



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
August 20, 2014

REPLY TO THE ATTENTION OF:  
LC- 8J

CERTIFIED MAIL No.7009 1680 0000 7674 3747  
RETURN RECEIPT REQUESTED

Mr. Roy J. Herman  
Clear Choice Windows & Siding, Inc.  
3010 East Ash Street  
Springfield, Illinois 62703

Consent Agreement and Final Order In the Matter of  
Clear Choice Window & Siding, Inc., Docket No. TSCA-05-2014-0019

Dear Mr. Herman:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on August 20, 2014, with the Regional Hearing Clerk.

The civil penalty in the amount of \$2,000 is to be paid in the manner described in paragraphs 56 and 57. Please be certain that the docket number is written on both the transmittal letters and on the checks. Payment is due by September 19, 2014, (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Pericelli".

For Paul Pericelli  
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: ) Docket No. TSCA-05-2014-0019  
)  
Clear Choice Windows & Siding, Inc., ) Proceeding to Assess a Civil Penalty  
) Under Section 16(a) of the Toxic  
Respondent. ) 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, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Clear Choice Windows & Siding, Inc. (Respondent), an entity with a place of business at 3010 East Ash Street, Springfield, Illinois 62703.
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). See 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 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, Pub. L. No.102-550, Oct. 28 1998 (Title X), Congress found, among other things, that low-level lead poisoning was widespread among American children, afflicting as many as 3,000,000 children under the age of six; 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. See 42 U.S.C. § 4851.

10. Section 1021 of Title X amended TSCA by adding Sections 401-412, entitled Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692.

11. Pursuant to Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), EPA promulgated regulations amending 40 C.F.R. Part 745, Subparts E and L, that apply to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. These regulations prescribe work practice standards and ensure that individuals engaged in such activities are properly trained, and

that the training programs are accredited and contractors engaged in such activities are certified. These requirements are known as the Renovation, Repair and Painting Program Rule (RRP Rule).

12. Pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b), EPA promulgated regulations at 40 C.F.R. Part 745, Subpart E, requiring, among other things, that each person who performs for compensation a renovation of target housing provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation. These requirements are known as the Pre-Renovation Education Rule (PRE Rule).

13. 40 C.F.R. § 745.83 defines “firm” as 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.

14. 40 C.F.R. § 745.83 defines “renovation” as 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, 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, planing thresholds to install weather stripping), and interim controls that disturb painted surfaces.

15. 40 C.F.R. § 745.83 defines “renovator” as 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.

16. 40 C.F.R. § 745.103 defines “residential dwelling” as 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.

17. 40 C.F.R. § 745.103 defines “target housing” as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

18. 40 C.F.R. § 745.83 defines “pamphlet” as 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.

19. 40 C.F.R. § 745.84(a)(1) requires that the firm performing renovation activities in residential dwelling units of target housing provide the owner of the unit with the pamphlet and obtain either written acknowledgment of receipt of the pamphlet by the owner no more than 60 days before beginning renovation activities, or a certificate of mailing of the pamphlet to the owner at least seven days prior to the renovation.

20. Under 40 C.F.R. § 745.81(a)(4)(i), on or after April 22, 2010 and before July 6, 2010, all renovations must be performed in accordance with the work practice standards in 40

C.F.R. § 745.85 and the associated recordkeeping requirements in 40 C.F.R. § 745.86(b)(6) in target housing or child-occupied facilities, unless the renovation qualifies for the exception identified in 40 C.F.R. § 745.82(a).

21. Under 40 C.F.R. § 745.81(a)(4)(ii), on or after July 6, 2010, all renovations must be performed in accordance with the work practice standards in 40 C.F.R. § 745.85 and the associated recordkeeping requirements in 40 C.F.R. § 745.86(b)(1) and (b)(6) in target housing or child-occupied facilities, unless the renovation qualifies for the exception identified in 40 C.F.R. § 745.82(a).

22. 40 C.F.R. § 745.86(a) provides that firms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with the residential property renovation requirements at 40 C.F.R. Part 745, Subpart E, for a period of 3 years following completion of the renovation. Under 40 C.F.R. § 745.86(b), this includes signed and dated acknowledgements of receipt of the pamphlet by the owner or certificates of mailing of the pamphlet, documentation that the firm complied with the work practice standards in 40 C.F.R. § 745.85, documentation that a certified renovator was assigned to the project, and documentation that the certified renovator performed or directed workers who performed the renovation activities.

