

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:

**McIrish Industries Inc.
d/b/a CertaPro Painters of South Metro
Burnsville, Minnesota,**

Respondent.

Docket No. TSCA-05-2024-0007

**Proceeding to Assess a Civil
Penalty Under Section 16(a) of the
Toxic Substances Control Act,
15 U.S.C. § 2615(a)**

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is McIrish Industries Inc., a corporation with a place of business located at 12285 Nicollet Avenue, Burnsville, Minnesota 55337, doing business as CertaPro Painters of South Metro.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO, without admission of liability.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided in 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X), Pub. L. 102-550, 106 Stat. 3897 (codified in scattered sections of 15 U.S.C. and 42 U.S.C.), Congress found, among other things, that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under the age of 6; 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.

10. Section 1021 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 amended TSCA, 15 U.S.C. § 2601 *et seq.*, by adding Subchapter IV – Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692.

11. Section 402(a) of TSCA, 15 U.S.C. § 2682(a), requires the Administrator of EPA to promulgate regulations to ensure that individuals engaged in lead-based paint activities are properly trained; that training programs are accredited; that contractors engaged in such activities are certified; and that such regulations contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety.

12. Section 402(c) of TSCA, 15 U.S.C. § 2682(c), requires the Administrator of EPA to promulgate guidelines for the conduct of renovation and remodeling activities to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing and public buildings built before 1978, and commercial buildings, and to revise the regulations under Section 402(a) of TSCA to apply those regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards.

13. Section 407 of TSCA, 15 U.S.C. § 2687, requires the regulations promulgated by the Administrator of EPA under Subchapter IV to include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of the TSCA Lead Exposure Reduction requirements, 15 U.S.C. §§ 2681 through 2692.

14. Under Section 409 of TSCA, 15 U.S.C. § 2689, it shall be unlawful for any person to fail or refuse to comply with any rule or order issued under Subchapter IV – Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692. *See also* 40 C.F.R. § 745.87.

15. Under Section 15 of TSCA, 15 U.S.C. § 2614, it shall be unlawful for any person to fail or refuse to establish and maintain records, submit reports, notices, or other information, or permit access to or copying of records, as required by TSCA or a rule thereunder. *See also* 40 C.F.R. § 745.87.

16. Pursuant to Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, EPA promulgated the residential property renovation regulations at 40 C.F.R. Part 745, Subpart E, prescribing procedures and requirements for: the accreditation of renovator training programs; certification of individuals and firms; work practice standards for renovation, repair and painting activities in target housing and child-occupied facilities; and recordkeeping to demonstrate compliance with work practice standards. *73 Fed. Reg.* 21691 (April 22, 2008).

17. 40 C.F.R. § 745.82(a) provides that Subpart E applies to all renovations performed in target housing and child-occupied facilities, with certain exceptions not relevant here.

18. 40 C.F.R. § 745.83 defines *firm* to mean a company, partnership, corporation, sole proprietorship, or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

19. 40 C.F.R. § 745.83 defines *renovation* to mean the modification of any existing 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 this part (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, ceiling, 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.

20. 40 C.F.R. § 745.83 defines *renovator* to mean 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.

21. 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 (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

22. 40 C.F.R. § 745.86(a) requires firms performing renovations to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of three years following completion of the renovation.

23. 40 C.F.R. § 745.86(b)(6) requires a firm to document compliance with the work practice standards in 40 C.F.R. § 745.85 by retaining records to document that a certified renovator was assigned to the renovation project.

24. 40 C.F.R. § 745.86(b)(6) requires a firm to document compliance with the work practice standards in 40 C.F.R. § 745.85 by retaining records to document that a certified renovator performed or directed workers who performed all of the work practice standards described in 40 C.F.R. § 745.85(a).

25. 40 C.F.R. § 745.86(b)(6)(i) requires a firm to document compliance with the work practice standards in 40 C.F.R. § 745.85 by retaining records to document that the certified renovator performed on-the-job training for workers used on the renovation project.

26. 40 C.F.R. § 745.86(b)(6)(viii) requires a firm to document compliance with the work practice standards in 40 C.F.R. § 745.85 by retaining records to document that the certified renovator performed the post-cleaning verification described in 40 C.F.R. § 745.85(b).

27. 40 C.F.R. § 745.86(b)(6) requires a firm to document compliance with the work practice standards in 40 C.F.R. § 745.85 by retaining a copy of a certification from the certified renovator assigned to the project certifying the requirements in 40 C.F.R. § 745.86(b)(6)(i) through (viii) were completed.

28. Section 16(a) of TSCA, 42 U.S.C. § 2615(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19, authorize the Administrator of EPA to assess a civil penalty of up to \$46,989 per violation for each day of violation of Sections 15 and 409 of TSCA that occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023.

Factual Allegations and Alleged Violations

29. At all times relevant to this Complaint, Respondent was a corporation with a place of business located at 12285 Nicollet Avenue, Burnsville, Minnesota, and was therefore a *firm* as defined by 40 C.F.R. § 745.83.

30. On July 21, 2016, EPA conducted an on-site inspection at Respondent's place of business located at 12285 Nicollet Avenue, Burnsville, Minnesota, regarding Respondent's compliance with the residential property renovation requirements at 40 C.F.R. Part 745, Subpart E.

31. Based on information gathered from the inspection and an information request letter sent to the respondent via email on August 30, 2022, on 40 occasions from January 26, 2021, to July 22, 2022, Respondent performed or directed workers who performed interior and exterior painting activities at the properties described in the chart attached as Appendix A.

32. The interior and exterior painting activities that Respondent performed at the properties described in Appendix A were modifications of the buildings' existing structure that

resulted in disturbance of painted surfaces and were therefore *renovations* as defined in 40 C.F.R. § 745.83.

33. In the August 30, 2022 information request letter, EPA requested all records for the renovations that Respondent had performed during the three years prior to the date of the inspection. Respondent provided contracts for the 40 renovations identified in Appendix A but did not provide any records necessary to demonstrate compliance with work practice standards in 40 C.F.R. § 745.85.

34. The buildings listed at the addresses in Appendix A are residential housing built prior to 1978, and therefore are *target housing* as defined in 40 C.F.R. § 745.103.

35. Respondent either performed or directed workers to perform the renovations described in paragraph 31, above, and is therefore a *renovator* as defined in 40 C.F.R. § 745.83.

36.

Count 1 – Failure to obtain initial firm certification

37. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

38. 40 C.F.R. § 745.81(a)(2)(ii) provides that “[o]n or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from EPA under 40 C.F.R. § 745.89 in target housing, unless the renovation qualifies for” exceptions not relevant here.

39. On or around the dates listed in Appendix A, Respondent performed the renovation activities described in paragraph 32 and Appendix A.

40. Respondent lacked firm certification prior to performing the renovation activities described in paragraph 32 and Appendix A.

41. Respondent's failure to obtain firm certification, under 40 C.F.R. § 745.89, before the renovation referred to in paragraphs 31 and 32 constitutes a violation of 40 C.F.R. § 745.81(a)(2)(ii) and 15 U.S.C. § 2689.

Counts 2 - 16 – Failure to provide the owner with the required educational materials

42. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

43. 40 C.F.R. § 745.84(a)(1) requires the firm performing the renovation to “provide the owner of the unit” with the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* (the pamphlet).

44. Respondent did not provide the owners of the units with the pamphlet prior to performing each of the renovation activities described in paragraph 32 and Appendix A numbered 26-40.

45. Respondent's failure to provide each owner of the unit with the pamphlet prior to performing each of the renovation activities described in paragraph 32 and Appendix A numbered 26-40 violated 40 C.F.R. § 745.84(a)(1) and 15 U.S.C. § 2689.

Counts 17 - 19 – Failure to obtain written acknowledgement from the owner that the owner has received the required educational materials

46. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

47. 40 C.F.R. § 745.84(a)(1) requires the firm performing the renovation to either obtain, from the owner, (i) a written acknowledgement that the owner has received the pamphlet, or (ii) obtain a certificate of mailing at least 7 days prior to the renovation.

48. Respondent did not obtain a written acknowledgement that the owner of the unit has received the EPA-approved lead hazard information pamphlet or a certificate of mailing of the

pamphlet at least 7 days prior to the renovations described in paragraph 32 and referenced in Appendix A numbered 9, 17, and 20.

49. Respondent's failure to obtain a written acknowledgement that the owner of the unit has received the EPA-approved lead hazard information pamphlet or a certificate of mailing of the pamphlet at least 7 days prior to the renovation for each of the renovations described in paragraph 32 and referenced in Appendix A numbered 9, 17, and 20 violated 40 C.F.R. § 745.84(a)(1)(i)-(ii) and 15 U.S.C. § 2689.

Counts 20 - 38 – Failure to provide the adult occupant of rental units with the required educational materials

50. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

51. 40 C.F.R. § 745.84(a)(2) requires the firm performing the renovation to provide an adult occupant of the unit with the pamphlet if the owner does not occupy the dwelling unit and obtain either (i) a written acknowledgement that the owner has received the pamphlet or a certification that delivery was unsuccessful, or (ii) obtain a certificate of mailing at least 7 days prior to the renovation.

52. Respondent did not obtain a written acknowledgement that the occupant of each of the 19 units referenced in Appendix A numbered 6, 7, 18, and 23 had received the EPA-approved lead hazard information pamphlet or a certificate of mailing of the pamphlet at least 7 days prior to the renovation.

53. For each of the renovations referenced in Appendix A numbered 6, 7, 18, and 23, Respondent's failure to obtain a written acknowledgement that the occupant of each of the 19 units had received the EPA-approved lead hazard information pamphlet or a certificate of

mailing of the pamphlet at least 7 days prior to the renovation violated 40 C.F.R. § 745.84(a)(2) and 15 U.S.C. § 2689.

Counts 39 - 51 – Failure to provide the adult occupant of rental units with the required educational materials

54. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

55. 40 C.F.R. § 745.84(b)(2) requires the firm performing the renovation in common areas to provide an adult occupant of the unit with either (i) a written notification of the nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet and a copy of the records required under 40 C.F.R. § 745.86(c) and (d) at no cost, or (ii) while the renovation is ongoing, posting informational signs describing the general nature and locations of the renovation and the anticipated completion date, as well as the other information described in (i).

56. Respondent did not notify the occupants of each of the 10 units about renovations being done in common areas prior to the renovations referenced in Appendix A numbered 6 and 18.

57. For each of the renovations described in paragraph 32 and referenced in Appendix A numbered 6 and 18, Respondent's failure to notify the occupants of each of the 10 units about work being done in common areas violated 40 C.F.R. § 745.84(b)(2) and 15 U.S.C. § 2689.

Counts 52 - 66 – Failure to maintain records of lead testing

58. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

59. 40 C.F.R. § 745.86(b)(1)(ii) requires the firm performing the renovation that conducts lead testing to maintain records “prepared by a certified renovator after using EPA-

recognized test kits, including an identification of the manufacturer and model of any test kits used, a description of the components that were tested including their locations, and the result of each test kit used.”

60. Respondent did not maintain complete information regarding lead testing for the 15 renovations described in paragraph 32 and referenced in Appendix A numbered 26-40.

61. For each of the renovations described in paragraph 32 and referenced in Appendix A numbered 26-40, Respondent’s failure to maintain complete information regarding lead testing violated 40 C.F.R. § 745.86(b)(1)(ii) and 15 U.S.C. § 2689.

Counts 67 - 106 – Failure to maintain records that a certified renovator was assigned

62. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

63. 40 C.F.R. § 745.86(b)(6) requires the firm performing the renovation to maintain documentation that “a certified renovator was assigned to the project.”

64. Respondent did not maintain records that a certified renovator was assigned to each of the renovations described in paragraph 32 and referenced in Appendix A.

65. For each of the renovations described in paragraph 32 and referenced in Appendix A, Respondent’s failure to maintain records that a certified renovator was assigned to the job violated 40 C.F.R. § 745.86(b)(6) and 15 U.S.C. § 2689.

Counts 107 - 146 - Failure to maintain records that on-the-job training was provided

66. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

67. 40 C.F.R. § 745.86(b)(6) requires the firm performing the renovation to maintain documentation that “on-the-job training was provided for workers used on the project.”

68. Respondent did not maintain records that on-the-job training was provided for workers used in each of the renovations described in paragraph 32 and referenced in Appendix A.

69. For each of the renovations described in paragraph 32 and referenced in Appendix A, Respondent's failure to maintain records that on-the-job training was provided for workers used on the project violated 40 C.F.R. § 745.86(b)(6) and 15 U.S.C. § 2689.

Counts 147 - 186 - Failure to maintain records that the certified renovator performed or directed workers to perform the required work practice standards

70. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

71. 40 C.F.R. § 745.86(b)(6) requires the firm performing the renovation to maintain documentation that "the certified renovator performed or directed workers who performed all of the tasks described in" 40 C.F.R. § 745.85(a).

72. Respondent did not maintain records that the certified renovator performed or directed workers to perform the work practice standards required by 40 C.F.R. § 745.85(a) for each of the renovations described in paragraph 32 and referenced in Appendix A.

73. For each of the renovations referenced in Appendix A, Respondent's failure to maintain records that the certified renovator performed or directed workers to perform the work practice standards required by 40 C.F.R. § 745.85(a) violated 40 C.F.R. § 745.86(b)(6) and 15 U.S.C. § 2689.

Counts 187 - 226 - Failure to maintain records that the certified renovator performed the post-renovation cleaning verification

74. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

75. 40 C.F.R. § 745.86(b)(6) requires the firm performing the renovation to maintain documentation that “the certified renovator performed the post-renovation cleaning verification described in” 40 C.F.R. § 745.85(b).

76. Respondent did not maintain records that the certified renovator performed the post-renovation cleaning verification described in 40 C.F.R. § 745.85(b) for each of the renovations described in paragraph 32 and referenced in Appendix A.

77. For each of the renovations described in paragraph 32 and referenced in Appendix A, Respondent’s failure to maintain records that the certified renovator performed the post-renovation cleaning verification described in 40 C.F.R. § 745.85(b) violated 40 C.F.R. § 745.86(b)(6) and 15 U.S.C. § 2689.

Counts 227 - 266 - Failure to maintain records of a certification by the certified renovator assigned to the project that the renovation job was completed in compliance with all the requirements

78. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

79. 40 C.F.R. § 745.86(b)(6) requires the firm performing the renovation to maintain documentation of “a certification by the certified renovator assigned to the project” that the renovation job was completed in compliance with all the requirements listed in 40 C.F.R. § 745.86(b)(6)(i)-(viii).

80. Respondent did not maintain records that document certification by the certified renovator that the renovation job was completed in compliance with all the requirements listed in 40 C.F.R. § 745.86(b)(6)(i)-(viii) in each of the renovations described in paragraph 32 and referenced in Appendix A.

81. For each of the renovations referenced in Appendix A, Respondent's failure to maintain records that documented certification by the certified renovator that the renovation job was completed in compliance with all the requirements listed in 40 C.F.R. § 745.86(b)(6)(i)-(viii) violated 40 C.F.R. § 745.86(b)(6) and 15 U.S.C. § 2689.

Counts 267 - 306 - Failure to ensure renovators are certified or have been trained by a certified renovator

82. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

83. 40 C.F.R. § 745.89(d)(1) requires the firm performing the renovation to ensure “[a]ll individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90.”

84. Respondent did not ensure all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90 at each of the renovations described in paragraph 32 and referenced in Appendix A.

85. For each of the renovations described in paragraph 32 and referenced in Appendix A, Respondent's failure to ensure all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90 violated 40 C.F.R. § 745.89(d)(1) and 15 U.S.C. § 2689.

Counts 307 - 346 - Failure to ensure the certified renovator discharges all required responsibilities

86. Complainant incorporates paragraphs 1 through 35 of this CAFO as if set forth in this paragraph.

87. 40 C.F.R. § 745.89(d)(2) requires the firm performing the renovation to ensure “certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in” 40 C.F.R. § 745.90.

88. Respondent did not ensure certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90 at each of the renovations described in paragraph 32 and referenced in Appendix A.

89. For each of the renovations described in paragraph 32 and referenced in Appendix A, Respondent’s failure to ensure certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90 violated 40 C.F.R. § 745.89(d)(2) and 15 U.S.C. § 2689.

Civil Penalty

90. 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 \$30,000. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations alleged and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of alleged culpability, and such other factors as justice may require.

91. Respondent agrees to pay a civil penalty in the amount of \$30,000 (“Assessed Penalty”). Based on Respondent’s documented inability to pay claim, and in accordance applicable laws, EPA conducted an analysis of Respondent’s financial information and determined that the Assessed Penalty is an appropriate amount to settle this action, which Respondent consents to pay as follows:

- a. The Assessed Penalty will be paid in four equal installments, in order to complete payment of the entire Assessed Penalty and interest, which is assessed at the standard insert rate of 4%. Including the Assessed Penalty and interest, the total amount that will be paid upon completion of all payments will be \$30,225. The first payment is due within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”). Respondent’s subsequent payments shall thereafter be due in 30-day intervals from said Filing Date.
- b. Respondent shall make payments in accordance with the following schedule:

Payment Number	Payment shall be made <i>no later than</i>	Principal Amount	Interest Amount	Total Payment Amount
1	Thirty (30) days after the Filing Date.	\$ 7,500.00	\$ 0.00	\$ 7,500.00
2	60 days after the Filing Date.	\$ 7,500.00	\$ 150.00	\$ 7,650.00
3	90 days after the Filing Date.	\$ 7,500.00	\$ 50.00	\$ 7,550.00
4	120 days after the Filing Date.	\$ 7,500.00	\$ 25.00	\$ 7,525.00

- c. Notwithstanding Respondent’s agreement to pay the Assessed Penalty in accordance with the installment schedule set forth above, Respondent may pay the entire Assessed Penalty of \$30,000 within thirty (30) days of the Filing Date and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with any interest and other charges accrued up to the date of such full payment.

92. Respondent shall pay the Assessed Penalty and any interest, fees, and other

charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

93. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Agreement, TSCA-05-2024-0007,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
R5hearingclerk@epa.gov

Craig Meredith (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
meredith.craig@epa.gov
and
R5lecab@epa.gov

Robin L. Jacobs (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
jacobs.robin@epa.gov

U.S. Environmental Protection
Agency Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and

identified with the appropriate docket number and Respondent's name.

94. Interest, Charges, and Penalties on Late Payments. Pursuant to 15 U.S.C. § 2615, 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed each subsequent thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty, as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per

annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, and other charges, that remain delinquent more than ninety (90) days.

95. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions may include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.
 - d. Per 15 U.S.C. § 2615(a), the Attorney General will bring a civil action in the appropriate district court to recover the full remaining balance of the debt plus interest. In such an action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.
96. This civil penalty is not deductible for federal tax purposes.

General Provisions

97. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: jacobs.robin@epa.gov (for Complainant), and smccabe@certapro.com, with a copy to: nsperling@trepanierlaw.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

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

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

100. This CAFO does not affect Respondent's responsibility to comply with TSCA, 15 U.S.C. § 2601 *et seq.*, its implementing regulations, and other applicable federal, state, and local laws.

101. Respondent certifies that it is complying with the residential property renovation regulations at 40 C.F.R. Part 745, Subpart E.

102. This CAFO constitutes a "prior such violation" as that term is used in EPA's Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule to determine Respondent's "history of prior such violations" under Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B).

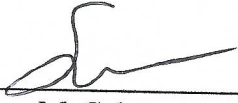
103. The terms of this CAFO bind Respondent, and its successors and assigns.

104. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

105. Each party agrees to bear its own costs and attorneys' fees in this action.

106. This CAFO constitutes the entire agreement between the parties.

**Consent Agreement and Final Order
In the Matter of CertaPro Painters of South Metro
Docket No. TSCA-05-2024-0007:**



Scot McCabe
Owner
CertaPro Painters of South Metro

6/6/2024

Date

**Consent Agreement and Final Order
In the Matter of CertaPro Painters of South Metro
Docket No. TSCA-05-2024-0007:**

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**Consent Agreement and Final Order
In the Matter of CertaPro Painters of South Metro
Docket No. TSCA-05-2024-0007:**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Appendix A - Renovation Work Performed at Target Housing

No.	Housing Address	Year Built	Contracted Work	Date of Contract
1	29 N. Fry St. St., Paul, MN 55104	1911	Exterior paint	June 13, 2022
2	1850 Bayard Ave., St. Paul, MN 55116	1938	Interior paint	January 6, 2021
3	1181 Fairmount Ave., St. Paul, MN 55105	1955	Exterior paint	March 30, 2021
4	627 Grand Ave., St. Paul, MN 55105	1905	Interior paint	April 28, 2021
5	776 Summit Ave., St. Paul, MN 55105	1905	Exterior paint	May 19, 2021
6	1678 Blair Ave., St. Paul, MN 55104 (2 units)	1888	Exterior paint	June 4, 2021
7	186 Summit Ave., St. Paul, MN 55102 (7 units)	1884	Exterior paint	June 4, 2021
8	1366 Goodrich Ave., St. Paul, MN 55105	1923	Interior paint	January 17, 2022
9	1109 Chatsworth St. North, St. Paul, MN 55103	1919	Exterior paint	March 3, 2022
10	838 Laurel Ave., St. Paul, MN 55104	1893	Exterior paint	March 20, 2022
11	814 Fairmount Ave., St. Paul, MN 55105	1887	Exterior paint	April 4, 2022
12	246 Sand St., Shakopee, MN 55379	1965	Exterior paint	April 14, 2022
13	903 Osceola Ave., St. Paul, MN 55105	1925	Exterior paint	April 13, 2022
14	834 Lanfond Ave., St. Paul, MN 55104	1914	Exterior paint	April 21, 2022
15	877 Goodrich Ave., St. Paul, MN 55105	1890	Exterior paint	April 28, 2022
16	765 Randolph Ave., St. Paul, MN 55102	1912	Exterior paint	May 14, 2022
17	757 Fairmount Ave., St. Paul, MN 55105	1890	Exterior paint	May 16, 2022
18	716 Como Ave., St. Paul, MN 55103 (8 units)	1959	Exterior paint	May 25, 2022
19	670 Bellows St., St. Paul, MN 55107	1900	Exterior paint	June 2, 2022
20	805 Hague Ave., St. Paul, MN 55104	1885	Exterior paint	June 2, 2022
21	1091 Ryde St., St. Paul, MN 55103	1912	Exterior paint	June 9, 2022
22	1843 Englewood Ave., St. Paul, MN 55104	1916	Exterior paint	June 14, 2022
23	774 Laurel Ave., St. Paul, MN 55104 (2 units)	1890	Exterior paint	July 7, 2022
24	2097 Bayard Ave., St. Paul, MN 55116	1929	Interior paint	July 22, 2022
25	1919 Palace Ave., St. Paul, MN 55105	1926	Exterior paint	March 18, 2022

No.	Housing Address	Year Built	Contracted Work	Date of Contract
26	1071 Ottawa Ave., St. Paul, MN 55118	1875	Exterior paint	May 14, 2021
27	462 Holly Ave., St. Paul, MN 55102	1900	Exterior paint	April 29, 2021
28	825 Hilltop Rd., Mendota Heights, MN 55118	1969	Exterior paint	May 19, 2021
29	3660 75 th St. East, Inver Grove Heights, MN 55076	1967	Exterior paint	May 20, 2021
30	12649 Kipling Ave., Savage, MN 55378	1965	Exterior paint	June 22, 2021
31	1396 Hartford Ave., St. Paul, MN 55116	1936	Exterior paint	June 29, 2021
32	39 Arundel St., St. Paul, MN 55102	1912	Exterior paint	August 6, 2021
33	1893 Jefferson Ave., St. Paul, MN 55105	1925	Interior paint	July 28, 2021
34	625 Grand Ave., St. Paul, MN 55105	1905	Interior paint	August 27, 2021
35	435 E. Wyoming St., St. Paul, MN 55107	1959	Exterior paint	August 25, 2021
36	987 Como Blvd East, St. Paul, MN 55103	1927	Interior paint	April 26, 2022
37	391 Cretin Ave. South, St. Paul, MN 55105	1919	Interior paint	May 9, 2022
38	986 Gorman Ave., St. Paul, MN 55118	1924	Exterior paint	June 21, 2022
39	32 Fareway Dr., Northfield, MN 55057	1965	Exterior paint	July 1, 2022
40	32 Fareway Dr., Northfield, MN 55057	1965	Interior paint	July 22, 2022