



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
AIR, WASTE AND TOXICS

SEP 21 2012

Norman C. Koehler
Kachina Contractor Solutions
530 Stahr Road
Elkins Park, Pennsylvania 19027

Dear Mr. Koehler:

I have enclosed an Administrative Complaint (TSCA-10-2012-0188) filed against Kachina Contractor Solutions, LLC (Kachina), under the Toxic Substances Control Act (TSCA), 15 U.S.C § 2601. The Complaint alleges that Kachina violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

As provided in the Complaint, if Kachina would like to request a hearing, it must do so in its Answer to the Complaint. Failure to file an Answer with the Regional Hearing Clerk within 30 days of receipt of this Complaint is considered an admission of all facts alleged in the Complaint and waives Kachina's right to contest such factual allegations. Failure to file an Answer also could result in a Default Order assessing the full penalty proposed in the Complaint.

Whether or not Kachina requests a hearing, it may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Robert Hartman, Assistant Regional Counsel, at (206) 553-0029.

Sincerely,

A handwritten signature in blue ink, appearing to be "R. Albright", written over a horizontal line.

Richard Albright, Director
Office of Air, Waste and Toxics

4 Enclosures:

1. Complaint
2. Amendment to Civil Penalty Recommendation
3. Description of Violations & Summary of Proposed Penalties
4. Part 22 Rules

RECEIVED

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HEARINGS CLERK
EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. TSCA-10-2012-0188
Kachina Contractor Solutions, LLC,)	
)	COMPLAINT AND NOTICE OF
Respondent.)	OPPORTUNITY FOR HEARING

I. AUTHORITIES

1.1 This civil administrative complaint ("Complaint") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA" or "Complainant") by the Toxic Substances Control Act ("TSCA" or "Act"), 15 U.S.C. § 2601 *et seq.* The Administrator has delegated this authority to the Regional Administrator of EPA Region 10, who has re delegated this authority to the Director of the Office of Air, Waste and Toxics in Region 10.

1.2 Pursuant to Section 16(a) of the Act, 15 U.S.C. § 2615(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22 ("Consolidated Rules of Practice"), Complainant hereby seeks the assessment of a civil administrative penalty against Kachina Contractor Solutions ("Respondent") for violations of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

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II. STATUTORY AND REGULATORY BACKGROUND

2.1 Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides in pertinent part that any person who violates a provision of Section 409 of TSCA, 15 U.S.C. § 2689, shall be liable to the United States for a civil penalty for each such violation.

2.2 Section 409 of TSCA, 15 U.S.C. § 2689, makes it unlawful for any person to fail to comply with, among other things, any rule promulgated pursuant to Section 402 of TSCA, 15 U.S.C. § 2682.

2.3 Pursuant to Section 402 of TSCA, 15 U.S.C. § 2682, EPA has promulgated rules governing lead-based paint activities including training, accreditation, and certification. These rules are codified at 40 C.F.R. Part 745, Subpart L, Lead-Based Paint Activities.

2.4 Pursuant to 40 C.F.R. § 745.235(a), “failure or refusal to comply with any requirement of §§ 745.225... is a prohibited act under Sections 15 and 409 of TSCA (15 U.S.C. 2614, 1689).”

2.5 “Person” is defined at 40 C.F.R. § 745.223 as “any natural or judicial person including any individual, corporation, partnership, or association... .”

2.6 “Training provider” is defined at 40 C.F.R. § 745.223 as “any organization or entity accredited under § 745.225 to offer lead-based paint activities courses.”

2.7 “Training manager” is defined at 40 C.F.R. § 745.223 as “the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.”

1 with the knowledge needed to perform renovations, as required by 40 C.F.R. § 745.225(c)(10).
2 Pursuant to 40 C.F.R. § 745.235, Respondent's failure to comply with a requirement of
3 40 C.F.R. § 745.225 is a violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

4 **Count 2**

5 3.13 The Bellingham course included only 91 minutes of hands-on training, less than
6 the 100 minutes of hands-on training required by 40 C.F.R. § 745.225(c)(6)(vi).

