

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

In the Matter of:)
)
J. CORRIGAN, LLC)
1245 Farmington Ave., Ste. #380)
West Hartford, Connecticut 06107)
)
Respondent.)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
42 U.S.C. § 2615(a).)
_____)

EPA Docket No.
TSCA-01-2021-0062

**CONSENT AGREEMENT
AND
FINAL ORDER**

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (“EPA”), Region 1 (“Complainant”) alleges that J. Corrigan, LLC (“Respondent”) violated Sections 15 and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2614 and 2689, and federal regulations promulgated thereunder at 40 C.F.R. Part 745, Subpart E, as amended (the “Renovation, Repair and Painting Rule” or “RRP Rule”), and thus is subject to penalty under 15 U.S.C. § 2615(a).

This Consent Agreement and Final Order (“CAFO”) simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), at 40 C.F.R. Part 22. Complainant and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

I. STATUTORY AND REGULATORY AUTHORITY

1. In 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act (the “Act”) in response to findings that “pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint” and that dust from this lead paint creates significant health problems for children. 45 U.S.C. § 4851. The Act added a new section to TSCA entitled *Subchapter IV – Lead Exposure Reduction* (TSCA Sections 401-412, 15 U.S.C. §§ 2681-2692) to, among other purposes, ensure that “the existence of lead-based paint hazards is taken into account in... [the] renovation of homes and apartments.” 45 U.S.C. § 4851a (4).

2. To implement relevant sections of TSCA, EPA has promulgated regulations at 40 C.F.R. Part 745 entitled *Lead-Based Paint Poisoning Prevention in Certain Residential Structures*. 40 C.F.R. Part 745, Subparts E, L, and Q contain what is commonly referred to as the “Renovation, Repair, and Painting Rule” or “RRP Rule.” As further described below, the RRP Rule sets forth procedures and requirements for, among other things, renovator and renovator firm certifications, records retention, and work practices for renovation, repair, and painting activities in “target housing” and child-occupied facilities.

3. “Target housing” is “any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).” 15 U.S.C. § 2681(17).

4. A “renovator” is “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.” 40 C.F.R. § 745.83.

5. A “firm” is “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.” 40 C.F.R. § 745.83.

6. “Renovation” is “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 CFR [§] 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. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this subpart. The term renovation does not include minor repair and maintenance activities.” 40 C.F.R. § 745.83.

7. “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 § 745.85(a)(3) are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and

maintenance activity.” 40 C.F.R. § 745.83.

8. Except in specific circumstances not relevant to Respondent or the violations alleged in this CAFO, firms renovating target housing for compensation must:

- i. Obtain EPA certification, pursuant to the procedures outlined in 40 C.F.R. § 745.89, before “perform[ing], offer[ing], or claim[ing] to perform renovations”;
- ii. Provide the owner of the unit being renovated with an informational pamphlet;
- iii. Contain “waste from renovation activities... to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal”; and
- iv. “[R]etain and, if requested, make available to EPA all records necessary to demonstrate compliance with [45 C.F.R. Part 745, Subpart E] for a period of 3 years following completion of the renovation.”

See 40 C.F.R. §§ 745.80, 745.81(a)(2), 745.84(a), 745.85(a)(4)(i), 745.86(a), 749.89(d)(5).

9. It is unlawful for any person to fail to comply with these or any other rules issued under Subchapter IV of TSCA. 15 U.S.C § 2689. *See also* 40 C.F.R. §§ 745.87(a), (b) (“Failure or refusal to comply with any provision of this subpart is a violation of TSCA section 409 (15 U.S.C. 2689)”), (“Failure or refusal to establish and maintain records or to make available or permit access to or copying of records, as required by this subpart, is a violation of TSCA sections 15 and 409 (15 U.S.C. 2614 and 2689)”).

10. By statute, any person who violates 15 U.S.C. § 2614 or § 2689 “shall be liable to

the United States for a civil penalty in an amount not to exceed \$37,500 for each such violation.” 15 U.S.C. § 2615(a). *See also* 40 C.F.R. § 745.87(d) (“Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. 2615) for each violation.”)

11. This amount was amended by the Debt Collection Improvement Act of 1996, the Federal Civil Penalties Inflation Adjustment Act of 1990 (“FCPIAA”), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and the FCPIAA’s implementing regulations, promulgated and updated by EPA at 40 C.F.R. Part 19 (most recently at 85 Fed. Reg. 83818, 83821 (Dec. 23, 2020)), which together authorize the assessment of civil administrative penalties of up to \$41,056 under 15 U.S.C. § 2615 for violations that occur after November 2, 2015, and where a penalty is assessed on or after December 23, 2020.

