

In the Matter of the National Park Service
Docket No. TSCA-02-2025-9272

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of	:	
	:	
The National Park Service,	:	<u>CONSENT AGREEMENT</u>
	:	<u>AND</u>
Respondent	:	<u>FINAL ORDER</u>
	:	
Gateway National Recreation Area,	:	Docket No. TSCA-02-2025-9272
Facility	:	
	:	
Proceeding under Section 16(a) of the	:	
Toxic Substances Control Act, 42	:	
U.S.C. § 2615(a)	:	
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PRELIMINARY STATEMENT

This proceeding is an administrative action for the assessment of a civil penalty initiated pursuant to 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," 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 ("CAFO") pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 2 ("Complainant"), and has been duly delegated the authority to initiate and resolve this enforcement action.

Respondent is the National Park Service, a federal agency responsible for the maintenance and operation of national parks, historic sites, and other park units throughout the United States, including Gateway National Recreation Area ("Gateway") in New York and New Jersey.

Complainant alleges that Respondent violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689 at Gateway, by failing to comply with Section 1018 of Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d, (the "Act") and the federal regulations promulgated pursuant to TSCA and the Act at 40 C.F.R. Part 745,

Subpart F (the “Lead-Based Paint Disclosure Rule (“Disclosure Rule”)”) and with the regulations promulgated pursuant to TSCA §§ 402(c) & 406 and set out at 40 C.F.R. Part 745, Subpart E (the “Renovation Repair & Painting (RRP) Rule”).

Complainant and Respondent (collectively, the “Parties”) agree, following a series of settlement conferences, that settling this matter by entering into this CAFO, 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.

STATUTORY AND REGULATORY AUTHORITY

1. In 1992, Congress passed the Act in response to findings that low-level lead poisoning was widespread among American children, that pre-1980 American housing stock contained more than three million tons of lead in the form of lead-based paint, and that the ingestion of household dust containing lead from deteriorated or abraded lead-based paint was the most common cause of lead poisoning in children. Among the stated purposes of the Act were to implement a broad program to reduce lead-based paint hazards in the Nation’s housing stock and to ensure that the existence of lead-based paint hazards is taken into account in the sale, rental, and renovation of homes and apartments. 42 U.S.C. § 4851a(2), (4). To carry out these purposes, the Act added a new section to TSCA, entitled *Subchapter IV – Lead Exposure Reduction*, which includes TSCA Sections 401–412, 15 U.S.C. §§ 2681–2692.

2. Section 16(a) of TSCA, 42 U.S.C. § 2615(a), as modified by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, as mandated by the Debt Collection Improvement Act of 1996 (“DCIA”), and the implementing regulations at 40 C.F.R. Part 19, authorizes the EPA Administrator to assess a civil penalty of up to \$49,722 for each violation of Section 409 of TSCA, 15 U.S.C. § 2689, that occurred after November 2, 2015, and for which penalties are assessed on or after January 6, 2025. This maximum statutory penalty amount for Disclosure Rule violations is limited by Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5), which limits penalties assessed for violations of 42 U.S.C. § 4852d(b)(5), assessed under Section 16 of TSCA, 15 U.S.C. § 2615, to not more than \$10,000 per violation (increased to \$22,263 pursuant to the DCIA). Each day that such a violation continues constitutes a separate violation of Section 409. Pursuant to Section 16(a)(2)(C), “[t]he Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed [under this subsection].”

3. Section 408 of TSCA, 15 U.S.C. § 2688, establishes that “each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof,” is subject to “all Federal, State, interstate, and local requirements... respecting lead-based paint, lead-based paint activities, and lead-based paint hazards in the same manner, and to the same extent as any nongovernmental entity.”

Lead-Based Paint Disclosure

4. Section 1018 of the Act required the EPA and the Department of Housing and Urban Development (HUD) to jointly issue regulations requiring the disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phaseout of residential lead-based paint use in 1978.

5. The regulations promulgated pursuant to Section 1018, issued March 6, 1996, and amended June 27, 1997, are codified at 40 C.F.R. Part 745 Subpart F.

