



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

SEP 20 2016

REPLY TO THE ATTENTION OF

LC-8J

CERTIFIED MAIL 7011 1150 0000 2640 2235  
RETURN RECEIPT REQUESTED

Mr. Matt Miedema  
909 42<sup>nd</sup> Street  
Wyoming, Michigan 49509

Consent Agreement and Final Order In the Matter of:  
Matt Miedema, Docket No. TSCA-05-2016-0010

Dear Mr. Miedema:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in Resolution of the above case. This document was filed on September 20, 2016 with the Regional Hearing Clerk.

The civil penalty in the amount of \$2,500 is to be paid in the manner described in paragraphs 45 and 46. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Grace".

Pamela Grace  
Pesticides and Toxic Compliance Section  
Land and Chemicals Division

Enclosure

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO; however, Respondent neither admits nor denies the general allegations in this CAFO.

8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including its right to request a hearing or petition for judicial review under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and under 40 C.F.R. § 22.15(c), its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06, any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent also consents to the issuance of this CAFO without further adjudication.

### **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.

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.

17. 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.

18. 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.

19. 40 C.F.R. § 745.103 defines “target housing” to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

27. From May 9 to June 12, 2015, Respondent was a “renovator” as defined at 40 C.F.R. § 745.83.

**Count 1 – Failure to Retain and Make Available All Records Necessary to Demonstrate Compliance with 40 C.F.R. Part 745, Subpart E**

28. Complainant incorporates paragraphs 1 through 21 of this CAFO as if set forth in this paragraph.

29. Under 40 C.F.R. § 745.86(a), 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 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.

30. Respondent failed or refused to establish and maintain records, or to make available such records, according to the requirements of 40 C.F.R. § 745.86(a) and 40 C.F.R. § 745.86(b).

31. Respondent’s failure to establish and maintain, or to make available records, violates 40 C.F.R. § 745.86(a), 40 C.F.R. § 745.86(b), 40 C.F.R. § 745.87(b), and 15 U.S.C. § 2689.

38. During the renovation at the Grand Rapids property described in paragraph 24, Respondent failed to take extra precautions in containing the work area to ensure that no dust and debris from the renovation contaminated other buildings or other areas of the property or migrated to adjacent properties.

39. For the renovation referenced in paragraph 24, Respondent's failure to take extra precautions to ensure that no dust and debris from the renovation contaminated nearby areas violated 40 C.F.R. § 745.85(a)(2)(ii)(D), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.

**Count IV – Failure to Clean Work Area Until No Dust, Debris, or Residue Remains**

40. Complainant incorporates paragraphs 1 through 21 of this CAFO as if set forth in this paragraph.

41. 40 C.F.R. § 745.85(a)(5) requires that after the renovation has been completed, the firm must clean the work area until no dust, debris, or residue remains. In addition, 40 C.F.R. § 745.85(a)(5)(i)(A) requires the firm must collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag.

42. On June 12, 2015, Respondent completed the renovation described in paragraph 24, but failed to clean the work area until no dust, debris, or residue remained.

43. For the renovation referenced in paragraph 24, Respondent's failure to clean the work area violated 40 C.F.R. § 745.85(a)(5), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.

44. Respondent neither admits nor denies the allegations in Counts I-IV of this CAFO.

**Civil Penalty**

45. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$2,500. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations alleged

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

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

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

50. Pursuant to 31 C.F.R. § 901.9, Respondent must pay interest, fees, and penalties on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established, pursuant to 31 U.S.C. § 3717, 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**

51. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

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

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

54. This CAFO does not affect Respondent's responsibility to comply with TSCA, the

**In the Matter of: Matt Miedema**  
**Docket No. TSCA-05-2016-0010**

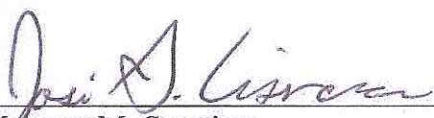
**Matt Miedema, Respondent**

9/01/2016  
Date

  
Matt Miedema

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

9/14/16  
Date

  
for Margaret M. Guerriero  
Director  
Land and Chemicals Division

In the Matter of: Matt Miedema  
Docket Number: TSCA-05-2016-0010

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the forgoing **Consent Agreement and Final Order**, which was filed on September 20, 2016 this day in the following manner to the addressees:

Copy by certified mail

Return Receipt Requested:

Mr. Matt Miedema  
909 42<sup>nd</sup> Street  
Wyoming, Michigan 49509

Copy by e-mail to

Attorney of Complainant:

Robert Peachey  
Peachey.Robert@epa.gov

Copy by e-mail to

Regional Judicial Officer:

Ann Coyle  
Coyle.Ann@epa.gov

Dated: September 20, 2016

  
\_\_\_\_\_  
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5



# LAND AND CHEMICALS DIVISION

Type of Document: CAFO - RRP

File #: 15TL214

Name of Document: Matt Miedema (College Pro Painter), Wyoming, Michigan

EJ Concerns: Y or N or Exempt

	<u>NAMES</u>	<u>DATE</u>
AUTHOR:	<u>P. Grace</u> <i>PM</i>	<u>9/12/16</u>
SECTION APA:	<u>R. Aridge</u> <i>RBA</i>	<u>9/13/16</u>
SECTION CHIEF:	<u>D. Star</u> <i>D Star</i>	<u>09/13/2016</u>
BRANCH APA:	<u>F. Brown</u> <i>FB</i>	<u>9/13/16</u>
BRANCH CHIEF:	<i>for</i> <u>M. Klevs</u> <i>McK</i>	<u>9/14/16</u>
DIV. APA:	<u>Y. Ortiz</u> <i>YOS</i>	<u>9/14/16</u>
DIV. DIRECTOR:	<i>for</i> <u>M. Guerriero</u> <i>MG</i>	<u>9/14/16</u>
OTHERS:	_____	_____
	<i>Regional Administrator Robert Kaplan</i>	_____
DRA:	_____	_____

RETURN TO: Fred Brown

PHONE: 6-1489

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

REGION 5 CONCURRENCE SHEET (ORC)

SUBJECT: In the Matter of Matt Miodora: Consent Agreement on Final Order

SF Site Charging "Account String." (SF Account String): N/A

Fill in blanks with the 4 digit Superfund Site ID # + the 2 letter action Code and the 2 digit OU code, if applicable

CONTROL NO. (if applicable): N/A

Originator ( R. PEACOCK ) RUP Date 9.7.16  
Section Chief ( C. RYHALSKI ) CRP Date 9/7/16

Branch Chief : please check statute

COHEN  CAA

KYTE  CERCLA,  CAA112(r),  CWA311

KLASSMAN  CWA,  SDWA,  GLLA

ARRÁZOLA  RCRA,  TSCA,  FIFRA,  EPCRA-313] \_\_\_\_\_ Date \_\_\_\_\_

Deputy Regional Counsel (Frey) \_\_\_\_\_ Date \_\_\_\_\_

Regional Counsel (Nelson) \_\_\_\_\_ Date \_\_\_\_\_

(Please indicate name of appropriate Division(s) where concurrent signoff is required.)

NAME OF DIVISION LAND AND CHEMICALS DIVISION

Assigned Staff Person ( P. GRACE ) \_\_\_\_\_ Date \_\_\_\_\_

Division Director ( M. GUBERKISRO ) \_\_\_\_\_ Date \_\_\_\_\_

Other ( M. KLEUS ) \_\_\_\_\_ Date \_\_\_\_\_

D. STAR \_\_\_\_\_ Date \_\_\_\_\_

NAME OF DIVISION N/A

Assigned Staff Person ( \_\_\_\_\_ ) \_\_\_\_\_ Date \_\_\_\_\_

Division Director ( \_\_\_\_\_ ) \_\_\_\_\_ Date \_\_\_\_\_

Other ( \_\_\_\_\_ ) \_\_\_\_\_ Date \_\_\_\_\_

OFFICE OF THE REGIONAL ADMINISTRATOR

Deputy Regional Administrator (Newton) \_\_\_\_\_ Date \_\_\_\_\_

Acting Regional Administrator (Kaplan) \_\_\_\_\_ Date \_\_\_\_\_

Other (if applicable) ( \_\_\_\_\_ ) \_\_\_\_\_ Date \_\_\_\_\_

Other (if applicable) ( \_\_\_\_\_ ) \_\_\_\_\_ Date \_\_\_\_\_

A White House Executive Memorandum dated June 1, 1998, mandates that ".....The Federal Government's writing must be in plain language." This requirement became effective January 1, 1999. Originator and first level supervisor are responsible for assuring that documents are in plain language. All other reviewers should consider plain language in their reviews. (See plain language checklist of reverse side of this sheet.)

COMMENTS: \_\_\_\_\_

RETURN TO: ROBERT M. PEACOCK (C-14T)



*Office of the*  
**REGIONAL ADMINISTRATOR**



## Correspondence for RA's Signature

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Type of Document: CAFO

Name of Document: MATT MIEDEMA (COLLEGE PRO PAINTER), WYOMING, MICHIGAN

Date Rec'd in ORA: 09/15/2016

From: LCD

Contact Name: JESSIE ORTIZ

Phone: 6-6671

<u>DATE</u>	<u>NAME</u>	<u>INITIALS</u>
<u>9/15</u>	Ronna Beckmann (AL/R5-C)	<u>[Signature]</u>
	Denise Fortin (AL/R5-C)	
	Eileen Deamer (AL/R5-C)	
<u>9/16/16</u>	Cheryl L. Newton (Acting Deputy Regional Administrator)	<u>[Signature]</u>
<u>9/19/16</u>	Robert A. Kaplan (Acting Regional Administrator)	<u>[Signature]</u>

Correction Required?       Yes    No

Remarks: