

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of: :
 :
Bedrock Services, Inc. d/b/a CertaPro : **U.S. EPA Docket No. TSCA-03-2019-0131**
Painters of Pittsburgh East :
8865 Norwin Avenue #136 : **Proceeding under Section 16(a) of the Toxic**
North Huntingdon, PA 15642 : **Substances Control Act, 15 U.S.C. Section**
 : **2615(a)**
Respondent. :

U.S. EPA-REGION 3-RHC
FILED-19SEP2019AM10:14

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Bedrock Services, Inc. d/b/a CertaPro Painters of Pittsburgh East (“Respondent”) (collectively the “Parties”), 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 (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. TSCA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under Section 409 of TSCA (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(5) and 22.4.

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. Pursuant to 40 C.F.R. § 745.83, the term "firm" means "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."
13. Pursuant to 40 C.F.R. § 745.83, the term "renovation" means "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."
14. Pursuant to Section 401(17) of TSCA, 15 U.S.C. § 2681(17), the term "target housing" means "any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling."

15. Respondent, at all times relevant to the violations alleged in this Consent Agreement, was a “firm” who performed a “renovation,” as those terms are defined at 40 C.F.R. § 745.83, at the following property: 5800 Wayne Road, Pittsburg, PA (“Renovation Property”).
16. The Renovation Property was constructed prior to 1978 and is “target housing” as that term is defined in Paragraph 14 above.
17. Respondent entered into a renovation contract, dated May 18, 2017 with the owner of the Renovation Property, for the purpose of performing a “renovation for compensation” pursuant to 40 C.F.R. § 745.82(a).
18. The above referenced “renovation performed for compensation” did not involve a renovation in target housing or child-occupied facility in which:
 - (1) “a written determination ha[d] been made by an inspector or risk assessor ... that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter ... ,” as provided at 40 C.F.R. § 745.82(a)(1);
 - (2) “a certified renovator, using an EPA recognized test kit ... , has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter ... ,” as provided at as provided at 40 C.F.R. § 745.82(a)(2); or
 - (3) “a certified renovator has collected a paint chip sample from each painted component affected by the renovation and a laboratory recognized by EPA ... has determined that the samples are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter ... ,” as provided at 40 C.F.R. § 745.82(a)(3).
19. In response to a tip/complaint, Complainant conducted an on-site inspection at the Renovation Property on June 1, 2017 to observe renovation activities and Respondent’s level of compliance with the RRP Rule’s work practice standards (“Site Inspection”). Later, on June 8, 2017, Complainant conducted a records inspection at Respondent’s office to further determine Respondent’s level of compliance with the RRP Rule (“Records Inspection”).

Count I
Failure to Maintain Records

20. The allegations of Paragraphs 1 through 19 of this Consent Agreement are incorporated herein by reference.
21. 40 C.F.R. § 745.86(a) requires that firms performing renovations ... must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with this subpart, 40 C.F.R. § 745, Subpart E, for a period of 3 years following completion of

the renovation.

22. 40 C.F.R. §745.86(b)(6), requires that firms performing renovations must retain all records documenting compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a).
23. At the time of the June 8, 2017 Records Inspection, Respondent had not retained all records, for renovations performed at the Renovation Property documenting compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator performed or directed workers to perform tasks described in 40 C.F.R. § 745.85(a).
24. At the time of the June 8, 2017 Records Inspection, Respondent violated 40 C.F.R. § 745.87(b) by not retaining all records, for renovations performed at the Renovation Property documenting compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator performed or directed workers to perform tasks described in 40 C.F.R. § 745.85(a).
25. In failing to comply with 40 C.F.R. § 745.86, Respondent is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. §§ 2614 and 2689.

Count II
Failure to Post Signs

26. The allegations of Paragraphs 1 through 25 of this Consent Agreement are incorporated herein by reference.
27. 40 C.F.R. § 745.85(a)(1) requires that “[f]irms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post-renovation cleaning verification have been completed. If warning signs have been posted in accordance with 24 C.F.R § 35.1345(b)(2) or 29 C.F.R § 1926.62(m), additional signs are not required by this section.”
28. At the time of the June 1, 2017 Site Inspection, no lead work warning signs were posted to warn occupants and other persons not involved in renovation activities to remain outside of the work area during the time that renovation work was in progress.
29. At the time of the June 1, 2017 Site Inspection, Respondent violated 40 C.F.R. § 745.87(b) by failing to post required lead work warning signs, to warn occupants and other persons not involved in renovation activities to remain outside of the work area during the course of renovation and post-renovation cleaning verification activities conducted by Respondent at the Renovation Property.

30. In failing to comply with 40 C.F.R. § 745.85(a)(1), Respondent is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. §§ 2614 and 2689.

