

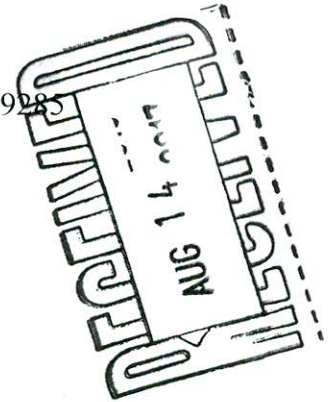
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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: In the Matter of :
: :
: **Brian A. Nash dba** :
: **Quality Custom Construction** :
: :
: Respondents :
: :
: Proceeding under Section 16(a) of :
: the Toxic Substances Control Act :
: :
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CONSENT AGREEMENT
AND
FINAL ORDER

Docket No.
TSCA-02-2017-9285



PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (hereinafter "Consolidated Rules of Practice"). Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and

22.18(b)(3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Brian A. Nash dba Quality Custom Construction (“Quality” or “Respondent”).
2. Respondent’s primary place of business is located at 8 Cookingham Road, Poughkeepsie, New York 12601.
3. Respondent is engaged in the business of renovation and painting.
4. Respondent is a “firm” as that term is defined at 40 C.F.R. § 745.83.
5. Respondent is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692, and set forth at 40 C.F.R. Part 745.
6. On or about September 18, 2015, the United States Environmental Protection Agency, Region 2 (“EPA”) received a referral from the Dutchess County Department of Health (“DC-DOH”) regarding renovations conducted by Respondent at target housing, as that term is defined by TSCA § 401(17), 15 U.S.C. § 2681(17), where a child of 2 years old with elevated blood lead level (“EBLL”) resided, located at 159 Fishkill Avenue, Beacon, New York (the “Property”).
7. On or about September 18, 2015, EPA sent a letter to DC-DOH pursuant to New York State’s Freedom of Information Law (“FOIL”) to request access to the inspection report and other documents relating to the referral.
8. On October 8, 2015, EPA sent an Information Request Letter (“IRL”) to Respondent as part of EPA’s investigation of Respondent’s work practice standards while conducting renovations at the Property.

9. On November 13, 2015, EPA received Respondent's response to EPA's IRL, dated November 10, 2015.

10. Based in part on Respondent's response to the IRL and the DC-DOH referral information, EPA determined that the renovation work performed by Respondent at the Property from approximately May 28, 2015 through June 30, 2015 is subject to the requirements set forth at 40 C.F.R. Part 745, Subpart E (the "Renovation, Repair and Painting (RRP) Rule").

11. Based in part on Respondent's response to the IRL, EPA determined that Respondent had performed renovations at the Property without first obtaining an initial firm certification from EPA, as required by 40 C.F.R. § 745.85(a).

12. EPA further determined that Respondent had failed to establish and maintain records, as required by 40 C.F.R. § 745.87(b).

13. EPA further determined that Respondent failed to provide to the owner of the residential property the Renovate Right pamphlet as required 40 C.F.R. §745.84(a)(1).

14. EPA further determined that Respondent failed to post warning signs as required by 40 C.F.R. § 745.85(a)(1).

15. EPA further determined that Respondent failed to cover the ground with plastic sheeting or other impermeable material to collect falling paint debris, as required by 40 C.F.R. §745.85(a)(2)(ii)(C).

16. EPA further determined that Respondent failed to perform a visual inspection of the exterior work area to determine whether dust, debris or residue is still present, to remove dust, debris or residue by re-cleaning if necessary, and/or perform another visual inspection, pursuant to 40 C.F.R. §745.85(b)(2).

17. On May 16, 2017 Respondent submitted financial information and documentation regarding its financial condition and inability to pay the proposed penalty.