II. GENERAL ALLEGATIONS

12. Respondent is a limited liability company registered with the State of Connecticut in or around 2010, with its principal offices located at 1245 Farmington Ave., Ste. 380, West Hartford, CT 06107.

13. Thus, Respondent is a “firm,” as defined by 40 C.F.R. § 745.83, and a “person” as defined by the same.

14. On or about October 29, 2020, EPA received a complaint (“complaint”) regarding renovation work (the “renovation”) Respondent had performed for compensation at a residential property located at 94 South Elm Street, Windsor Locks, CT 06096 (the “residence”).

15. The renovation, which occurred on or around October 14, 2020, involved activities to modify the existing structure(s) which resulted in the disturbance of painted surfaces, such as grinding activity on the exterior of the house. Thus, the work performed constitutes a “renovation” within the meaning of 40 C.F.R. § 745.83. The renovation did not constitute a

minor repair or maintenance activity, or an emergency repair. *See* 40 C.F.R. 745.82(b).

16. The residence was built in 1950, and thus qualifies as “target housing.” 15 U.S.C. § 2681(17), 40 C.F.R. § 745.103. The residence does not satisfy the requirements for an exemption from the definition of target housing. *See id.*, 40 C.F.R. § 745.82.

17. At the time Respondent performed the renovation, Respondent was not a certified firm as set forth in the RRP Rule.

III. VIOLATIONS

18. EPA has identified the following violations of TSCA and the RRP Rule based on the complaint, supporting documents received from the complainant, information available in EPA databases, and interactions with Respondent.

19. Each of the four violations alleged below is a violation for which penalties may be assessed pursuant to 15 U.S.C. § 2615.

COUNT ONE: FAILURE TO OBTAIN EPA CERTIFICATION

20. Paragraphs 1 through 19, above, are incorporated by reference as if fully set forth herein.

21. 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. Pursuant to 40 C.F.R. § 745.89(a)(1), firms performing renovations for compensation must apply to EPA for certification to perform renovations.

22. Respondent’s promotional materials indicate that Respondent is an EPA lead-safe certified firm.

23. At times relevant to the allegations in this CAFO, Respondent offered to perform renovations and performed renovations at the residence.

24. At times relevant to paragraphs 20 and 21, Respondent was not an EPA certified firm.

25. Thus, Respondent performed, offered, or claimed to perform renovations without certification from EPA, in violation of 40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a).

COUNT TWO: FAILURE TO PROVIDE A PAMPHLET

26. Paragraphs 1 through 25, above, are incorporated by reference as if fully set forth herein.

27. Pursuant to 40 C.F.R. § 745.84(a), a firm performing a renovation must, no more than 60 days before beginning renovation activities in target housing, provide the owner of the unit with the EPA-designated lead-safe pamphlet and obtain a written certification that the owner has received the pamphlet, or obtain a certificate of mailing 7 days prior to the renovation.

28. Respondent failed to provide the required pamphlet to the owner before beginning the renovation at the residence, in violation of 40 C.F.R. § 745.84(a).

COUNT THREE: FAILURE TO CLEAN THE WORK AREA

29. Paragraphs 1 through 28, above, are incorporated by reference as if fully set forth herein.

30. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that the renovations are performed in accordance with the work practice standards in § 745.85.

31. Pursuant to 40 C.F.R. §745.85(a)(4)(i), waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal.

32. During the renovation, Respondent failed to ensure that waste from renovation activities was contained to prevent the release of dust and debris, in violation of 40 C.F.R. §§ 745.89(d)(3) and 745.85(a)(4)(i).

COUNT FOUR: FAILURE TO MAKE AVAILABLE REQUIRED RECORD

33. Paragraphs 1 through 32, above, are incorporated by reference as if fully set forth herein.

34. Pursuant to 40 C.F.R. § 745.89(d)(5), firms must ensure that the record-keeping requirements of § 745.86 are met.

35. To investigate the complaint, EPA made six attempts to contact Respondent regarding the renovation and Respondent's compliance with the RRP Rule, including by phone, email, and certified mail (return receipt requested.)

36. EPA received a signed certified mail return receipt card on or around December 21, 2020, but Respondent did not otherwise respond to any of the above-described communication attempts.

37. By failing to respond to EPA's information request, Respondent did not "make available to EPA all records necessary to demonstrate compliance with this subpart for a period of 3 years following completion of the renovation," in violation of 40 C.F.R. §§ 745.89(d)(5) and 745.86(a).

IV. TERMS OF SETTLEMENT

38. Without admitting or denying the factual allegations in Section III of this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein.

39. Respondent certifies that it will operate in compliance with Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and federal regulations promulgated under TSCA, including 40 C.F.R. Part 745, Subpart E, and 40 C.F.R. Part 745, Subpart L.

40. Respondent has applied for and obtained EPA firm certification to perform renovations or dust sampling in compliance with 40 C.F.R. § 745.89(a) and 40 C.F.R.

§ 745.81(a)(2)(ii).

41. Pursuant to Section 16 of TSCA, 15 U.S.C § 2615, based upon the nature, extent, and gravity of the alleged violations, the parties have determined that an appropriate civil penalty to settle this action is in the amount of \$1,253 (“penalty”).

42. Respondent agrees to:

- i. Pay the penalty within 30 calendar days of the effective date of this agreement (which, in accordance with 40 C.F.R. § 22.31(b), is the date it is filed with the Regional Hearing Clerk after it has been signed by the Regional Judicial Officer); and
- ii. Pay the penalty by submitting a check (instructions below) or by using another method provided at <http://www2.epa.gov/financial/additional-instructions-making-payments-epa>

- i. **To pay by check:** submit a company, bank, cashier’s, or certified check in the amount of \$1,253, payable to “Treasurer, United States of America.” Please indicate the EPA docket number on the check (TSCA-01-2021-0062). Send the check via regular mail to:

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

- iii. Within 24 hours of payment of the penalty, send proof of payment (for example, a copy of the check) to:

*Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1*

*5 Post Office Square, Suite 100
Mail Code: ORC 4-6
Boston, MA 02109-3912
santiago.wanda@epa.gov*

and

*Kristen Scherb, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORC 4-6
Boston, MA 02109-3912
Scherb.kristen@epa.gov*

43. 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 cost of processing and handling a delinquent claim. In the event that Respondent does not fully pay the civil penalty required by this CAFO when due, the unpaid penalty shall be payable with accrued interest from the original due date to the date of payment, with the interest calculated at the rate established in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a penalty charge of six 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, with the charge accruing from the date of delinquency in accordance with 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.

44. The civil penalty due, and any interest, non-payment penalties or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 U.S.C. § 1.162-21, and further agrees not to use these payments in any way

as, or in furtherance of, a tax deduction under federal, state or local law.

45. Respondent admits, for the purposes of this proceeding, that Complainant has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states claims upon which relief may be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue.

46. Respondent waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

47. The provisions of this CAFO shall be binding on Respondent and Respondent's successors and assigns.

48. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to TSCA for the violations specifically alleged in Section III of this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

49. This CAFO shall not relieve Respondent of its 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.

50. Each undersigned representative of the parties to this CAFO certifies that they are 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.

51. The parties agree that Respondent and EPA may execute this CAFO by electronic signature. EPA and Respondent acknowledge that electronic signatures carry the legal effect, validity, or enforceability of handwritten signatures. Therefore, the Parties shall not deny the legal effect, validity, or enforceability of records containing electronic signatures that they transmit and receive on the ground that such records, including the signature(s), are in electronic form. EPA has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing order, dated June 19, 2020. Electronic signatures shall comply with, and be maintained in accordance with, that Order.

52. Respondent further consents to accept electronic service of the full executed CAFO, by electronic mail, to the following address: jcorriganllc.com@gmail.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database.

53. Each Party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

54. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of the Parties and approval of the Regional Judicial Officer.

For Respondent:



Joseph Corrigan
J. Corrigan, LLC

Date: 7-27-21

For Complainant:

James Chow, Deputy Director
for Karen McGuire, Director
Enforcement and Compliance Assurance Division

Dated via electronic signature

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of the Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent J. Corrigan, LLC is ordered to pay the civil penalty amount specified in the Consent Agreement in the manner indicated therein.

The terms of the Consent Agreement shall become effective on the date that the CAFO is filed, either in person or electronically via email, with the Regional Hearing Clerk.

LeAnn W. Jensen, Regional Judicial Officer
U.S. EPA, Region 1

Dated via electronic signature