

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. Pursuant to Sections 402 and 406 of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2682 and 2686, the Administrator of the EPA promulgated Residential Property Renovation Rules at 40 C.F.R. Part 745, Subpart E including the Pre-Renovation Education Rule, the Renovation, Repair and Painting Rule, and the Lead-Based Paint Activities Rule. It is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with any of the rules issued under 40 C.F.R. Part 745, Subpart E.

III. Specific Allegations

4. Respondent is a “firm” that performs “renovations” for compensation as those terms are defined by 40 C.F.R. § 745.83. Based on a review of Respondent’s records during an EPA inspection at Respondent’s office on December 8, 2016, EPA determined that from March 15, 2015 through March 28, 2017, Respondent performed renovation activities at seventeen (17) residential units. These residential units are “target housing,” as that term is defined by 40 C.F.R. § 745.103.
5. Pursuant to 40 C.F.R. § 745.89(a), firms seeking to perform renovations for compensation must apply to EPA for certification to perform renovations or dust sampling. Pursuant to 40 C.F.R. § 745.89(b)(1)(i), after a firm has received certification, it must be recertified every five (5) years by filing a complete application for recertification at least 90 days prior to the expiration of the

firm's current certification. Pursuant to 40 C.F.R. § 745.89(b)(1)(iii), if the firm fails to obtain recertification before the firm's current certification expires, the firm must not perform renovations or dust sampling until it is certified anew pursuant to 40 C.F.R. §745.89(b).

6. Information obtained by the EPA during the above-referenced inspection showed that Respondent's certification expired on March 15, 2015, but Respondent did not submit an application for recertification at least 90 days prior to the expiration date. The information also shows that Respondent performed the above-referenced renovations after its certification had expired but prior to seeking and obtaining re-certification. Therefore, the EPA alleges that the Respondent violated Sections 402 and 406 of TSCA and 40 C.F.R. Part 745, Subpart E, in connection with the renovations described in paragraph 4, as follows:

Respondent failed to stop renovations or dust sampling before obtaining recertification under 40 C.F.R. §745.89(a), pursuant to 40 C.F.R. §745.89(b)(1)(iii) on at least one occasion.

IV. Consent Agreement

7. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
8. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the Final Order accompanying the Consent Agreement.
9. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in the Final Order section of this CAFO.
10. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of 40 C.F.R. Part 745, Subpart E.

11. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

V. Final Order

12. Respondent is assessed a civil penalty of **ONE THOUSAND SEVENTEEN DOLLARS (\$1,017)** which shall be paid within thirty (30) days after the effective date of this CAFO.
13. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America."

The Respondent shall note on the face of the check the Respondent's Name and the Docket Number TSCA-04-2017-2523(b).

The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

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

Address for payment submittal using USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

Contact Phone Number: (314) 425-1819

14. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Ms. Sarah Hawley
Lead and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

15. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
16. Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 30 days of the due date.
17. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
18. This CAFO shall be binding upon the Respondent, its successors and assigns.
19. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

20. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Chuck Bennett Contracting, Inc.
Docket No.: TSCA-04-2017-2523(b)

By: Chuck Bennett (Signed) Date: 8-7-2017

Name: Chuck Bennett Contracting, Inc. (Typed or Printed)

Title: President (Typed or Printed)

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By: Carol H. Kemba for Date: 8/18/17
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 1st day of September, 2017.

By: Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Chuck Bennett Contracting, Inc., Docket Number: TSCA-04-2017-2523(b), to the addressees listed below:

Chuck Bennett
President
Chuck Bennett Contracting, Inc.
2018 Herbert Street
Charleston, South Carolina 29405

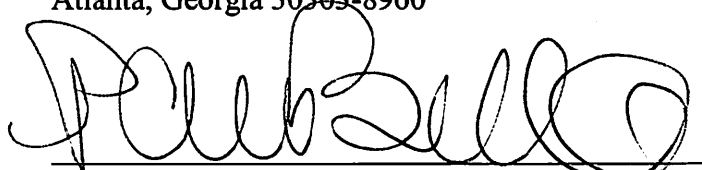
(via Certified Mail, Return Receipt Requested)

Sarah Hawley
Lead and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(via the EPA's internal mail)

Robert Caplan, Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(via the EPA's internal mail)



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511

Date: 9-7-17