSCA administrative subpoena referenced to in paragraph 25, above, by providing copies of records of Respondent's contracts after April 8, 2010.

27. On March 14, 2012, EPA issued a letter indicating that Respondent's response to the TSCA administrative subpoena identified in paragraph 25, above, was deficient in that Respondent had not provided records of contracts for the period of January 1, 2008 to April 8, 2010, and requested that Respondent complete its response to the administrative subpoena by providing such records.

28. On April 3, 2012, Respondent provided EPA with copies of records responsive to the letter referenced to in paragraph 27, above.

29. Based on information provided by Window World in response to the letter referenced to in paragraph 27, above, Respondent entered into contracts with individuals for window replacement and installed the windows on the following dates:

Contract	Date of Contract	Date of Installation	Address
1	8/18/2008	9/9/2008	625 South Falcon Street, South Bend, Indiana
2	8/26/2008	9/19/2008	618 West 6th Street, Mishawaka, Indiana
3	9/3/2008	9/29/2008	705 South 25th Street, South Bend, Indiana
4	9/3/2008	9/29/2008	1016 Fulton Street, Elkhart, Indiana
5	6/9/2009	6/29/09	808 W. 9 th Street, Mishawaka, Indiana
6	7/7/2009	8/4/2009	2022 Swygart Avenue, South Bend, Indiana
7	8/31/2009	11/10/2009	26924 Wilkinson Street, Edwardsburg, Michigan

30. Each of the residential housing units identified in paragraph 29, above, is target housing as defined in 40 C.F.R. § 745.103.

Counts 1 through 7

31. Complainant incorporates paragraphs 1 through 30 of this Complaint as if set forth in this paragraph.

32. Count 1: Respondent failed to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation under an August 18, 2008 contract at 625 South Falcon Street, South Bend, Indiana.

33. Count 2: Respondent failed to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation under an August 26, 2008 contract at 618 West 6th Street, Mishawaka, Indiana.

34. Count 3: Respondent failed to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation under a September 3, 2008 contract at 705 South 25th Street, South Bend, Indiana.

35. Count 4: Respondent failed to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation

under a September 3, 2008 contract at 1016 Fulton Street, Elkhart, Indiana.

36. Count 5: Respondent failed to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation under a June 9, 2009 contract at 808 W. 9th Street, Mishawaka, Indiana.

37. Count 6: Respondent failed to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation under a July 7, 2009 contract at 2022 Swygart Avenue, South Bend, Indiana.

38. Count 7: Respondent failed to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation under an August 31, 2009 contract at 26924 Wilkinson Street, Edwardburg, Michigan.

39. Respondent's failure to obtain written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovations referred to in paragraphs 32 through 38, above, constitutes 7 violations of 40 C.F.R. § 745.84(a)(1) and 15 U.S.C. § 2689.

Civil Penalty

40. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$684. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violation or violations alleged and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, Respondent's agreement to perform the SEP as specified in this CAFO, and such other factors as justice may require. Complainant also considered EPA's Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting

Rule; and Lead-Based Paint Activities Rule, dated August 19, 2010. Complainant also considered declarations submitted by Respondent from persons who resided in certain residential housing properties identified in paragraph 29, above at the time the Respondent was conducting window installations in such properties, stating that during the time Respondent was conducting the installations, no individual under the age of 18 resided at these properties.

41. Within 30 days after the effective date of this CAFO, Respondents must pay a \$684 civil penalty for the TSCA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state "In the matter of Michiana Window World," and the docket number of this CAFO.

42. A transmittal letter stating Respondent name, the case title, Respondent complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Paul Fericelli (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Mark Palermo (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

43. This civil penalty is not deductible for federal tax purposes.

44. If Respondent does not pay timely the civil penalty or any stipulated penalties due under paragraph 59, below, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

45. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

Supplemental Environmental Project

46. Respondent must complete a supplemental environmental project (SEP) designed to protect the public health by abating lead-based paint hazards.

47. Respondent must complete a lead-based paint hazard abatement project ("Hazard Abatement Project") designed to protect residents from potential lead-based paint hazards by abating lead-based paint hazards at 303 East 10th Street, Mishawaka, Indiana ("SEP Property"). This Hazard Abatement Project is a project to replace certain windows at the SEP Property as set forth in Attachment A, which is hereby incorporated into this CAFO.

48. The Hazard Abatement Project must be conducted in compliance with the Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 2012) (“HUD Guidelines”), and executed by individuals certified to perform such work under state and local laws and regulations.

