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In the Matter of:

Allegheny Bradford Corporation  
16 Valley Hunt Drive  
Lewis Run, PA 16738

Docket No. EPCRA-03-2013-0043

Respondent

CONSENT AGREEMENT

Allegheny Bradford Corporation  
1522 South Avenue  
Lewis Run, PA 16738

Facility

Proceeding under EPCRA §325(c),  
42 U.S.C. § 11045(c)

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Allegheny Bradford Corporation ("Respondent"), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA § 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively, "CAFO"), simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, 42 U.S.C. § 11023, as alleged herein, by Respondent at its facility located at 1522 South Avenue, Lewis Run, PA 16738.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in Paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.
3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this

Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.

4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

**Findings of Fact and Conclusions of Law**

7. In accordance with Sections 22.13(b) and .18(b)(2) of the Consolidated Rules, Complainant adopts the following findings of fact and conclusions of law.
8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that: 1) has 10 or more employees; 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3900] (as in effect on July 1, 1985), or other SIC or industry code as set forth in 40 C.F.R. Section 372.22(b); and 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.
9. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
10. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" to include any corporation.
11. Respondent is incorporated in the Commonwealth of Pennsylvania and is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
12. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated a manufacturing plant located at 1522 South Avenue, Lewis Run, Pennsylvania 16738 ("Facility").
13. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

14. During the 2008, 2009 and 2010 calendar years, Respondent employed 10 or more full-time employees at the Facility.
15. During the 2008, 2009 and 2010 calendar years, the Facility had a SIC code of 3443.
16. Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed, or otherwise used at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, to EPA and the Commonwealth of Pennsylvania by July 1 of the following calendar year.

#### **Count I – Chromium 2008**

17. The allegations of Paragraphs 1 through 16, above, are incorporated by reference as though fully set forth herein.
18. “Chromium” is a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
19. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for chromium which is processed at a facility is 25,000 pounds.
20. Respondent processed more than 25,000 pounds of chromium at the Facility during the 2008 calendar year.
21. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2009, a completed Form R or Form A for the chromium processed at the Facility during the calendar year 2008.
22. Respondent filed a complete Form R or Form A for the toxic chemical chromium processed at the Facility during calendar year 2008 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about March 21, 2012.
23. Respondent’s failure to timely file a complete Form R or Form A to EPA or the Commonwealth of Pennsylvania for the toxic chemical chromium processed at the Facility during calendar year 2008, by July 1, 2009, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

#### **Count II – Chromium 2009**

24. The allegations of Paragraphs 1 through 23, above, are incorporated by reference as though fully set forth herein.

25. "Chromium" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
26. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for chromium which is processed at a facility is 25,000 pounds.
27. Respondent processed more than 25,000 pounds of chromium at the Facility during the 2009 calendar year.
28. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2010, a completed Form R or Form A for the chromium processed at the Facility during the calendar year 2009.
29. Respondent filed a complete Form R or Form A for the toxic chemical chromium processed at the Facility during calendar year 2009 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about March 21, 2012.
30. Respondent's failure to timely file a complete Form R or Form A to EPA or the Commonwealth of Pennsylvania for the toxic chemical chromium processed at the Facility during calendar year 2009, by July 1, 2010, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

### **Count III – Chromium 2010**

31. The allegations of Paragraphs 1 through 30, above, are incorporated by reference as though fully set forth herein.
32. "Chromium" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
33. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for chromium which is processed at a facility is 25,000 pounds.
34. Respondent processed more than 25,000 pounds of chromium at the Facility during the 2010 calendar year.
35. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2011, a completed Form R or Form A for the chromium processed at the Facility during the calendar year 2010.

36. Respondent filed a complete Form R or Form A for the toxic chemical chromium processed at the Facility during calendar year 2010 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about March 21, 2012.
37. Respondent's failure to timely file a complete Form R or Form A to EPA or the Commonwealth of Pennsylvania for the toxic chemical chromium processed at the Facility during calendar year 2010, by July 1, 2011, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

#### **Count IV – Nickel 2008**

38. The allegations of Paragraphs 1 through 37, above, are incorporated by reference as though fully set forth herein.
39. "Nickel" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
40. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for nickel which is processed at a facility is 25,000 pounds.
41. Respondent processed more than 25,000 pounds of nickel at the Facility during the 2008 calendar year.
42. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2009, a completed Form R or Form A for the nickel processed at the Facility during the calendar year 2008.
43. Respondent filed a complete Form R or Form A for the toxic chemical nickel processed at the Facility during calendar year 2008 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about March 21, 2012.
44. Respondent's failure to timely file a complete Form R or Form A to EPA or the Commonwealth of Pennsylvania for the toxic chemical nickel processed at the Facility during calendar year 2008, by July 1, 2009, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

#### **Count V – Nickel 2009**

45. The allegations of Paragraphs 1 through 44, above, are incorporated by reference as though fully set forth herein.
46. "Nickel" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§

11023(c) and 11049(10), 40 C.F.R. § 372. 3, and is listed in 40 C.F.R. § 372.65.

47. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for nickel which is processed at a facility is 25,000 pounds.
48. Respondent processed more than 25,000 pounds of nickel at the Facility during the 2009 calendar year.
49. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2010, a completed Form R or Form A for the nickel processed at the Facility during the calendar year 2009.
50. Respondent filed a complete Form R or Form A for the toxic chemical nickel processed at the Facility during calendar year 2009 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about March 21, 2012.
51. Respondent's failure to timely file a complete Form R or Form A to EPA or the Commonwealth of Pennsylvania for the toxic chemical nickel processed at the Facility during calendar year 2009, by July 1, 2010, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

#### **Count VI – Nickel 2010**

52. The allegations of Paragraphs 1 through 51, above, are incorporated by reference as though fully set forth herein.
53. "Nickel" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372. 3, and is listed in 40 C.F.R. § 372.65.
54. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for nickel which is processed at a facility is 25,000 pounds.
55. Respondent processed more than 25,000 pounds of nickel at the Facility during the 2010 calendar year.
56. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2011, a completed Form R or Form A for the nickel processed at the Facility during the calendar year 2010.
57. Respondent filed a complete Form R or Form A for the toxic chemical nickel processed at the Facility during calendar year 2010 with the Administrator of EPA and the

Commonwealth of Pennsylvania on or about March 21, 2012.

58. Respondent's failure to timely file a complete Form R or Form A to EPA or the Commonwealth of Pennsylvania for the toxic chemical nickel processed at the Facility during calendar year 2010, by July 1, 2011, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

#### **Settlement**

59. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313, 42 U.S.C. § 11023, shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (73 Fed. Reg. 75340-46 (December 11, 2008)), violations of Section 313 of EPCRA, 42 U.S.C. § 11023, which occurred between March 16, 2004 and January 12, 2009, are subject to an increased statutory maximum penalty of \$32,500 per violation and that the maximum inflation-adjusted penalty for violations occurring after January 12, 2009 is \$37,500 per violation.
60. In settlement of EPA's claims for civil monetary penalties for the violations alleged in this Consent Agreement, Respondent agrees to: (1) the assessment of a civil penalty in the amount of SEVENTY SEVEN THOUSAND NINE HUNDRED AND SIXTY FOUR DOLLARS (\$77,964.00), which Respondent agrees to pay in accordance with the terms set forth below, and (2) perform the Supplemental Environmental Project set forth below.
61. The aforesaid settlement amount set forth above in Paragraph 60, above, is based on a number of factors, including, but not limited to, the facts and circumstances of this case, the statutory factors set forth in EPCRA § 325(b)(1)(C), 42 U.S.C. § 11045(b)(1)(C), and the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992), as amended. Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, the June 6, 2006 memorandum by Acting EPA Toxics and Pesticides Enforcement Division Director Stephanie P. Brown entitled *Penalty Policy Supplements Pursuant to the 2004 Civil Monetary Inflation Adjustment Rule* ("Brown Memorandum") and the April 6, 2010 memorandum from EPA Waste and Chemical Division Director Rosemarie Kelley entitled *Revision to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009* ("Kelley Memorandum") The settlement in this proceeding is consistent with the provisions and objectives of EPCRA § 313, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

#### **Payment Terms**

62. The civil penalty set forth above in Paragraph 60, above, shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by all parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil

penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.

63. Respondent shall pay the civil penalty amount assessed in Paragraph 60, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 64 through 67, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2013-0043;

b. All checks shall be made payable to "**United States Treasury**";

c. All payments made by check and sent by regular mail shall be addressed to:

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

Customer service contact: 513-487-2105

d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

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

Contact: 314-418-1028

e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York



ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
**"D 68010727 Environmental Protection Agency"**

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option:

[WWW.PAY.GOV/paygov/](http://WWW.PAY.GOV/paygov/)

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

T. Chris Minshall  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy  
Regional Hearing Clerk  
U.S. EPA, Region III (3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

64. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
65. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
66. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
67. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
68. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

#### **Supplemental Environmental Project**

69. The following Supplemental Environmental Project ("SEP") is consistent with applicable EPA policy and guidelines, specifically EPA's *Supplemental Environmental Projects Policy*, effective May 1, 1998.
70. Respondent agrees to install and operate an abrasive blast booth dust collection system, as part of its existing air pollution control system, that is designed to filter one hundred percent (100%) of the airborne dust particles greater than 0.5 microns at the Facility and

shall operate it according to the manufacturer's specifications and operating manual as a SEP. The dust particles contain, among other things, chromium and nickel.