7 3.14 During the Bellingham course, a single instructor conducted the hands-on
8 training to groups as large as 14 students, and groups of students were not participating in the
9 hands-on activities being performed, making it difficult for the instructors to assess student
10 training.

11 3.15 By failing during the hands-on portion of the Bellingham course to comply with
12 the training hour requirements of 40 C.F.R. § 745.225(c)(6)(vi) and to ensure full student
13 participation is a violation of 40 C.F.R. § 745.225(c)(10), Respondent did not teach the work
14 practice standards contained in 40 C.F.R. § 745.85 in such a manner that trainees were provided
15 with the knowledge needed to perform renovations, as required by 40 C.F.R. § 745.225(c)(10).
16 Pursuant to 40 C.F.R. § 745.235, Respondent's failure to comply with a requirement of
17 40 C.F.R. § 745.225 is a violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

18 **Failure to Provide Timely Post-Training Notification**

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20 3.16 Pursuant to 40 C.F.R. § 745.225(c)(14), the training manager must provide notice
21 to EPA following completion of a renovator course no later than 10 business days following
22 course completion.
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Count 3

3.17 Respondent submitted the signed post-training notification for the Renton course to EPA on June 16, 2010, which was 19 business days after completion of the course, in violation of 40 C.F.R. § 745.225(c)(14).

3.18 Pursuant to 40 C.F.R. § 745.235, Respondent’s failure to comply with a requirement of 40 C.F.R. § 745.225 is a violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

Count 4

3.19 Respondent submitted the signed post-training notification for the Bellingham course to EPA on July 29, 2010, which was 16 business days after completion of the course, in violation of 40 C.F.R. § 745.225(c)(14).

3.20 Pursuant to 40 C.F.R. § 745.235, Respondent’s failure to comply with a requirement of 40 C.F.R. § 745.225 is a violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

IV. PENALTY

4.1 Based upon the facts alleged in this Complaint and pursuant to the authority of Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant proposes that a civil penalty not to exceed \$60,000 be assessed against Respondent.

4.2 Based on an evaluation of the facts alleged in this Complaint, and after considering the nature, circumstances, extent, and gravity of the violations, and with respect to Respondent, ability to pay, prior history of violations, degree of culpability, economic benefit or

1 savings (if any) resulting from the violations, and such other matters as justice may require,
2 Complainant proposes that an administrative penalty not to exceed \$60,000 be assessed against
3 Respondent, as follows:

4 Count 1 - Failure to Adequately Teach Work Practice Standards: \$22,500

5 Count 2 - Failure to Adequately Teach Work Practice Standards: \$22,500

6 Count 3 - Failure to Provide Timely Post-Training Notification: \$ 7,500

7 Count 4 - Failure to Provide Timely Post-Training Notification: \$ 7,500

8 4.3 Complainant has reviewed publicly available information on Respondent's
9 financial condition and has found no information indicating that Respondent is unable to pay the
10 proposed penalty. Complainant will consider any information submitted by Respondent related
11 to its ability to pay the proposed penalty.
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13 **V. OPPORTUNITY TO REQUEST A HEARING**

14 5.1 As provided in Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Respondent has
15 the right to request a formal hearing to contest any material fact set forth in this Complaint or the
16 appropriateness of the penalty proposed herein. Any hearing requested will be conducted in
17 accordance with the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated
18 Rules of Practice, 40 C.F.R. Part 22. A copy of the Consolidated Rules of Practice is enclosed
19 with this Complaint.

20 5.2 Respondent's Answer, including any request for hearing, must be in writing
21 and must be filed with:

22 Regional Hearing Clerk
23 U.S. Environmental Protection Agency, Region 10
24 1200 Sixth Avenue,
25 Suite 900 (Mail Stop ORC-158)

Seattle, Washington 98101

VI. FAILURE TO FILE AN ANSWER

6.1 To avoid a default order being entered pursuant to 40 C.F.R. § 22.17, Respondent must file a written Answer to this Complaint with the Regional Hearing Clerk within thirty (30) days after service of this Complaint.

