



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 15 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Brian Geselbracht
Owner
BG Construction, LLC
1020 Elaine Trail
Chattanooga, Tennessee 37421

Re: BG Construction, LLC
Ratified Consent Agreement and Final Order
Docket No. TSCA-04-2019-9973(b)

Dear Mr. Geselbracht:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Should you have any questions about this matter or your compliance status in the future, please contact Mr. Bryce Covington of the U. S. Environmental Protection Agency's staff at (404) 562-9192 or email at covington.bryce@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L Lamberth".

Larry L Lamberth
Chief
Chemical Safety and Land Enforcement Branch

Enclosure

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA**

In the Matter of:

BG Construction, LLC

Respondent

)
)
)
)
)
)

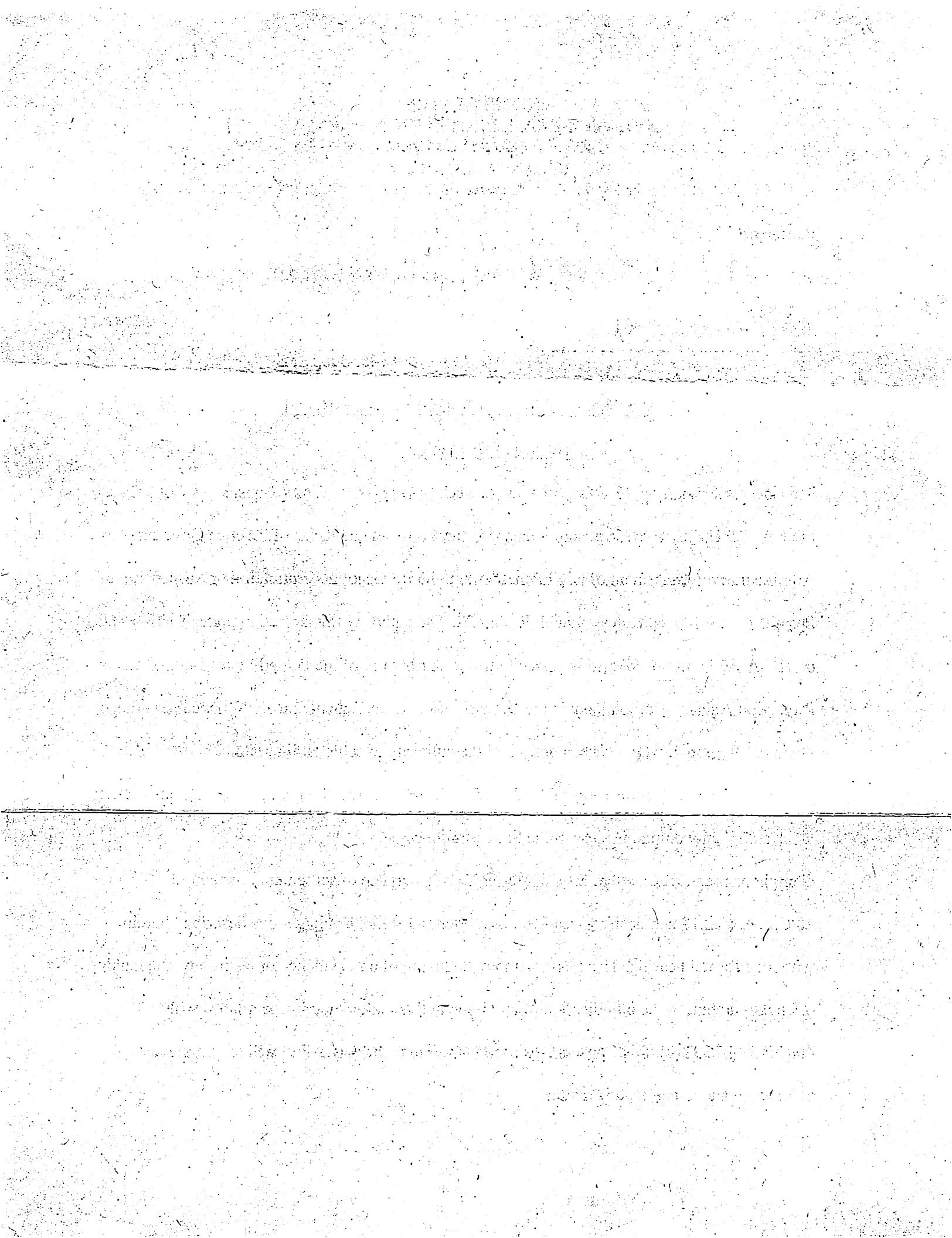
Docket No.: TSCA-04-2019-9973(b)

2019 NOV 15 AM 9:55
RECEIVED
OFFICE OF THE DIRECTOR
REGION 4

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) is vested in the Administrator of the United States Environmental Protection Agency. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 4, who has been delegated the authority to settle civil administrative penalty proceedings under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). Respondent is BG Construction, LLC, a company doing business in the State of Tennessee.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.



II. Preliminary Statements

3. Pursuant to Sections 402 and 406 of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2682 and 2686, the Administrator of the EPA promulgated Residential Property Renovation Rules at 40 C.F.R. Part 745, Subpart E including the Pre-Renovation Education Rule, the Renovation, Repair and Painting Rule, and the Lead-Based Paint Activities Rule. It is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with any of the rules issued under 40 C.F.R. Part 745, Subpart E.

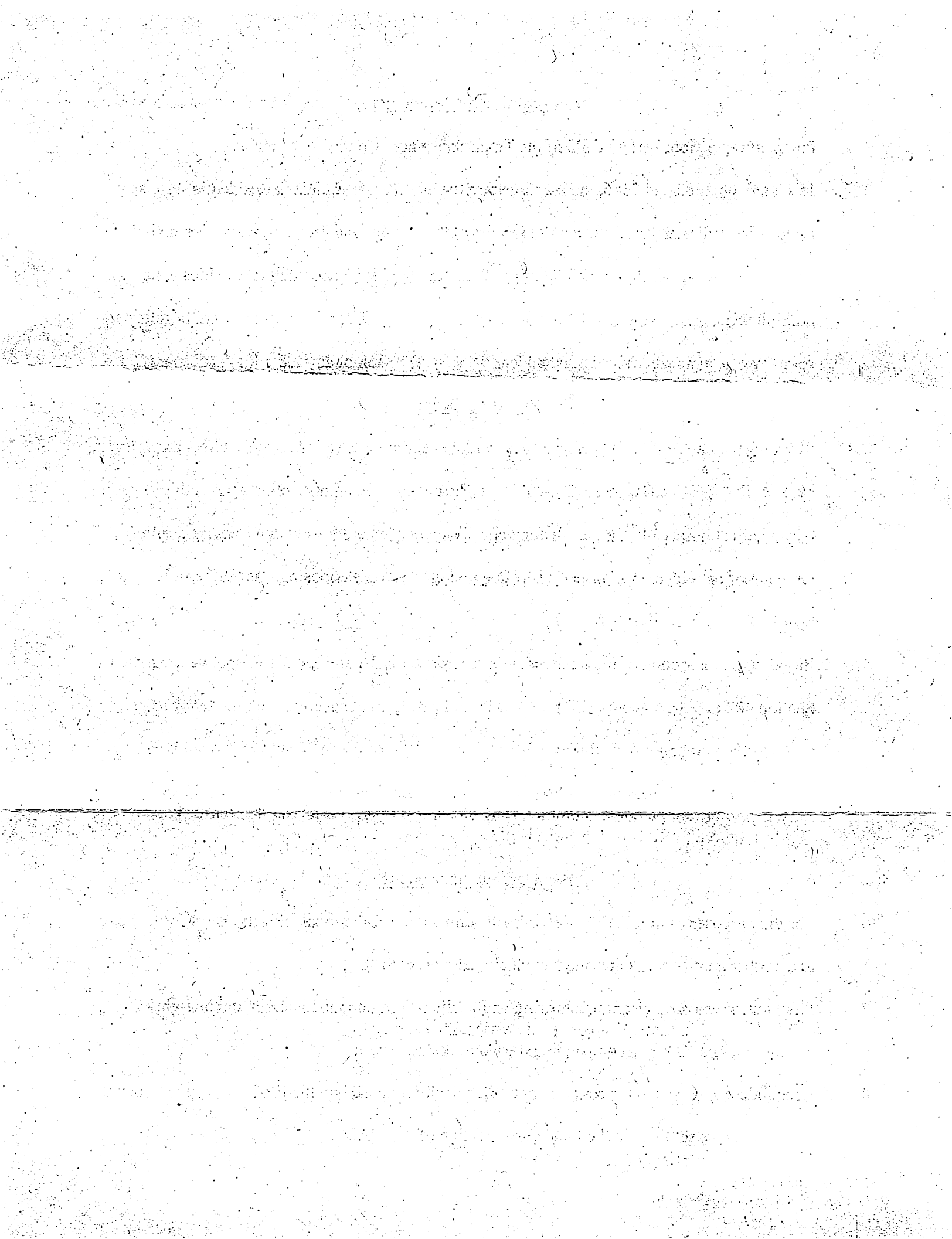
III. Specific Allegations

4. Respondent is a “firm” that performs “renovations” for compensation as those terms are defined, by 40 C.F.R. § 745.83. On June 27, 2019, the EPA conducted an inspection at an active worksite located at 1506 East 14th Street, Chattanooga, Tennessee where Respondent was performing renovations activities on a home. This residential unit is “target housing,” as that term is defined by 40 C.F.R. § 745.103.
5. Based on its inspection of the Respondent’s records, the EPA alleges that Respondent violated Section 402 of TSCA and 40 C.F.R. Part 745, Subpart E, in connection with the renovation described in paragraph 4, as follows:

Failure of a renovator to obtain renovator certification under 40 C.F.R. § 745.90(a) as required by 40 C.F.R. § 745.81(a)(3).

IV. Consent Agreement

6. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
7. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the Final Order accompanying the Consent Agreement.
8. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in the Final Order section of this CAFO.



9. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of 40 C.F.R. Part 745, Subpart E.
10. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations of violation in Section III of this CAFO. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

V. Final Order

11. Respondent is assessed a civil penalty of **FOUR-HUNDRED, NINETEEN DOLLARS (\$419)** which shall be paid within thirty (30) days after the effective date of this CAFO.
12. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America."