- A. Respondent shall timely identify, apply for, and obtain all required federal, state, and local permits necessary for performing the SEP, including without limitation, permits for construction, installation, and operation of pollution control equipment.
  - B. Respondent shall install and begin operation of the abrasive blast booth dust collection system within one year of the effective date of this CAFO and continue to operate such abrasive blast booth dust collection system for at least one calendar year from the date that installation of the abrasive blast booth dust collection system was complete.
  - C. Respondent shall confirm that the abrasive blast booth dust collection system is capturing one hundred percent (100%) of the airborne dust particles greater than 0.5 microns via an analysis performed with a Malvern Mastersizer Particle Analyzer.
  - D. This SEP will reduce the risks associated with the inhalation of dust particles, including the significant health hazards posed by dust particles containing toxic chemicals and dust particles smaller than 2.5 microns.
71. Respondent's total expenditure for installation of this SEP shall not be less than SIXTY SIX THOUSAND FOUR HUNDRED AND FORTY NINE DOLLARS (\$66,449.00). Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 75, below.
72. Respondent hereby certifies that, as of the date of its signature to this CA, Respondent is not required to perform or develop this SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop this SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for this SEP.
73. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing this SEP.
74. Respondent shall notify EPA, in writing, c/o Craig Yussen, US EPA Region III, 1650 Arch Street (Mail Code 3LC61), Philadelphia, PA 19103, when installation of the abrasive blast booth collection system is complete and operational. EPA may grant Respondent an extension of time to fulfill this SEP obligation if EPA determines, in its sole and unreviewable discretion, that, through no fault of Respondent, Respondent is unable to complete the installation of the abrasive blast booth collection system within the time frame required by Paragraph 70(B), above. Requests for any extension must be made in writing within forty eight (48) hours of any event, such as an unanticipated delay in obtaining

governmental approvals, the occurrence of which renders the Respondent unable to complete the installation of the abrasive blast booth collection system within the required time frame (“force majeure event”), and prior to the expiration of the installation deadline. Any such requests should be directed to Craig Yussen at the address noted above.

75. Respondent shall submit a written SEP Completion Report to EPA for the SEP, c/o Craig Yussen at the address listed in Paragraph 74, above, within fourteen (14) days of operating the abrasive blast booth collection system for a full calendar year. The SEP Completion Report shall contain the following information:

- A. Respondent’s certification that the abrasive blast booth collection system has been installed correctly and is operating properly;
- B. A description of any installation or operation problems encountered and the solution thereto;
- C. Itemized costs;
  - i. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs.
  - ii. Where the report includes costs not eligible for SEP credit, those costs must be clearly identified as such.
  - iii. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment was made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment was made.
- D. Respondent shall, by its representative officers, sign the report required by this Paragraph and certify under penalty of law, that the information contained therein is true, accurate, and not misleading by including and signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- E. Respondent agrees that failure to submit the written SEP Completion Report required by this Paragraph 75 shall be deemed a violation of this CAFO and, in such event, Respondent will be liable for stipulated penalties pursuant to Paragraphs 79 through 81, below.
76. Respondent agrees that EPA may inspect the facility at which this SEP is being implemented at reasonable times in order to confirm that this SEP is being undertaken in conformity with the requirements of this CAFO.
77. Upon receipt of the written SEP Completion Report identified in Paragraph 75, above, EPA will provide written notification to the Respondent of one of the following:
- A. If the SEP Completion Report is deficient, notify the Respondent in writing that the SEP Completion Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional fourteen (14) calendar days to correct those deficiencies;
  - B. If the SEP Completion Report demonstrates that the SEP has been completed in accordance with the CAFO, notify the Respondent in writing that EPA has concluded that the SEP has been completed in accordance with this CAFO; or
  - C. If the SEP Completion Report demonstrates that the SEP has not been completed in accordance with this CAFO, notify the Respondent in writing that EPA has concluded that the SEP has not been completed in accordance with this CAFO and EPA shall seek stipulated penalties in accordance with Paragraphs 79 through 81, below.
78. If EPA provides notification in accordance with Paragraph 77(A), above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) calendar days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) calendar days from the receipt by EPA of the notification of objection to reach an agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached within this thirty (30) calendar day period, a person who holds a management position at EPA shall provide to the Respondent a written statement of EPA's decision on the adequacy of the installation or operation of the SEP, which shall be a final Agency action binding upon Respondent. In the event this SEP is not completed as required by this CAFO, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraphs 79 through 81, below.