49. Respondent must perform standard lead clearance testing upon completion of the Hazard Abatement Project using HUD Guidelines, and executed by individuals certified to perform such work under state and local laws for the SEP Properties. The individuals conducting the Hazard Abatement Project and the individuals executing the standard lead clearance sampling must not be paid or employed, or otherwise compensated by the individuals conducting the Hazard Abatement Project.

50. Respondent must spend at least \$6,158 to complete the Hazard Abatement Project.

51. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

52. Respondent must complete the Hazard Abatement Project by 180 days after the Effective Date of this CAFO.

53. SEP Certifications:

a. Respondent certifies that is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement or as injunctive relief as of the date Respondent signs this CAFO.

b. Respondent certifies that has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

c. Respondent certifies that shall not use any HUD assistance, including all HUD grants, as well as Community Development Block Grants, to perform the \$6,158 of abatement work required by this CAFO.

d. Respondent certifies that is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP.

e. Respondent certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP; nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). 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.

54. EPA may inspect the SEP Property at any time to monitor Respondent's compliance with the requirements of the SEP. Any access to the SEP Property will be provided on reasonable notice to Respondent, and Respondent will make good faith efforts to obtain the property owner's cooperation for such access.

55. Respondent must submit a Hazard Abatement Project report and lead clearance sampling report upon completion of the Hazard Abatement Project for the SEP Properties by 210 days after the Effective Date of this CAFO. These reports must contain the following

information to the best of Respondent's knowledge:

- a. the address of the SEP Property and a description of the Hazard Abatement Project as completed, which includes the sampling information contained in subparagraph b, below;
- b. a clearance sampling report for the SEP Property, giving sampling locations, sample results, and documentation of analytical quality assurance/quality control;
- c. itemized costs of goods and services used to complete the Hazard Abatement Project documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services; including receipts for the cost of the lead based paint inspection conducted to identify the lead-based paint and/or lead-based paint hazards in the properties;
- d. itemized costs of services used to complete the lead clearance sampling documented by copies of invoices or canceled checks that specifically identify and itemize the costs of the services, and documentation that Respondent did not use any HUD assistance, including all HUD grants as well as Community Development Block Grants, to perform the abatement work required by this CAFO;
- e. provide documentation that the individuals who performed the Hazard Abatement Project and the lead clearance sampling are certified to perform such work in accordance with the state and local laws and regulations; and

f. certify that Respondent has completed the Hazard Abatement Project and the lead clearance sampling in compliance with this CAFO.

56. Respondent must submit all notices and reports required by the CAFO by first class mail to Paul Fericelli, at the address in paragraph 42, above.

57. In each report that Respondent submits as provided by this CAFO, their authorized representative must certify that the report is true and complete by including the following statement signed by each Respondent:

“I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information; the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

58. If Respondent violates requirements of this CAFO relating to the Hazard Abatement Project and sampling, Respondent must pay stipulated penalties to EPA as follows:

a. If Respondent does not complete the Hazard Abatement Project and lead clearance sampling satisfactorily according to the requirements of this CAFO and within the deadline in paragraph 52, Respondent must pay a stipulated penalty of \$6,158;

b. If Respondent did not complete the Hazard Abatement Project and lead clearance sampling satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certifies, with supporting documents, that it spent at least 90 percent of the \$6,158 set forth in paragraph 50, Respondent will not be liable for any stipulated penalty under subparagraph a, above.

c. If Respondent satisfactorily completes the Hazard Abatement Project and lead clearance sampling according to the requirements of this CAFO, but spent less than 90 percent of the \$6,158 set forth in paragraph 50, Respondent must pay the difference between \$6,158 and the actual amount spent;

d. If Respondent fails to timely submit the Hazard Abatement Project completion report and the lead clearance sampling completion report, addressing each of the requirements in paragraph 55, above, Respondent must pay a stipulated penalty of \$50 for each day after the report was due until the submission of the report in its entirety, not to exceed \$6,158.

59. EPA's determination of whether Respondent satisfactorily completed the Hazard Abatement Project and lead clearance sampling and whether Respondent made good faith, timely efforts to complete the Hazard Abatement Project and lead clearance sampling will bind Respondent for the purposes of this CAFO.

60. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. All penalties shall begin to accrue on the first date of noncompliance, and shall continue to accrue through the date of completion. Respondent will use the method of payment specified in paragraph 41, above, notify EPA concerning the payment as specified in paragraph 42, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

61. Any public statement that Respondent makes referring to the SEP must include the following language, "Michiana Window World undertook this project under the settlement of the U.S. Environmental Protection Agency's enforcement action against them for violations of 40

C.F.R. Part 745.”

62. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

a. Respondent must notify EPA in writing within 10 days after learning of an event that caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent’s past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.

b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.

c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delays in completing the SEP will not be excused.

d. Respondent have the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

General Provisions

63. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk (Effective Date).

64. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

65. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

66. This CAFO does not affect Respondent's responsibility to comply with the Lead Act and the Disclosure Rule and other applicable federal, state, and local laws.

67. Respondent certifies that it is complying with TSCA, the PRE Rule, and RRP Rule.

68. The terms of this CAFO bind Respondent, and its successors and assigns.

69. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

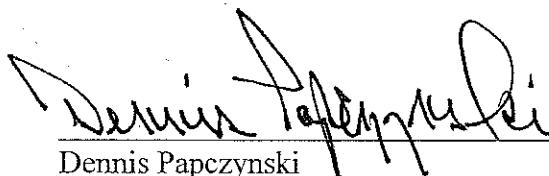
70. Each party agrees to bear its own costs and attorney's fees in this action.

71. This CAFO constitutes the entire agreement between the parties.

Michiana Window World, Inc., Respondent

5-12-14

Date

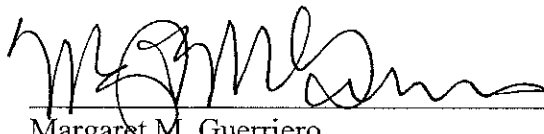


Dennis Papczynski
President

United States Environmental Protection Agency, Complainant

5/27/2014

Date



Margaret M. Guerriero
Director
Land and Chemicals Division

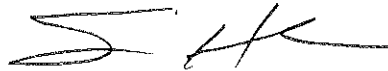
In the Matter of:
Michiana Window World, Inc.
Docket No. TSCA-05-2014-0009

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

5-30-14

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

ATTACHMENT A

SCOPE OF WORK FOR ABATEMENT AT

303 East 10th Street, Mishawaka, Indiana

The following Scope of Work shall be adhere to protect tenants from potential lead-based paint hazards by abating lead-based paint hazards at 303 East 10th Street, Mishawaka, Indiana. All responsible parties agree to perform this Scope of Work as part of a Supplemental Environmental Project (SEP). The SEP is part of the agreement between Michiana Window World and U.S. Environmental Protection Agency to resolve alleged violations of 40 C.F.R. Part 745, Subpart E, Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet.

The Scope of Work includes the following:

1. Michiana Window World shall contract with a licensed lead abatement contractor (Contractor) to perform the SEP. The Contractor must be certified and licensed to conduct lead abatement work under applicable federal and state regulations.
2. Michiana Window World shall provide and deliver all windows to the Contractor for performance of lead abatement work at 303 East 10th Street, Mishawaka, Indiana.
3. The Contractor shall remove old wooden-framed, painted windows and replace them with new windows in accordance with 40 C.F.R. § 745.227(e)(1), 410 IAC 32-4-5 and Chapter 12 of the HUD Guidelines.
4. Michiana Window World shall contract with a certified and licensed lead-based paint inspector or risk assessor to perform clearance examination of the SEP as completed (Inspector/Risk Assessor). The Inspector/Risk Assessor shall perform clearance examination of worked areas as provided in 40 C.F.R. § 745.227(e)(8), 410 IAC 32-4-9 and Chapter 15 of the HUD Guidelines.

5. The Inspector/Risk Assessor performing the clearance examination cannot be an employee of Michiana Window World, nor can the Inspector/Risk Assessor have economic interest with Michiana Window World.
6. The Contractor shall perform work site preparation and occupant protection, which shall be in accordance with 40 C.F.R. § 745.227(e)(5), 410 IAC 32-1-54 and Chapter 8 of the HUD Guidelines;
7. The Contractor shall perform daily and final cleanups, which shall be in accordance with 410 IAC 32-4-5(13) and Chapter 14 of the HUD Guidelines.
8. The Contractor shall dispose of all waste generated by the SEP, which shall be in accordance with State and local requirements and Chapter 10 of the HUD Guidelines.
9. Michiana Window World shall submit to EPA an abatement report as described in 40 C.F.R. § 745.227(e)(10) upon completion of the project.

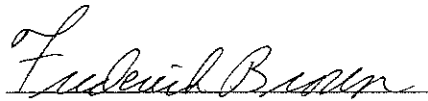
CERTIFICATE OF SERVICE

This is to certify that a copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving Michiana Window World, Inc., was filed on June 4, 2014, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Blvd. Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7009 1680 0000 7649 6599 to:

Mr. Dennis Papczynski
Michiana Window World, Inc.
12748 Sandy Drive, Unit 109
Granger, Indiana 46530

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Mark Palermo, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD


Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA-05-2014-0009