6. Forty C.F.R. § 745.103 defines “lessor” as any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

7. Subpart F requires, in pertinent part, that lessors of target housing provide lessees with an EPA-approved lead hazard information pamphlet and include within the lease or as an attachment to the lease the following elements:

- a. A Lead Warning Statement (40 C.F.R. § 745.113(b)(1));
- b. A statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards, or indicating no knowledge thereof (40 C.F.R. § 745.113(b)(3));
- c. A statement by the lessee affirming receipt of the information set out in 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and the lead hazard information pamphlet required under 15 U.S.C. 2696 (40 C.F.R. § 745.113(b)(4)); and
- d. Signatures and dates of signatures of lessors and lessees certifying the accuracy of their statements regarding lead-based paint and/or lead-based paint hazards (40 C.F.R. § 745.113(b)(6)).

8. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), failure or refusal to comply with any requirements of the Disclosure Rule is a violation of TSCA § 409, 15 U.S.C. § 2689.

9. Section 1018(b)(5) of the Act further provides that for each violation of TSCA § 409, specific civil penalties apply under TSCA § 16.

Renovation, Repair, and Painting

10. Section 402 of TSCA, 15 U.S.C. § 2682, requires that the Administrator of EPA promulgate regulations governing the training and certification of individuals and contractors engaged in lead-based paint activities, including renovation of target housing. Section 406 of

TSCA, 15 U.S.C. § 2686, requires that the Administrator of EPA promulgate regulations requiring persons who perform for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant prior to commencing the renovation. Section 407 of TSCA, 15 U.S.C. § 2687, requires that the regulations promulgated pursuant to TSCA include recordkeeping and reporting requirements to insure effective implementation.

11. Pursuant to Section 402(a) of TSCA, 15 U.S.C. § 2682(a), the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart L, *Lead Based Paint Activities*, on August 29, 1996. Pursuant to Sections 406(b) and 407 of TSCA, 15 U.S.C. §§ 2686(b) and 2687, the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart E, *Residential Property Renovation*, on June 1, 1998, and amended those regulations on April 22, 2008, and May 6, 2010. Finally, pursuant to Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), the EPA amended and re-codified regulations at 40 C.F.R. Part 745, Subparts E and L, and added regulations at 40 C.F.R. Subpart L on March 31, 2008 (the “Abatement Rule”).

12. The regulation at 40 C.F.R. § 745.83 defines “renovation” as 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 40 C.F.R. § 745.223. The term renovation includes, but is not limited to, the removal, modification, or repair of painted surfaces or painted components (*e.g.*, modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (*e.g.*, walls, ceilings, plumbing, windows); weatherization projects (*e.g.*, cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping); and interim controls that disturb painted surfaces.

13. Section 401(17) of TSCA, 15 U.S.C. § 2681(17), defines “target housing” as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).

14. Forty C.F.R. § 745.83 defines “firm” as 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.

15. Forty C.F.R. § 745.83 further defines “person” as any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

16. The requirements of Subpart E, the Renovation, Repair and Painting Rule, apply to all renovations performed for compensation in target housing and child-occupied facilities, unless otherwise excluded as set forth in 40 C.F.R. § 745.82.

17. Under the Renovation, Repair and Painting Rule, firms performing renovations in target housing are, among other things, required to:

- a. Obtain EPA certification for the firm prior to performing renovations (40 C.F.R. § 745.89(a) pursuant to 40 C.F.R. § 745.81(a)(2)(ii));
- b. Assign a certified renovator, and ensure that certified renovator either performs the renovation or directs a properly trained worker to perform the renovation (40 C.F.R. § 745.89(d)(2)); and
- c. Establish and maintain records of compliance with Subpart E, make them available, permit access to them, and allow copying of those records (40 C.F.R. § 745.87(b)).