#### **Stipulated Penalties**

79. In the event that Respondent fails to comply with any of the terms or conditions of this CA relating to the performance of the SEP, described in Paragraph 70, above, submission of the written SEP Completion Report, described in Paragraph 75, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the costs set forth in Paragraph 71, above, Respondent shall be liable for stipulated penalties according to the provisions set

forth below:

- A. Except as provided in Subparagraph B below, if the SEP has not been installed and operated satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to EPA in the amount of TWENTY FIVE THOUSAND FIVE HUNDRED AND TWENTY FOUR DOLLARS (\$25,524.00);
  - B. If the SEP is not completed in accordance with Paragraph 70, above, but the Complainant determines that: (i) Respondent made good faith and timely efforts to install and operate the SEP; and (ii) Respondent certifies, with supporting documentation, that at least ninety percent (90%) of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty;
  - C. If the SEP is installed and operated in accordance with Paragraph 70, above, and the SEP Completion Report is submitted in accordance with Paragraph 75, above, but the Respondent spent less than ninety percent (90%) of the amount of money required to be spent on the SEP, Respondent shall pay a stipulated penalty to EPA in the amount of FOUR THOUSAND TWO HUNDRED AND FIFTY FOUR DOLLARS (\$4,254.00);
  - D. If the SEP is completed in accordance with Paragraph 70, above, the SEP Completion Report is submitted in accordance with Paragraph 75, above, and the Respondent spent at least ninety percent (90%) of the amount of money required to be spent on the SEP, Respondent shall not be liable for any stipulated penalty; and
  - E. If Respondent fails to submit the SEP Completion Report required by Paragraph 75, above, Respondent shall pay a stipulated penalty in the amount of \$500.00 for each calendar day after the report was originally due until the report is submitted.
80. The determination of whether the SEP has been satisfactorily installed and operated and whether the Respondent has made a good faith, timely effort to install and operate the SEP shall be in the sole discretion of EPA.
81. Respondent shall pay stipulated penalties, in accordance with Paragraph 79, above, and in the manner described in Paragraph 63, above, not more than fourteen (14) calendar days after receipt of written demand from EPA for such penalties. Interest and late charges shall be paid as set forth in Paragraphs 64 through 67, above.

#### **Certification**

82. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Section 313, 42 U.S.C. § 11023.

**Other Applicable Laws**

83. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

**Reservation of Rights**

84. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violations of EPCRA Section 313, 42 U.S.C. § 11023, alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**Scope of Settlement**

85. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

**Parties Bound**

86. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**

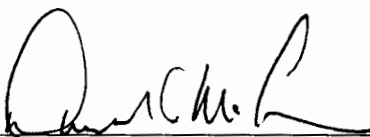
87. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**Entire Agreement**

88. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

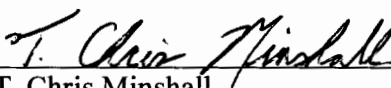
**For Respondent:**

Date: 11/29/12

By:   
Daniel McCune, President and CEO  
Allegheny Bradford Corporation

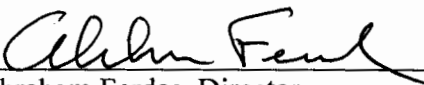
**For Complainant:**

Date: 12/13/12

By:   
T. Chris Minshall  
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 12/21/12

By:   
Abraham Ferdas, Director  
Land and Chemicals Division



BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

RECEIVED

2012 DEC 31 PM 1:43

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

In the Matter of:

Allegheny Bradford Corporation  
16 Valley Hunt Drive  
Lewis Run, PA 16738

Docket No. EPCRA-03-2013-0043

Respondent

CONSENT AGREEMENT

Allegheny Bradford Corporation  
1522 South Avenue  
Lewis Run, PA 16738

Facility

Proceeding under EPCRA §325(c),  
42 U.S.C. § 11045(c)

FINAL ORDER

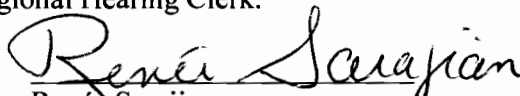
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Allegheny Bradford Corporation, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992), the statutory factors set forth in EPCRA § 325(b)(1)(C), 42 U.S.C. § 11045(b)(1)(C), and the provisions and objectives of EPCRA § 313, 42 U.S.C. § 11023.

**NOW, THEREFORE, PURSUANT TO** Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **SEVENTY SEVEN THOUSAND NINE HUNDRED AND SIXTY FOUR DOLLARS (\$77,964.00)**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 12/31/12

  
Renée Sarajian  
Regional Judicial Officer  
U.S. EPA, Region III

RECEIVED

*In the Matter of Allegheny Bradford Corporation*

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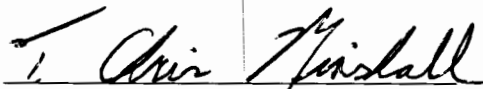
Docket No. EPCRA-03-2013-0043

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of December 2012, I sent a copy of the foregoing CONSENT AGREEMENT and FINAL ORDER by UPS, to the following people:

Louis A. Naugle  
Reed Smith LLP  
225 Fifth Avenue  
Pittsburgh, PA 15222-2716



T. Chris Minshall  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III