23. Under 15 U.S.C. § 2689 and 40 C.F.R. § 745.87(a), failing to comply with any requirement of 40 C.F.R. Part 745, Subpart E, 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).

24. The Administrator of EPA may assess a civil penalty of up to \$37,500 for each violation of Section 409 of TSCA that occurred after January 12, 2009, pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615, 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19.

**General Allegations**

25. Complainant incorporates paragraphs 1 through 24 of this CAFO as if set forth in this paragraph.

26. Respondent is a “firm,” as defined at 40 C.F.R. § 745.83.

27. Respondent is a “renovator” as defined at 40 C.F.R. § 745.83.

28. Every employee of Respondent who performs or directs workers to perform renovations is a “renovator,” as defined at 40 C.F.R. § 745.83.

29. From April 2010 to November 2011, Respondent entered into contracts to perform window installation or to direct workers to perform window installation for compensation on properties at the following addresses:

<b>Contract</b>	<b>Date of Contract</b>	<b>Address</b>
1	4/28/2010	8 North Crescent Drive, Jacksonville, Illinois
2	4/29/2010	2206 Huntleigh Road, Springfield, Illinois
3	5/17/2010	1733 Holmes Avenue, Springfield, Illinois
4	5/19/2010	3113 Temple Drive, Springfield, Illinois
5	5/21/2010	1400 Holmes Avenue, Springfield, Illinois
6	5/22/2010	223 Yeoman Drive, Springfield, Illinois
7	6/4/2010	6 Sunnydale Avenue, Jacksonville, Illinois
8	6/15/2010	2552 Sandgate Road, Springfield, Illinois
9	6/21/2010	2148 North 7th Street, Springfield, Illinois
10	7/2/2010	2544 Somerton Road, Springfield, Illinois
11	7/13/2010	33 Vivian Lane, Springfield, Illinois
12	7/16/2010	816 Illinois Street, Springfield, Illinois
13	7/16/2010	2401 Yale Boulevard, Springfield, Illinois
14	7/20/2010	1404 South Main Street, Jacksonville, Illinois
15	7/21/2010	419 Sherman Street, Jacksonville, Illinois
16	7/21/2010	9086 Saint Peter Road, Arenzville, Illinois
17	7/21/2010	125 South State Street, Springfield, Illinois
18	7/23/2010	48 Midland Court, Springfield, Illinois

19	7/27/2010	13 Turner Road, Jacksonville, Illinois
20	8/5/2010	1654 North Mount Zion Road, Jacksonville, Illinois
21	8/6/2010	500 East Market Street #9, Taylorville, Illinois
22	8/6/2010	602 Mill Street, Girard, Illinois
23	8/10/2010	320 Ward Drive, P.O. Box 63, Elkhart, Illinois
24	8/11/2010	234 East Michigan Avenue, Jacksonville, Illinois
25	8/11/2010	205 West Illini Street, Chandlerville, Illinois
26	8/18/2010	315 North Harrison Street, Girard, Illinois
27	8/20/2010	65 Nottingham Road, Springfield, Illinois
28	8/24/2010	1916 South 4 <sup>th</sup> Street, Springfield, Illinois
29	8/27/2010	300 Pine Street, Concord, Illinois
30	8/27/2010	2544 South 7 <sup>th</sup> Street, Springfield, Illinois
31	8/31/2010	2300 South Willemore, Springfield, Illinois
32	9/1/2010	1423 West Walnut Street, Jacksonville, Illinois
33	9/1/2010	368 1300 <sup>th</sup> Avenue, Lake Ferk, Illinois
34	9/1/2010	1816 South Michels Street, Taylorville, Illinois
35	9/2/2010	3213 Warner Drive, Springfield, Illinois
36	9/7/2010	1808 Old Airport Road, Jacksonville, Illinois
37	9/7/2010	924 Bryn Mawr Boulevard, Springfield, Illinois
38	9/8/2010	2252 South 9 <sup>th</sup> Street, Springfield, Illinois
39	9/9/2010	1402 Clark Lane, Litchfield, Illinois
40	9/9/2010	1800 West Gilpin Street, Taylorville, Illinois
41	9/14/2010	539 West Grove Street, Bloomington, Illinois
42	9/16/2010	734 Bedwell Street, Jacksonville, Illinois
43	9/17/2010	1420 South 15 <sup>th</sup> Street #B, Springfield, Illinois
44	9/20/2010	1300 West Sharon Road, Springfield, Illinois
45	9/22/2010	2416 Delaware Drive, Springfield, Illinois
46	9/22/2010	1585 State Highway 78 North, Jacksonville, Illinois
47	9/23/2010	247 North Webster Avenue, Jacksonville, Illinois
48	9/23/2010	3128 Kemper Drive, Springfield, Illinois
49	9/25/2010	110 East Virginia Road, Arenzville, Illinois
50	9/28/2010	358 West Douglas Street, Greenview, Illinois
51	9/28/2010	3116 Olympic Drive, Springfield, Illinois
52	9/28/2010	48 Midland Court, Springfield, Illinois
53	9/30/2010	521 South East Street, Jacksonville, Illinois
54	10/2/2010	1720 South College Street, Springfield, Illinois
55	10/4/2010	732 Woodland Avenue, Springfield, Illinois
56	10/4/2010	2716 Black Avenue, Springfield, Illinois
57	10/5/2010	20 Merrygrove Drive, Jacksonville, Illinois
58	10/5/2010	401 East Chambers Street, Jacksonville, Illinois
59	10/8/2010	709 West Douglas Avenue, Jacksonville, Illinois
60	10/15/2010	128 East Oak Street, Jacksonville, Illinois
61	10/15/2010	1320 South Clay Avenue, Jacksonville, Illinois



62	10/18/2010	32 Bay Ridge Lane, Springfield, Illinois
63	10/22/2010	146 Pine Street, Jacksonville, Illinois
64	10/22/2010	2333 South 5th Street, Springfield, Illinois
65	10/27/2010	2380 Old State Road, Jacksonville, Illinois
66	10/27/2010	1502 South Main Street, Jacksonville, Illinois
67	10/29/2010	1645 North 19 <sup>th</sup> Street, Springfield, Illinois
68	11/1/2010	1145 West Lawrence Avenue, Springfield, Illinois
69	11/6/2010	705 Perry Street, Palmer, Illinois
70	11/11/2010	203 South Bogardus Street, Elkhart, Illinois
71	11/15/2010	327 East Franklin Street, Roodhouse, Illinois
72	11/15/2010	1135 South East Street, Jacksonville, Illinois
73	11/15/2010	618 Hall Drive, Jacksonville, Illinois
74	11/19/2010	1047 Bryn Mawr Boulevard, Springfield, Illinois
75	11/22/2010	1515 Pennsylvania Avenue, Springfield, Illinois
76	11/22/2010	405 State Street, Concord, Illinois
77	11/23/2010	2127 North 20th Street, Springfield, Illinois
78	11/30/2010	2316 South Lowell Avenue, Springfield, Illinois
79	12/2/2010	537 Wood Street, Springfield, Illinois
80	12/15/2010	115 North Lincoln Street, Girard, Illinois
81	1/31/2011	10 High Street, Lynnville, Illinois
82	5/6/2011	818 South Walnut Street, Springfield, Illinois
83	9/1/2011	68 Laconwood Drive, Springfield, Illinois
84	9/29/2011	202 North Columbia Street, Chambersburg, Illinois
85	11/1/2011	876 Routt Street, Jacksonville, Illinois
86	11/25/2011	277 West Prairie Street, Waverly, Illinois

30. All of the properties identified in paragraph 29 are residential dwellings.

31. All of the residential dwellings identified in paragraph 29 were constructed prior to 1978.

32. All of the residential dwellings identified in paragraph 29 are “target housing” as defined in 40 C.F.R. § 745.103.

33. The work Respondent performed or directed workers to perform at the residential dwellings identified in paragraph 29 resulted in the disturbance of painted surfaces.

34. The work Respondent performed or directed workers to perform at each residential dwelling identified in paragraph 29 was a “renovation” as defined at 40 C.F.R. § 745.83.

35. On January 18, 2012, Complainant received a complaint alleging that Respondent was not in compliance with lead safe work practices required by the RRP Rule and the PRE Rule.

36. On January 26, 2012, Complainant issued a Request for Information requesting, among other things, documents, information and records Respondent is required to maintain pursuant to 40 C.F.R. § 745.86(b), in order to determine Respondent’s compliance with the RRP Rule and the PRE Rule.

37. On March 8, 2012 Respondent submitted a response to Complainant’s January 26, 2012 Request for Information that contained records and information.