18. Pursuant to Section 409 of TSCA, 15 U.S.C. § 2689, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA, including the RRP Rule. Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with the RRP Rule is a violation of Sections 408 and 409 of TSCA. Pursuant to 40 C.F.R. § 745.87(b), the failure to establish and maintain the records required by the RRP Rule is a violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

19. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of Section 15 or 409 of TSCA shall be liable to the United States for a civil penalty.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

20. Respondent is, and at all times referred to herein was, a department, agency, and/or instrumentality of the United States.

21. At all times relevant to this action, Respondent administered Gateway National Recreation Area. Respondent's administration included leasing housing to employees for occupancies greater than one hundred (100) days and performing renovations within the meaning of 40 C.F.R. § 745.83 on housing located within Gateway National Recreation Area.

22. All properties described herein are target housing constructed prior to 1978. Respondent manages additional residential properties that are not target housing: specifically, residential buildings built after 1978 and dormitory housing.

23. Respondent is, and at all times referred to herein was, a "person" and "firm" within the meaning of 40 C.F.R. § 745.83 and subject to the RRP Rule.

24. Respondent is, and at all times referred to herein was, a lessor within the meaning of 40 C.F.R. § 745.103 and subject to the Disclosure Rule.

25. On or about June 9, 2022, duly credentialed EPA inspectors conducted a Compliance Evaluation Inspection pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, at Gateway National Recreation Area and sought information pertaining to leases and renovations of target housing.

26. During and after the inspection, the EPA's inspectors collected information relevant to Respondent's compliance with the Disclosure Rule, including leases, lease renewals, lease attachments, and records of lead-based paint testing conducted in 1998. The EPA's inspectors sought additional records of lead-based paint testing that several leases mentioned had been conducted in 1997, but Respondent was unable to locate those records. The EPA's inspectors also collected all available documentation of work subject to the RRP Rule performed by Respondent; such documentation was limited, and a representative of Respondent stated that renovation records and work orders were not retained.

27. During EPA's review of the records of leases of target housing, lease renewals, and other available documentation, EPA's inspectors observed that the signatures and statements required by 40 C.F.R. §§ 745.113(b)(4) and (b)(6) were not included in requested leases available at that time. During the inspection, a representative of Respondent had admitted missing lease-package signatures were not always pursued and, consequently, those signatures and written affirmations were not consistently obtained. EPA's inspectors further observed leases missing the Lead Warning Statement with the specific wording required by 40 C.F.R. § 745.113(b)(1) and leases that failed to include accurate statements about available records of lead-based paint testing records and reports as required by 40 C.F.R. § 745.113(b)(3).

28. Representatives of Respondent admitted that work covered by the RRP Rule had been done in target housing without the assignment of a certified renovator and without following lead-safe work practices required by the RRP Rule. EPA's inspectors documented that Respondent did not have EPA firm certification at the relevant time.

29. Based on the aforementioned EPA inspection and the documentation obtained and reviewed by EPA staff, EPA determined that Respondent had repeatedly violated the Disclosure Rule when leasing target housing. Specifically, EPA documented the following alleged violations of the Disclosure Rule committed by Respondent:

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DISCLOSURE RULE VIOLATIONS

Address	Date of Lease or Renewal	40 C.F.R. § 745.113(b)(1): Failure to include Lead Warning Statement in contract to lease target housing	40 C.F.R. § 745.113(b)(3): Failure to include, as an attachment to a contract to lease target housing, a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee, or to indicate that no such records or reports are available	40 C.F.R. § 745.113(b)(4): Failure to include, as an attachment to a contract to lease target housing, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. 745.113(b)(2) and (b)(3) and the lead hazard information pamphlet required under 15 U.S.C. § 2696	40 C.F.R. § 745.113(b)(6): Failure to include, as an attachment to a contract to lease target housing, the signatures of the lessors, agents, and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature
101A Mont Sec Avenue	3/13/2022	x		x	X
102B Mont Sec Avenue	3/13/2022		X	x	X
106A Mont Sec Avenue	1/13/2022		X		
111A Mont Sec Avenue	3/13/2022	x		x	X
113A Mont Sec Avenue	1/19/2022	x		x	X
118B New York Avenue	1/13/2022	x		x	X
118E New York Avenue	3/13/2022	x		x	X
119B New York Avenue	1/14/2022		X	x	X
9 Miller Field	1/20/2022			x	X
10 Miller Field	1/13/2022	x		x	X
16 Miller Field	2/2/2022	x		x	x
18 Miller Field	4/8/2021	x		x	x
73B Sandy Hook	3/13/2022			x	x
75A Sandy Hook	1/6/2022			x	x
106A Fort Tilden	1/19/2022	x		x	x
136 Fort Tilden	2/2/2022	x		x	x