6.2 In accordance with 40 C.F.R. § 22.15, Respondent's Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which the Respondent has any knowledge. Respondent's Answer must also state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) the facts which the Respondent intends to place at issue; and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained herein constitutes an admission of the allegation.

VII. INFORMAL SETTLEMENT CONFERENCE

7.1 Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settling this matter. To request such a settlement conference, Respondent should contact:

Robert Hartman, Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Suite 900 (Mail Stop ORC-158)
Seattle, Washington 98101
(206) 553-0029

1 7.2 Note that a request for an informal settlement conference does not extend the
2 thirty (30) day period for filing a written Answer to this Complaint, nor does it waive
3 Respondent's right to request a hearing.

4 7.3 Respondent is advised that, after the Complaint is issued, the Consolidated Rules
5 of Practice prohibit any *ex parte* (unilateral) discussion of the merits of these or any other
6 factually related proceedings with the Administrator, the Environmental Appeals Board or its
7 members, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely
8 to advise these officials in the decision on this case.

9 **VIII. RESERVATIONS**

10 8.1 Neither assessment nor payment of a civil penalty pursuant to this Complaint
11 shall affect Respondent's continuing obligations to comply with TSCA and all other
12 environmental statutes and regulations.
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16 Dated this 21 day of Sept, 2012.
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20 Richard Albright, Director
21 Office of Air, Waste and Toxics
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CERTIFICATE OF SERVICE

I certify that the foregoing "Complaint" was filed and sent to the following persons, in the manner specified, on the date below:

Original and one copy, hand-delivered:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Suite 900 (Mail Stop ORC-158)
Seattle, Washington 98101

A true and correct copy, by certified mail, return receipt requested:

Kevin M. Tierney, Esq.
Johanson Berenson LLP
1146 Walker Road, Suite C
Great Falls, Virginia 22066-1838

Norman C. Koehler
Kachina Contractor Solutions
530 Stahr Road
Elkins Park, Pennsylvania 19027

Dated: 9/21/2012

Ann E. Oregy
Office of Regional Counsel
U.S. EPA Region 10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
REGIONAL COUNSEL

SUBJECT: Kachina Contractor Solutions, Elkins Park, PA
Amendment to Civil Penalty Recommendation

FROM: Robert Hartman
Assistant Regional Counsel

TO: File

This memorandum re-calculates the civil penalty for violations of the regulations governing EPA-accredited training providers alleged by the U.S. Environmental Protection Agency, Region 10 (EPA) during two renovator training courses conducted by Kachina Contractor Solutions (Kachina), one in Renton, Washington, (Renton course) and one in Bellingham, Washington (Bellingham course). This memorandum summarizes the reductions to the original penalty, which EPA proposed to Kachina on April 7, 2011.

Summary of Originally Proposed Settlement Penalties

Failure to Meet the Minimum Training Hour Requirements, in violation of 40 C.F.R. § 745.225(c)(6)(vi).

Failure to Meet Minimum Training Hour Requirement during the Renton course: \$ 22,500
Failure to Meet Minimum Training Hour Requirement during the Bellingham course: \$ 22,500

Failure to Teach the Work Practice Standards in such a manner that trainees are provided with the knowledge needed to perform renovations in violation of 40 C.F.R § 745.225(c)(10).

Failure to Adequately Teach Work Practice Standards during the Renton course: \$ 22,500
Failure to Adequately Teach Work Practice Standards during the Bellingham course: \$ 22,500

Failure to Provide EPA Notification of the Completion of Renovator Training Courses within 10 business days of the completion of the course in violation of 40 C.F.R. § 745.225(c)(14).

Failure to Provide Timely Post-Training Notification for the Renton course: \$ 7,500
Failure to Provide Timely Post-Training Notification for the Bellingham course: \$ 7,500

The total proposed penalty was: \$105,000

The pre-filing letter alleged six violations and specified a proposed penalty amount of \$105,000. EPA calculated the proposed penalties by applying the statutory factors of Section 16 of TSCA, 15 U.S.C. § 2689, as interpreted by the August, 2010, Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule (Penalty Policy). The details of that calculation are

included in a memorandum dated January 4, 2011, which is incorporated by reference into this update.