Count III
Failure to Cover the Ground

31. The allegations contained in Paragraphs 1 through 30 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
32. 40 C.F.R. § 745.85(a)(2)(ii)(C) requires that before beginning the renovation firms must cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris.
33. At the time of the June 1, 2017 Site Inspection, inspectors observed that Respondent had not covered the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris. in accordance with 40 C.F.R. § 745.85(a)(2)(ii)(C).
34. At the time of the June 1, 2017 Site Inspection, Respondent violated 40 C.F.R. § 745.87(a) by failing to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris before beginning the renovation
35. In failing to comply with 40 C.F.R. § 745.85(a)(2)(ii)(C), Respondent is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. §§ 2614 and 2689.

CIVIL PENALTY

36. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of Three Thousand Twenty-Two Dollars (\$3,022), which Respondent shall be liable to pay in accordance with the terms set forth below.
37. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), including the following: the nature, circumstances, extent and gravity of the violations, and with respect to Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities*

Rule (“LBP Consolidated ERPP”), dated August 2010, and the applicable EPA pilot *Lead-Based Paint Graduated Penalty Approach*, issued on March 5, 2017, and the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

38. Respondent has requested to pay the civil penalty of THREE THOUSAND TWENTY-TWO DOLLARS (\$3,022.00) set forth in Paragraph 36, above, in three (3) installments which shall accrue interest at the rate of one per cent (1%) per annum on the outstanding principal balance in accordance with the following schedule:

Payment	Number of Days	Principal	Interest	Payment Amount
1	30	1,007.33	None	\$1,007.33
2	60	1,007.33	3.36	\$1010.70
3	90	1,007.34	2.52	\$1009.85
Total:		\$3,022.00	\$5.88	\$3,027.88

39. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 38, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 44-46 below, in the event of any such failure or default.
40. Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
41. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:
- All payments by Respondent shall include reference to Respondent’s name and address, and the Docket Number of this action, *i.e.*, **TSCA-03-2019-0131**;
 - All checks shall be made payable to the “United States Treasury”;
 - All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center

P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Donzetta Thomas
Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029
thomas.donzetta@epa.gov

42. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
43. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
44. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
45. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first

thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

46. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
47. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

GENERAL SETTLEMENT CONDITIONS

48. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
49. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

50. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

51. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of TSCA or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

52. This CAFO resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

EXECUTION /PARTIES BOUND

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

EFFECTIVE DATE

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

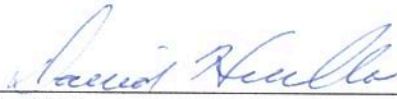
ENTIRE AGREEMENT

55. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

In Re: Bedrock Services, Inc. d/b/a CertaPro Painters of Pittsburgh East
EPA Docket No. TSCA-03-2019-0131

For Respondent: Bedrock Services, Inc. d/b/a Certa Pro Painters of Pittsburgh East


Date: 9/6/2019

By: 
David Herchko
Owner

For the Complainant:

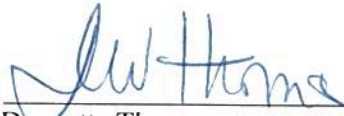
After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/12/19

By: 
for Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 9/9/19

By: 
Donzetta Thomas
Sr. Assistant Regional Counsel
U.S. EPA – Region III

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:	:	
	:	
Bedrock Services, Inc. d/b/a CertaPro Painters of Pittsburgh East 8865 Norwin Avenue #136 North Huntingdon, PA 15642	:	U.S. EPA Docket No. TSCA-03-2019-0131
	:	
	:	FINAL ORDER
	:	
	:	
Respondent.	:	Proceeding under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. Section 2615(a)
	:	
	:	
	:	

U.S. EPA-REGION 3-RHC
FILED-19SEP2019AM10:14

FINAL ORDER

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

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* ("LBP Consolidated ERPP"), dated August 2010, the applicable EPA pilot *Lead-Based Paint Graduated Penalty Approach*, issued on March 5, 2017, and the statutory factors set forth in Section 16(a)(2)(B) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

NOW, THEREFORE, PURSUANT TO Section 16(a) of TSCA, 15 U.S.C. Section 2615(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **THREE THOUSAND TWENTY-TWO DOLLARS (\$3,022.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

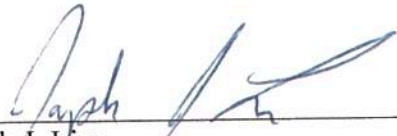
This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final

In Re: Bedrock Services, Inc. d/b/a CertaPro Painters of Pittsburgh East
EPA Docket No. TSCA-03-2019-0131

Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

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

Sept. 19, 2019
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