30. Based on the aforementioned EPA inspection and the documentation obtained and reviewed by EPA staff, EPA determined that Respondent violated the RRP Rule by conducting covered work on target housing without:

- a. First obtaining firm certification, as required by 40 C.F.R. § 745.89(a) and 40 C.F.R. § 745.81(a)(2)(ii);
- b. Assigning a certified renovator to each renovation performed by the firm and ensuring the renovator discharges all of the certified renovator responsibilities identified in § 745.90, in violation of 40 C.F.R. § 745.89(d)(2); and
- c. Establishing or maintaining records of RRP work, in violation of 40 C.F.R. § 745.87(b).

31. Specifically, EPA determined that these violations occurred at the following addresses and dates.

Address	Dates of Covered Work	Description of Covered Work
101A Mont Sec Avenue	2019-late 2021	Wall repair, sanding, and repainting
114A Mont Sec Avenue	2020	Sanding and repainting unit
119A New York Avenue	Ongoing in June 2022	Sanding and repainting unit
73 Sandy Hook	December 2021	Preparing and painting interior walls and ceilings; historic window restoration
135 Fort Tilden	7/13/2021	Replacing windows
Floyd Bennett Field D	6/4/2021	Scraping and painting fascia boards; replacing rotting fascia boards
Floyd Bennett Field 5	Multiple 2020 dates	Scraping, patching, and painting entire dwelling, including walls, ceilings, doors, and windows

32. Each of Respondent's alleged failures to comply with the requirements of the Disclosure Rule and the RRP Rule as identified in Paragraphs 26 through 31, above, constitutes an independent violation of TSCA and the Act for which penalties may be individually assessed.

33. On March 6, 2024, EPA sent Respondent a Notice of Potential Violations and Opportunity to Confer letter setting out the alleged violations of the Disclosure Rule and RRP Rule requirements and extending an offer to meet. Following the issuance of the letter, the Parties met and/or communicated several times. At these meetings, EPA provided compliance assistance and Respondent demonstrated a commitment to compliance with the Disclosure and

RRP Rules, including immediate institution of significant compliance measures and the development of the additional measures described below and incorporated into this CAFO.

CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and knowingly accepted by Respondent, that Respondent shall comply with the following terms:

34. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. admits to the facts stipulated herein;
- c. consents to the assessment of a civil penalty, as stated herein;
- d. consents to any conditions specified herein;
- e. waives any right to contest the allegations set forth herein; and
- f. waives its rights to appeal the Final Order accompanying this Consent Agreement.

Certifications

35. Respondent certifies that it is currently in compliance with the statutory provisions of Subchapter IV of TSCA, 15 U.S.C. §§ 2681-2692, Section 1018 of the Act, 42 U.S.C. § 4852d, and the federal regulations codified at 40 C.F.R. Part 745.

36. Respondent certifies that EPA has provided Respondent with information and compliance assistance regarding the requirements of the Disclosure Rule and the RRP Rule, and of its compliance obligations thereunder.

Compliance Obligations

37. To facilitate its future compliance with EPA's lead-based paint regulations, Respondent developed and adopted the following documents (collectively, the "Plans"), each of which is fully incorporated by reference into this CAFO:

- a. A Disclosure Rule Compliance Plan annexed hereto as Appendix 1;
- b. An RRP Rule Compliance Plan annexed hereto as Appendix 2; and

- c. An Abatement Standard Operating Procedure setting out directions for National Park Service staff in the event an abatement of lead-based paint or lead-based paint hazards in Target Housing managed by Respondent is to be performed, annexed hereto as Appendix 3.