EPA reviewed the alleged violations, and for the purpose of filing a Complaint, decided to reduce the number of counts alleged, from six to four. Specifically, for each course, EPA combined the violations alleged for failure to meet minimum training hour requirements in 40 C.F.R. § 745.225(c)(6)(vi), with the violations for failure to adequately teach work practice standards in violation of 40 C.F.R § 745.225(c)(10).

EPA could allege separate violations for Kachina's failure to meet the minimum training hour requirements in both training courses, in the Renton course by 18 minutes and the Bellingham course by nine minutes. However, based on the particular facts and circumstances involved, EPA determined that combining the violations into a single count is valid. By failing to control its students and teach all the required hands-on skills, combined with failing to meet the minimum training hour requirements, Kachina clearly failed to adequately teach work practice standards in violation of 40 C.F.R § 745.225(c)(10). Combining the two violations into a single count for the failure to adequately teach work practice standards reduced the proposed penalty amount from \$105,000 to \$60,000.

Final Proposed Penalties

Failure to Teach the Work Practice Standards in such a manner that trainees are provided with the knowledge needed to perform renovations in violation of 40 C.F.R § 745.225(c)(10).

Failure to Adequately Teach Work Practice Standards during the Renton course: \$22,500
Failure to Adequately Teach Work Practice Standards during the Bellingham course: \$22,500

Failure to Provide EPA Notification of the Completion of Renovator Training Courses within 10 business days of the completion of the course in violation of 40 C.F.R. § 745.225(c)(14).

Failure to Provide Timely Post-Training Notification for the Renton course: \$ 7,500
Failure to Provide Timely Post-Training Notification for the Bellingham course: \$ 7,500

The total proposed penalty is : \$60,000

Attachment

DESCRIPTION OF VIOLATIONS AND SUMMARY OF PROPOSED PENALTIES

Kachina Contractor Solutions Elkins Park, Pennsylvania

The following is a summary of the violations of the regulations governing EPA-accredited training providers identified by the United States Environmental Protection Agency, Region 10 (EPA) through its investigation of two training courses conducted by Kachina Contractor Solutions (Kachina), and a proposed civil administrative settlement. EPA is proposing penalties for violations relating to; training hour requirements, the teaching of hands-on activities, and post-training notifications. The penalties proposed in this summary do not reflect the maximum penalty that EPA may seek in litigation, but rather indicate the amount that EPA would accept in settlement.

I. Description

EPA Region 10 conducted audits of two Kachina training courses; in Renton Washington on May 19, 2010 and in Bellingham, Washington on July 7, 2010

During the May 19, 2010 training course 92 minutes were spent conducting the hands-on portion of the training course. In addition, the EPA inspector observed groups as large as 24 students being taught a hands-on activity by one instructor, groups of students talking outside the hands-on activities area and not participating in hands-on activities, and students holding extended cellular phone conversations during the hands-on activities. At least one of the hands-on skill sets established by EPA as part of the hands-on curriculum was not performed by Kachina at any time during the hands-on activities. Finally, Kachina submitted the signed post-training notification for the May 19, 2010 training course on June 16, 2010, more than ten (10) business days after completion of the course.

During the July 7, 2010 audit conducted in Bellingham, Washington, 91 minutes were spent conducting the hands-on portion of the training course. In addition, the EPA inspector observed groups as large as 14 students being taught a hands-on activity by one instructor, groups of students who were disengaged from the hands-on activities being performed, and that it was difficult for the instructors to assess student learning. Finally, Kachina submitted the signed post-training notification for the July 7, 2010 training course on July 29, 2010, more than ten (10) business days after completion of the course.

II. Legal Requirements

The Toxic Substances Control Act (TSCA) regulations at issue in this case are codified in Title 40 of the Code of Federal Regulations (C.F.R.) Part 745.225, Accreditation of training programs. Training programs accredited by EPA to conduct Renovation, Repair, and Painting (RRP) courses are required to comply with certain requirements when conducting training courses.