**The Respondent shall note on the face of the check the
Respondent's Name and the Docket Number TSCA-04-2019-9973(b).**

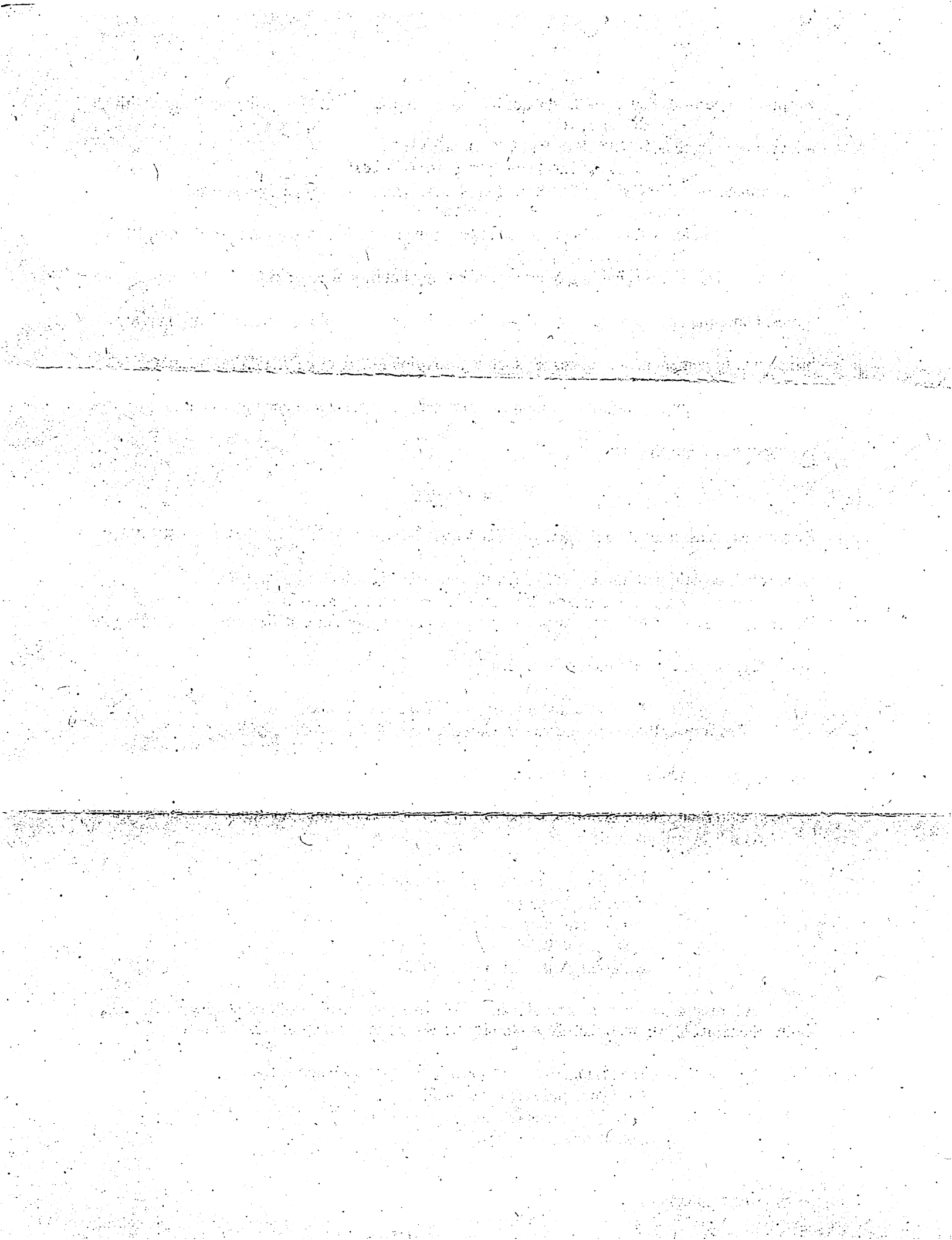
The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

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

Address for payment submittal using USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza



Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

Contact Phone Number: (314) 425-1819

13. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

Bryce Covington
Land, Asbestos and Lead Section
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

14. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
15. Pursuant to 31 U.S.C. § 3717, the 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. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 30 days of the due date.
16. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
17. This CAFO shall be binding upon the Respondent, its successors and assigns.
18. Each undersigned representative of the parties to this CAFO certifies that he or she is fully

authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.


The remainder of this page intentionally left blank.

VI. Effective Date


19. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

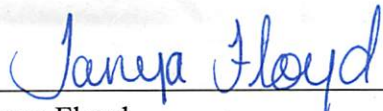
Respondent: BG Construction, LLC
Docket No.: TSCA-04-2019-9973(b)

By:  (Signed) Date: 9-10-19
Name: Brian Geselbracht (Typed or Printed)
Title: Owner (Typed or Printed)

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 10/28/19
~~Suzanne G. Rubini~~ Carol L. Kemker
~~Acting Director~~
Enforcement and Compliance Assurance Division

APPROVED AND SO ORDERED this 13th day of November, 2019.

By: 
Tanya Floyd
Regional Judicial Officer

Faint, illegible text at the top of the page, possibly bleed-through from the reverse side.

13th

~~_____~~

START

~~_____~~

10th

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of BG Construction, LLC TSCA-04-2019-9973(b), to the addressees listed below:

Brian Geselbracht
BG Construction, LLC
1020 Elaine Trail
Chattanooga, Tennessee 37421

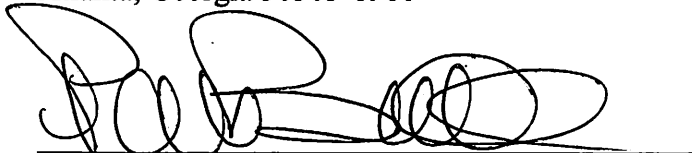
(via Certified Mail, Return Receipt Requested)

F. Bryce Covington
Land, Asbestos and Lead Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(via EPA's internal mail)

Robert Caplan, Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(via EPA's internal mail)



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511

Date: 11-15-19