38. Respondent shall implement the Plans at all Target Housing, as that term is defined by 40 C.F.R. § 745.83, it manages at Gateway National Recreation Area, and at any child-occupied facilities it acquires or creates within the compliance period of this CAFO.

39. Implementation of the Plans is intended as an adjunct to the requirements of 40 C.F.R. Part 745 and an aid to compliance therewith. Adherence to the provisions of the Plans shall not be a substitute for compliance with the provisions of 40 C.F.R. Part 745, or any other federal, state, or local lead-based paint requirements, nor a defense to the failure to do so.

40. In addition to the Plans, Respondent has articulated a long-term goal of conducting lead-based paint testing using an X-ray Fluorescence Spectrometer (XRF) in Target Housing and dormitory-style housing units. This testing will be conducted, as staffing and funding are available, in accordance with 40 C.F.R. Subpart L. Respondent will prioritize testing in housing units where children under the age of 6 years old reside. Records of any completed testing will be maintained and disclosed to lessees consistent with the terms of 40 C.F.R. Part 745 and with this CAFO.

41. Respondent shall submit three Annual Reports to EPA documenting compliance with the Plans and with Paragraph 40 of this CAFO. The first Annual Report shall be due February 27, 2026 (provided the Regional Judicial Officer has signed the Final Order by that time) and shall include the preceding twelve (12)-month period, i.e., February 2025 through January 2026. The second Annual Report shall be due on February 26, 2027, and cover February 1, 2026, through January 31, 2027, and the third shall be due on February 29, 2028, and cover February 1, 2027, through January 31, 2028. By written agreement of the parties, Respondent may submit a fourth Annual Report covering the period from February 1, 2028, through January 31, 2029, by February 28, 2029.

42. With regard to the Disclosure Rule Compliance Plan, each Annual Report shall state the total number of leases and lease renewals (as defined in the Disclosure Rule Compliance Plan) for Target Housing entered into during the preceding twelve (12) months. The Report shall also include the following additional information and documents in order to ascertain compliance with the Disclosure Rule:

- a. The complete address of the units leased.
- b. The original construction year of the building.

- c. The effective date of the lease or lease renewal and the date the lessor disclosure form was signed.
- d. The name of each lessee and, if known to Respondent, the ages of any minor children residing at the unit.
- e. Copies of complete lease or lease renewals entered into during the period covered by the Annual Report. A complete lease or lease renewal shall include, for each unit leased, the lease or lease renewal document and all attachments.

43. With regard to the RRP Rule Compliance Plan, each Annual Report shall provide a narrative summary of all covered work on target housing commenced or underway during the period covered by the Annual Report, and shall include the following additional compliance information and documents, or a reference to a previous Annual Report in which they were provided:

- a. The complete address of any Renovation conducted or underway at the time of the report and the areas renovated or to be renovated (e.g., building address, apartment unit number(s), common area, exterior);
- b. Documentation, consistent with 40 C.F.R. § 745.84(a)(2), that the tenant received the Renovate Right pamphlet.
- c. The details of the Renovation work performed/still to be performed.
- d. Whether or not the Renovation site was/will be occupied or in use at the time of the renovation, and steps taken or to be taken to protect occupants.
- e. If a Firm other than Respondent conducted or is to conduct the work, the name, address, and telephone number of the Firm who was/will be performing the work. Include a copy of the Firm's EPA-issued certification.
- f. The name, address and telephone number of the individual who was/will be the on-site certified Renovator for the work and a copy of the Renovator's certification.
- g. The scheduled dates of the Renovation, including start date and projected finish date.
- h. A completed Occupant Acknowledgement Form, if applicable.
- i. A completed Notice of Common Area Notification form, if applicable.