40 C.F.R. § 745.225(c)(6)(vi) requires that a training program provide renovator training courses that meet the minimum training hour requirements, specifically that the renovator course must

last a minimum of eight (8) training hours¹, with a minimum of two (2) hours devoted to hands-on training activities.

40 C.F.R. § 745.225(c)(10) requires that courses offered by a training program teach the work practice standards contained in § 745.85, or § 745.227, as applicable in such a manner that trainees are provided with the knowledge needed to perform the renovations they will be responsible for conducting.

40 C.F.R. § 745.225(c)(14) requires that the training manager of an EPA accredited training program provide EPA notification after the completion of any Renovator Initial training course. This notice must be received by EPA no later than 10 business days following course completion.

Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a), authorizes EPA to assess penalties against any person who violates any provision of TSCA Section 409, 15 U.S.C. § 2689. EPA calculated the proposed penalties by applying the statutory factors of Section 16 of TSCA, 15 U.S.C. § 2689, as interpreted by the August, 2010, Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule (Penalty Policy). TSCA and EPA regulations allow EPA to commence a judicial or administrative action to assess a civil penalty of up to \$37,500 per day, per violation.

III. Determination of Penalty

A. Gravity-Based Penalty for Violations Related to the Failure to Meet the EPA Requirements for the Accreditation of Renovator Training Programs as Required by 40 C.F.R § 745.225(c)

Failure to Provide the Minimum Two Training Hours of Hands-On Training Activities

During the Initial Renovator courses it conducted on May 19, 2010, in Renton, Washington and on July 7, 2010 in Bellingham, Washington, Kachina failed to meet the minimum training hour requirements for hands-on activities. Specifically, of the eight hour training course, the hands-on training activities sessions of both training courses were conducted for less than the required two training hours (100 minutes). Kachina's failure to provide training courses that met the minimum training hours for hands-on training activities is a violation of 40 C.F.R. § 225(C)(6)(vi). A base penalty of \$45,000, or \$22,500 for each violation, was calculated applying the Penalty Policy as discussed below.

Failure to Teach the Work Practice Standards in a Such a Manner that Trainees are Provided with the Knowledge Needed to Perform Renovations

During the Initial Renovator courses it conducted on May 19, 2010, in Renton, Washington and on July 7, 2010 in Bellingham, Washington, Kachina failed to teach the work practice standards

¹ "Training hour" means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

contained in 40 C.F.R. § 745.85 in such a manner that trainees were provided with the knowledge needed to perform renovations. Kachina's failure to teach the work practice standards contained in 40 C.F.R. § 745.85 in such a manner that trainees were provided with the knowledge needed to perform renovations is a violation of 40 C.F.R. § 745.225(c)(10). A base penalty of \$45,000, or \$22,500 for each violation, was calculated applying the Penalty Policy as discussed below.

Failure to Provide EPA Notification of the Completion of Renovator Training Courses within Ten Business Days of the Completion of the Course

Kachina failed to provide EPA with the notification of completion of the Initial Renovator training courses it conducted on May 19, 2010 in Renton, Washington and on July 7, 2010 in Bellingham, Washington, within ten business days of the completion of the respective courses. Kachina's failure to provide EPA with the notification of completion within ten business days is a violation of 40 C.F.R. § 745.225(c)(14). A base penalty of \$15,000, or \$7,500 for each violation, was calculated applying the Penalty Policy as discussed below.

Nature

Training provider violations are characterized as "chemical control" in nature.

Circumstance

The term "circumstance" represents the probability of harm resulting from a particular type of violation. The greater the deviation from the regulations, the greater the likelihood that people will be uninformed about the hazards associated with lead-based paint and any renovations, that exposures will be inadequately controlled during renovations, or that residual hazards and exposures will persist after the renovation work is completed. Therefore, according to the Circumstance Level tables found in Appendix A of the Penalty Policy, the circumstance level for the violations identified above is as follows:

Failure to meet the minimum training hour requirements in violation of 40 C.F.R. § 745.225(c)(6)(vi) is a Circumstance Level 3a violation.