38. On or about May 16, 2012, Complainant requested additional information from Respondent.

39. On May 16, 2012, Respondent provided Complainant with additional documents responsive to Complainant’s requests.

40. Respondent was required to perform the renovations at the residential dwellings referenced in paragraph 29, above, in accordance with the work practice standards in 40 C.F.R. § 745.85 and the associated recordkeeping requirements in 40 C.F.R. § 745.86(b).

41. On July 19, 2013, Complainant advised Respondent by letter that it was planning to file an administrative complaint against Respondent for specific alleged violations of the RRP Rule and PRE Rule and that the complaint would seek a civil penalty. Complainant asked Respondent to identify any factors Respondent thought Complainant should consider before

issuing the complaint. If Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty, Complainant asked Respondent to submit specific financial documents.

**Counts 1-86: Failure to Retain Acknowledgements of Receipt of Pamphlet by, or Certificates of Mailing of Pamphlet to, Owners of Residential Dwellings**

42. Complainant incorporates paragraphs 1 through 41 of this CAFO as if set forth in this paragraph.

43. 40 C.F.R. § 745.86(b) requires, in relevant part, that the records firms must retain pursuant to 40 C.F.R. § 745.86(a) include signed and dated acknowledgments of receipt of the pamphlet by the owner of the residential dwelling no more than 60 days before beginning renovation activities or certificates of mailing of the pamphlet to the owner of the residential dwelling at least seven days prior to the renovation. See 40 C.F.R. § 745.86(b)(2) and (b)(4).

44. Respondent failed to retain a signed and dated acknowledgment of receipt of the pamphlet by, or retain a certificate of mailing of the pamphlet to, each owner of the residential dwellings referenced in contracts 1 to 86 identified in paragraph 29.

45. Respondent's failure to retain signed and dated acknowledgments of receipt of the pamphlet by, or retain certificates of mailing of the pamphlet to, the owners of the residential dwellings referenced in contracts 1 to 86 identified in paragraph 29 constitutes 86 violations of 40 C.F.R. § 745.86(b)(2) or (b)(4) and 15 U.S.C. §§ 2614 and 2689.

**Counts 87-173: Failure to Retain and Provide Documentation of Compliance with RRP Work Practice Standards**

46. Complainant incorporates paragraphs 1 through 41 of this CAFO as if set forth in this paragraph.

47. 40 C.F.R. § 745.86(b)(6) requires the records that must be retained pursuant to 40 C.F.R. § 745.86(a) include documentation of compliance with the work practice standards requirements of 40 C.F.R. § 745.85.

48. Respondent failed to retain and provide documentation of compliance with the work practice standards for each renovation performed at the residential dwellings referenced in contracts 1 to 86 identified in paragraph 29.

49. Respondent's failure to retain and provide documentation of compliance with the work practice standards requirements of 40 C.F.R. § 745.85 for each renovation performed at the residential dwellings referenced in contracts 1 to 86 identified in paragraph 29 constitutes 86 violations of 40 C.F.R. § 745.86(b)(6) and 15 U.S.C. §§ 2614 and 2689.

**Count 174-260: Failure to Obtain Initial Certification from EPA Before Performing, Offering, or Claiming to Perform Renovations**

50. Complainant incorporates paragraphs 1 through 41 of this CAFO as if set forth in this paragraph.

51. 40 C.F.R. § 745.81(a)(2)(ii) requires that no firm may perform, offer, or claim to perform renovations without certification from EPA under 40 C.F.R. § 745.89 in target housing or child-occupied facilities.

52. Respondent failed to have certification from EPA for the renovations performed at the residential dwellings referenced in contracts 1 to 86 identified in paragraph 29.

53. Respondent's failure to obtain initial certification from EPA for the renovations performed at the residential dwellings referenced in contracts 1 to 86 identified in paragraph 29 constitutes 86 violations of 40 C.F.R. § 745.81(a)(2)(ii) and 15 U.S.C. § 2689.

### Proposed Civil Penalty

54. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), based on the factors listed in 15 U.S.C. § 2615(a)(2)(B), particularly Respondent's ability to pay a penalty, Complainant has determined, based on certain financial documentation provided by the Respondent, that Respondent has the ability to pay \$2,000 as a civil penalty for the violations alleged in this CAFO. 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.

55. Respondent certifies that the financial documentation submitted in response to Complainant's request regarding this matter is true and accurate.

56. Within 30 days after the effective date of this CAFO, Respondent must pay the \$2,000 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  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

The check must note the following: the case title ("In the Matter of Clear Choice Windows & Siding, Inc."), the docket number of this CAFO, and the billing document number.

57. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment in paragraph 56.

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

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

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

59. If Respondent does not pay the civil penalty timely, EPA may refer this matter to the Attorney General, who will recover such amount, plus interest, by action in the appropriate United States district court 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.

60. 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 payment was due at a rate established by the Secretary of the Treasury. 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.

#### **General Provisions**

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

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

63. This CAFO does not affect Respondent's responsibility to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and other applicable Federal, State, and local laws.

64. Respondent certifies that it is complying with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, and its implementing regulations at 40 C.F.R. Part 745.

65. Respondent certifies that it has implemented the recordkeeping standard operating procedures as detailed in Attachment A of this CAFO.

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

67. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review with respect to any issue of fact or law set forth in this CAFO.

68. Each person signing this CAFO 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.

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

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

**In the Matter of: Clear Choice Windows & Siding, Inc.**  
**Docket No. TSCA-05-2014-0019**

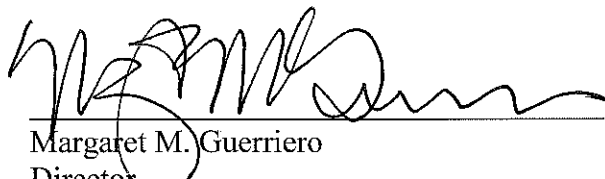
**Clear Choice Windows & Siding, Inc., Respondent**

7-23-14  
Date

  
\_\_\_\_\_  
Roy J. Herman  
President

**U.S. Environmental Protection Agency, Complainant**

8/13/2014  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division



**In the Matter of: Clear Choice Windows & Siding, Inc.**  
**Docket No. TSCA-05-2014-0019**

**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.

8-15-2014

Date



\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

**CERTIFICATE OF SERVICE**

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Clear Choice Window & Siding, Inc., was filed on August 20, 2014, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7674 3747, a copy of the original to the Respondent:

Mr. Roy J. Herman  
Clear Choice Windows & Siding, Inc.  
3010 East Ash Street  
Springfield, Illinois 62703

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Robert M. Peachey, Regional Judicial Officer, ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD



Frederick Brown  
Pesticides and Toxics Compliance Section  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. TSCA-05-2014-0019

**In the Matter of: Clear Choice Windows & Siding, Inc.**  
**Docket No. TSCA-05-2014-0019**

**Attachment A**

**Clear Choice Windows and Siding, Inc.**  
**Recordkeeping Procedures**  
**Lead-Based Paint Renovation, Repair, and Painting Program**

# **CLEAR CHOICE WINDOWS & SIDING, INC.**

## **RECORDKEEPING PROCEDURES LEAD-BASED PAINT RENOVATION, REPAIR and PAINTING PROGRAM**

1. Every installation shall have a file called a "job jacket" that will have the customer's name, address, job number, date ordered, dollar cost of job and product ordered on the front of the jacket.
2. The jacket will contain copies of the contract, measure sheet, order form, factory confirmation of the order, project actual start date, completion certificate and proof of payment.
3. For any homes or residences built before 1978, the following are also required to be kept in the jacket:
  - a. Record of any lead testing performed, including the testing kit and results.
  - b. Record the ages of any minors living at the residence.
  - c. Completed copy of the "Clear Choice Pre-Renovation Form."
  - d. Completed copies of the "Renovation Notice" and "Record of Tenant Notification" forms if necessary for the project.
  - e. Completed copy of the "Clear Choice Renovation Recordkeeping Checklist."

Note: Records in item #3 are required to be maintained for three years pursuant to EPA requirements. Clear Choice presently intends to keep such records within the related job jacket indefinitely.

## Clear Choice Pre-Renovation Form

This form to document compliance with the requirements of the Federal Lead-Based Paint Renovation, Repair, and Painting Program.

### Occupant Confirmation

#### Pamphlet Receipt

I have received a copy of the lead hazard information pamphlet informing me of the potential risk of the lead hazard exposure from renovation activity to be performed in my dwelling unit. I received this pamphlet before the work began.

---

Printed Name of Owner-occupant

---

Signature of Owner-occupant

Signature Date

#### Renovator's Self Certification Option (for tenant-occupied dwellings only)

*Instructions to Renovator:* If the lead hazard information pamphlet was delivered but a tenant signature was not obtainable, you may check the appropriate box below.

**Declined** – I certify that I have made a good faith effort to deliver the lead hazard information pamphlet to the rental dwelling unit listed below at the date and time indicated and that the occupant declined to sign the confirmation of receipt. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

**Unavailable for signature** – I certify that I have made a good faith effort to deliver the lead hazard information pamphlet to the rental dwelling unit listed below and that the occupant was unavailable to sign the confirmation of receipt. I further certify that I have left a copy of the pamphlet at the unit by sliding it under the door or by (fill in how pamphlet was left).

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Printed Name of Person Certifying Delivery

Attempted Delivery Date

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Signature of Person Certifying Lead Pamphlet Delivery

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Unit Address

**Note Regarding Mailing Option** — As an alternative to delivery in person, you may mail the lead hazard information pamphlet to the owner and/or tenant. Pamphlet must be mailed at least 7 days before renovation. Mailing must be documented by a certificate of mailing from the post office.

## Renovation Notice

For use in notifying tenants of renovations in common areas of multi-family housing.

The following renovation activities will take place in the following locations:

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Activity (e.g., sanding, window replacement)

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Location (e.g., lobby, recreation center)

The expected starting date is \_\_\_\_\_ and the expected ending date is \_\_\_\_\_.

Because this is an older building built before 1978, some of the paint disturbed during the renovation may contain lead. You may obtain a copy of the pamphlet, *Renovate Right*, by telephoning me at \_\_\_\_\_. Please leave a message and be sure to include your name, phone number and address. I will either mail you a pamphlet or slide one under your door.

---

Date

Printed name of renovator

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Signature of renovator

## Record of Tenant Notification Procedures

Project Address \_\_\_\_\_

Street (apt. #) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Owner of multi-family housing \_\_\_\_\_ Number of dwelling units \_\_\_\_\_

\_\_\_\_\_  
Method of delivering notice forms (*e.g. delivery to units, delivery to mailboxes of units*)

\_\_\_\_\_  
Name of person delivering notices

\_\_\_\_\_  
Signature of person delivering notices

\_\_\_\_\_  
Date of Delivery

# Clear Choice Renovation Recordkeeping Checklist

Name of Firm: \_\_\_\_\_

Date and Location of Renovation: \_\_\_\_\_

Brief Description of Renovation: \_\_\_\_\_

Name of Assigned Renovator: \_\_\_\_\_

Name(s) of Trained Worker(s), if used: \_\_\_\_\_

Name of Dust Sampling Technician,  
Inspector, or Risk Assessor, if used: \_\_\_\_\_

Copies of renovator and dust sampling technician qualifications (training certificates, certifications) on file.

Certified renovator provided training to workers on (check all that apply):

Posting warning signs                       Setting up plastic containment barriers

Maintaining containment    Avoiding spread of dust to adjacent areas

Waste handling                                       Post-renovation cleaning

Test kit or test results from an EPA-recognized laboratory on collected paint chip sample, used by certified renovator to determine whether lead was present on components affected by renovation (identify method used, type of test kit used (if applicable), laboratory used to conduct paint chip analysis, describe sampling locations and results):  
\_\_\_\_\_

Warning signs posted at entrance to work area.

Work area contained to prevent spread of dust and debris

All objects in the work area removed or covered (interiors)

HVAC ducts in the work area closed and covered (interiors)

Windows in the work area closed (interiors)

Windows in and within 20 feet of the work area closed (exteriors)

Doors in the work area closed and sealed (interiors)

Doors in and within 20 feet of the work area closed and sealed (exteriors)

Doors that must be used in the work area covered to allow passage but prevent spread of dust

Floors in the work area covered with taped-down plastic (interiors)

Ground covered by plastic extending 10 feet from work area—plastic anchored to building and weighed down by heavy objects (exteriors)

Vertical containment installed if property line prevents 10 feet of ground covering, or if necessary to prevent migration of dust and debris to adjacent property (exteriors)

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

Work site properly cleaned after renovation

All chips and debris picked up, protective sheeting misted, folded dirty side inward, and taped for removal

Work area surfaces and objects cleaned using HEPA vacuum and/or wet cloths or mops (interiors)

Certified renovator performed post-renovation cleaning verification (describe results, including the number of wet and dry cloths used): \_\_\_\_\_

If dust clearance testing was performed instead, attach a copy of report

I certify under penalty of law that the above information is true and complete.

\_\_\_\_\_  
Name and title

\_\_\_\_\_  
Date