- j. A completed Renovation RRP Recordkeeping Checklist for all renovations conducted in the past year.
- k. A completed Post-Renovation Cleaning Verification Form for all renovations completed in the past year.

44. With regard to lead-based paint testing conducted as described in Paragraph 40 of this CAFO, each Annual Report shall include the results of lead-based paint hazard testing, if any, performed during the period covered by the Annual Report. In particular, it shall include:

- a. The complete address of the units tested.
- b. For each unit tested, the completed report with all data.

45. If an Abatement is commenced or is continuing in Target Housing managed by Respondent during the period covered by an Annual Report, then Respondent shall include the following information in the Annual Report:

- a. The Lead Abatement Compliance Checklist for any such abatement.
- b. Complete address of the building where the abatement took place or is taking place and the locations within the building where lead-based paint and/or lead-based paint hazards were detected and abated or to be abated.
- c. At each location where abatement took place or is taking place, the components on which lead-based paint and/or lead-based paint hazards were detected and abated or to be abated.
- d. State the reason for the abatement and provide relevant documentation (e.g., order following an elevated blood lead level in a minor resident; result of any testing, inspection, or risk assessment conducted).
- e. The name and contact information of the EPA-certified lead abatement contractor that was hired to perform the abatement work, along with a copy of the contractor's lead abatement certification.
- f. The name and contact information of the certified abatement supervisor assigned to oversee each abatement, along with a copy of each abatement supervisor's EPA-issued certificate.
- g. A copy of the EPA Notification submitted for the abatement (see 40 C.F.R. § 745.227(e)(4)).

- h. A copy of the Occupant Protection Plan(s) prepared for the abatement (see 40 C.F.R. § 745.227(e)(5)).
- i. A copy of the final Abatement Report prepared for the abatement (see 40 C.F.R. § 745.227(e)(10)).

46. If no activities subject to one or more of the Plans or discussed in Paragraph 40 are undertaken in a period covered by a given Annual Report, Respondent shall so state. If the Annual Report identifies any instances of non-compliance with 40 C.F.R. Part 745, it shall expressly note those instances as noncompliance, note how they were discovered, and describe Respondent's corrective actions and plan to prevent recurrence. Any plan to prevent recurrence of the deficiency must be submitted within thirty (30) days of the deadline for submission of the Annual Report. For any activity in Target Housing that Respondent determines is exempt from the RRP Rule based solely on the results of lead-based paint testing, Respondent must provide test results that meet the requirements of 40 C.F.R. § 745.82 in the relevant Annual Report.

47. The Annual Reports, as well as any other correspondence or documentation submitted in connection with this CAFO, shall be sent to the following addressees by email:

- a. Natasha Goss, Goss.Natasha@epa.gov; and
- b. Meghan La Reau, Lareau.Meghan@epa.gov.

48. Each Annual Report shall contain the following certification signed by an authorized official of Respondent:

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 and to the best of my knowledge and belief, the information is true, accurate and complete. I am aware that there are significant potential penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

49. EPA will notify Respondent of any deficiencies EPA identifies in the Report. If EPA identifies deficiencies in the information reported, the notice shall so state, and Respondent shall have fifteen (15) business days following receipt of notice to provide the missing information. If EPA identifies deficiencies that appear to indicate an underlying failure of substantive compliance with the relevant Rule, the notice shall so state and require Respondent to provide a narrative response and/or action to correct the underlying compliance deficiencies. Respondent shall have thirty (30) business days following receipt of notice in which to provide a narrative response explaining the apparent compliance failure and, if necessary, indicating how Respondent has corrected the identified compliance failure or plans to

(including a detailed schedule for achieving compliance). The time to respond and/or correct any deficiencies shall not extend or delay the due date for submitting the next scheduled Annual Report unless otherwise agreed to in writing by both Parties.

50. If in the future EPA believes that any of the certified information provided in the Annual Reports is inaccurate, EPA will advise Respondent, in writing, of its belief and its basis for such and will afford Respondent thirty (30) calendar days following receipt of notice to respond to EPA. If EPA still believes the certification(s) is (are) materially inaccurate, EPA may initiate a separate criminal investigation pursuant to 18 U.S.C. § 1001 *et seq.* or any other applicable law.