Failure to teach the Work Practice Standards in such a manner that trainees are provided with the knowledge needed to perform renovations in violation of 40 C.F.R. § 745.225(c)(10) is a Circumstance Level 3a violation.

Failure to provide EPA notification of the completion of Renovator Training courses within ten business days of the completion of the course in violation of 40 C.F.R. § 745.225(c)(14) is a Circumstance Level 5a violation.

Extent

The term "extent" represents the degree, range, or scope of a violation's potential to cause harm. The measure of the extent of harm focuses on the overall intent of the regulations and the amount

of harm the regulations are designed to prevent. In the case of training provider violations, the extent is determined by the potential that the violations by the training provider will affect human health by impairing the student(s)' ability to learn. More specifically, the extent is determined by the number of students attending the training course where the violations occurred.

Both the training course in Renton Washington on May 19, 2010 and the training course in Bellingham, Washington on July 7, 2010 were attended by more than 11 students. Therefore, according to the Gravity-Based Penalty Matrices found in Appendix A of the Penalty Policy, the extent level for Kachina's violations identified above is Major.

In conclusion, the total proposed penalty for Kachina's failure to meet the EPA requirements for the accreditation of renovator training programs found at 40 C.F.R. § 745.225(c) at both the May 19, 2010 training in Renton, Washington and the July 7, 2010 training in Bellingham, Washington, based on the nature, circumstances, and extent of these violations (as described above), is \$105,000.

B. Adjustments to the Gravity-Based Penalty

Ability to Pay/Continue in Business

Information available to EPA regarding Kachina Contractor Solutions suggests that payment of this proposed penalty would not threaten the viability of the company. EPA's present view therefore is that no adjustment based on Kachina's ability to pay this penalty is appropriate at this time.

History of Prior Violations

EPA is unaware of any prior instances in which Kachina has been cited for violations of the lead-based paint regulations at 40 C.F.R. § 745 in the past five years. Assuming this is correct, there would be no upward adjustment to the penalty for this factor.

Degree of Culpability

This factor may be used only to increase a penalty. Knowing or willful violations generally reflect an increased culpability on the part of the violator and may even give rise to criminal liability. The culpability of the violator should be reflected in the amount of the penalty, which may be increased by up to 25% for this factor. EPA is unaware of any information that indicates an increased culpability in this instance, and therefore there is no upward adjustment to the penalty for this factor.

Attitude

The Penalty Policy allows for a reduction of up to 30% of the gravity-based penalty to account for the company's "attitude." This potential for reduction includes 15% for "cooperation," which refers to the company's response to the compliance evaluation/enforcement process, and

15% for “compliance,” which refers to good faith efforts to comply and to correct violations expeditiously. Based on information provided in the course of settlement discussions, EPA may apply one or both of these factors to reduce the final penalty.

Other Factors as Justice May Require

The Penalty Policy allows for an additional 25% reduction for “other factors as justice may require.” This permits consideration of compelling factors that may not have been considered during development of the Penalty Policy or unusual circumstances that suggest strict application of the Penalty Policy is inappropriate. Use of this reduction is rare but can be considered. At this time, EPA is not aware of any factors that would warrant adjustment of the penalty based on “other factors as justice may require.”

IV. Summary of Settlement Penalties

Table 1: Summary of Violations, Circumstance & Extent Levels, and Proposed Penalties

Violation	Training Date	Circ. Level	Extent Level	Proposed Penalty
Failure to meet minimum training hour requirement	5/19/2010	3a	Major	\$22,500
Failure to adequately teach work practice standards	5/19/2010	3a	Major	\$22,500
Failure to provide timely post-training notification	5/19/2010	5a	Major	\$7,500
Failure to meet minimum training hour requirement	7/7/2010	3a	Major	\$22,500
Failure to adequately teach work practice standards	7/7/2010	3a	Major	\$22,500
Failure to provide timely post-training notification	7/7/2010	5a	Major	\$7,500

Total proposed penalty:

\$105,000