51. Delays:

- a. If any unforeseen event occurs which causes or may cause delays in the submission of the Annual Report(s) as required herein, Respondent shall notify EPA in writing within fourteen (14) business days following the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of delay, the cause of the delay, the measures taken by Respondent to prevent or minimize delay, and any proposed adjustments to the timetable for the submission of the Annual Report, caused by the delay. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular event involved and may constitute a waiver of Respondent's right to request an extension of its obligation under this Consent Agreement based on such event.
- b. If the parties agree that the delay or anticipated delay in the submission of the Annual Report or, if applicable, the Abatement Report, has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a period of no longer than the delay resulting from such circumstances.
- c. In the event that EPA does not agree that a delay in submitting the Annual Reports has been or will be caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its belief and its basis for such and will afford Respondent fifteen (15) business days following receipt of notice to respond to EPA. If EPA still believes that the delay has not been or will not be caused by circumstances beyond the control of Respondent, then any such delays shall not be excused.
- d. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent.

52. Minor modifications: deadlines within this CAFO, job titles, and SOPs may be amended via separate written agreement of the parties without formal amendment of the CAFO.

Penalty

53. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, EPA considered the nature, circumstances, extent, and gravity of the alleged violations; Respondent's ability to pay; the effect of the penalty on Respondent's ability to continue its operations; Respondent's history of prior violations; Respondent's degree of culpability; any economic benefit gained; and such other matters as justice requires. After consideration of the foregoing factors, EPA determines, and Respondent agrees, that a civil penalty in the amount of **One Hundred Seventy-Five Thousand, Seven Hundred and Sixty-Four Dollars (\$175,764)** shall be assessed against Respondent for the TSCA violations alleged herein.

54. Pursuant to 40 C.F.R. § 22.31(c), Respondent and EPA agree that payment of the civil penalty by Respondent is deferred until EPA issues a remittance or non-remittance notice.

55. EPA agrees to remit the entire penalty and issue a remittance notice upon Respondent's completion, to EPA's satisfaction, of the compliance work obligations specified in Paragraphs 37 to 51, above.

56. If EPA in its sole discretion determines that Respondent has failed to implement its compliance obligations under this CAFO fully, timely, and satisfactorily, EPA may issue a non-remittance notice requiring Respondent to pay the full civil penalty amount in Paragraph 53 above, plus interest accrued from the date of issuance of the non-remittance notice at the IRS underpayment rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Any non-remittance notice will set forth the details of the penalty payment procedures and calculations.

57. Unless the Parties agree in writing to a different date, EPA shall issue a remittance or non-remittance notice no later than one hundred and twenty (120) calendar days following the date of EPA's receipt of the final Annual Report.

58. Prior to making a determination that Respondent has failed to perform the compliance obligations contained herein and issuing a non-remittance notice, EPA will give Respondent written notice(s) of deficiencies and provide Respondent with thirty (30) calendar days to cure such deficiencies.

59. The parties shall use their best efforts informally and in good faith to resolve disputes and differences of opinion that may arise concerning provisions of this Order.

60. Notwithstanding the above, if Respondent disagrees, in whole or in part, with any decision made by EPA pursuant to this Order with respect to the adequacy, completeness, or timeliness of an Annual Report, or with respect to an EPA determination to issue a non-remittance notice pursuant to Paragraph 55 of this CAFO, Respondent shall notify EPA in writing of such objection(s) and the basis (bases) therefore within thirty (30) calendar days following receipt of EPA's disapproval, modification, decision, or directive. The notice shall set forth the specific points of the dispute, the position Respondent maintains, the basis for Respondent's position, and any matters Respondent considers necessary for EPA's determination. Following EPA's receipt of such written notice, EPA will provide Respondent with a decision in writing on the pending dispute, which decision shall be binding. The parties may continue to confer and to use informal efforts to resolve the dispute during the period that EPA's final determination is pending.

61. Respondent voluntarily and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement and any further instructions transmitted by EPA in accordance with Paragraph 55. Full payment or remittance of the assessed penalty shall only resolve Respondent's liability for federal civil penalties for the alleged violations described in Paragraphs 26 through 31 above. Full payment or remittance of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions or violations of law.

General Provisions

62. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs.

63. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and knowingly and voluntarily consents to its issuance and its terms.

64. Respondent agrees that this CAFO constitutes the entire agreement between the parties and all terms of settlement are set forth herein.

65. Respondent expressly waives any right to contest the allegations contained in this CAFO and to appeal the Final Order set forth herein, including any right to confer with the EPA Administrator under 40 C.F.R. § 22.31(e) with regard to this case. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this CAFO.

66. Nothing in this document is intended nor shall be construed to waive, prejudice, or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any other applicable provision of law.

67. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the Act, the regulations promulgated thereunder, or any other provisions of federal, state, or local law.

68. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

69. Nothing in this CAFO shall be construed as a ruling on, or determination of, any issue related to any federal, state, or local permit.

70. The terms of this CAFO bind Respondent and its successor agencies, departments, or instrumentalities. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

71. Respondent's signatory certifies that she or he has the authority to enter into the terms and conditions of this Consent Agreement.

72. Respondents agree that this Consent Agreement may be signed electronically and in part and counterpart by each party.

73. Respondent consents to receiving the filed CAFO, as well as any other correspondence submitted in connection with this CAFO, electronically at the following e-mail addresses: gateway_feedback@nps.gov, melissa.boness@sol.doi.gov and brianna.kenny@sol.doi.gov. Respondent agrees to notify the EPA contacts identified in Paragraph 47, above, in writing of any change in contact information.

74. Respondent consents to service upon it of a copy of this CAFO by an EPA employee other than the Regional Hearing Clerk via electronic mail and agrees that delivery of the fully executed documents to the email address in the preceding paragraph shall constitute Respondent's receipt and acceptance of the CAFO.

For Respondent, the National Park Service:

EMINA
SENDICH

Digitally signed by EMINA
SENDICH
Date: 2025.09.12
11:56:52 -04'00'

Signature

Date

Emina (Minka) Sendich

Print Name

Acting Superintendent

Title

For Complainant, the U. S. Environmental Protection Agency:

DOUGHLAS
MCKENNA

Digitally signed by
DOUGHLAS MCKENNA
Date: 2025.09.12
14:03:59 -04'00'

Kathleen Anderson
Director
Enforcement and Compliance Assurance Division

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of the National Park Service, Docket Number TSCA-02-2025-9272. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into, and issued as this Final Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk of EPA - Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615.

**MICHAEL
MARTUCCI**

Digitally signed by
MICHAEL MARTUCCI
Date: 2025.09.16
07:56:05 -04'00'

Michael R. Martucci
Regional Administrator
U.S. Environmental Protection Agency – Region 2
290 Broadway
New York, New York 10007-1866

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Natasha Goss
EPA Region 2, Office of Regional Counsel
290 Broadway, 16th Floor
New York, NY 10007-1866
goss.natasha@epa.gov


Karen Maples
EPA Region 2, Regional Hearing Clerk
290 Broadway, 17th Floor
New York, NY 10007-1866
Region2_RegionalHearingClerk@epa.gov

Copy via Email to Respondent:

Melissa Boness
U.S. Department of the Interior
Office of the Solicitor, Northeast Region
5 Post Office Square, 17th Floor
Boston, MA 02109-
melissa.boness@sol.doi.gov

Brianna Kenny
U.S. Department of the Interior
Office of the Solicitor, Northeast Region
5 Post Office Square, 17th Floor
Boston, MA 02109
brianna.kenny@sol.doi.gov

Superintendent
Gateway National Recreation Area
210 New York Avenue
Staten Island, NY 10305
Gateway_Feedback@nps.gov

 9/17/2025

Signed