



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
December 20, 2021

REPLY TO THE ATTENTION OF

VIA ELECTRONIC MAIL

Mr. Matthew E. Siebert
Vice President
Cleveland Professional Painters, LLC
d/b/a CertaPro Painters of Westlake
26145 Center Ridge Road
Westlake, Ohio 44145

msiebert@certapro.com

Consent Agreement and Final Order – In the Matter of:
Cleveland Professional Painters, LLC Docket No. TSCA-05-2022-0002

Dear Mr. Siebert:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on December 20, 2021 with the Regional Hearing Clerk.

The civil penalty in the amount of \$1,000 is to be paid in the manner described in paragraphs 63 and 64. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

MICHAEL
TODD

Digitally signed by
MICHAEL TODD
Date: 2021.12.14
10:14:30 -06'00'

Michael Todd
Pesticides and Toxics Compliance Section

Enclosure

cc: Maria Gonzalez (C-14J)
Lewis Zipkin, Esq.
Kevin Gross, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. TSCA-05-2022-0002
)	
Cleveland Professional Painters, LLC)	Proceeding to Assess a Civil
d/b/a CertaPro Painters of Westlake)	Penalty Under Section 16(a) of the
Westlake, Ohio)	Toxic Substances Control Act,
)	15 U.S.C. § 2615(a)
Respondent.)	
<hr/>)	

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 Sections 22.1(a)(5), 22.13(b), and 22.18(b)(2) and (3) of 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, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Cleveland Professional Painters, LLC, with a place of business located at 26145 Center Ridge Road, Westlake, Ohio 44145.

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.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO.

8. Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.

9. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including its right to request a hearing or petition for judicial review under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and under 40 C.F.R. § 22.15(c), its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06, any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent also consents to the issuance of this CAFO without further adjudication.

Statutory and Regulatory Background

10. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, Pub. L. No. 102-550, Oct. 28, 1998 (Title X), Congress found, among other things, that low-level lead poisoning was widespread among American children, afflicting as many as 3,000,000 children under age six (6); at low levels, lead poisoning in children causes intelligence quotient 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. See 42 U.S.C. § 4851.

11. 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.

12. Section 402(a) of TSCA, 15 U.S.C. § 2682, 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.

13. Section 402(c) of TSCA, 15 U.S.C. § 2682, 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.

14. Section 406(b) of TSCA, 15 U.S.C. § 2686, requires the regulations promulgated by the Administrator of EPA to require each individual who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

15. 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.

16. Section 11 of TSCA, 15 U.S.C. § 2610, provides EPA with authority to conduct inspections upon the presentation of appropriate credentials and written notice.

17. 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.

18. 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.

19. Pursuant to Sections 402, 406, and 407 of TSCA, 15 U.S.C. §§ 2682, 2686, and 2687, 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).

20. 40 C.F.R. Part 745, Subpart E, Residential Property Renovation, applies to all renovations performed in target housing and child-occupied facilities on or after April 28, 2010, with certain exceptions not relevant here. 40 C.F.R. § 745.82.

21. 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.

22. 40 C.F.R. § 745.83 defines *pamphlet* to mean the EPA pamphlet titled Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools developed under Section 406(a) of TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revisions or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information).

23. 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; 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.

24. 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.

25. 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.

26. 40 C.F.R. § 745.84(a)(1) requires that the firm performing the renovation in target housing must provide the owner with the pamphlet, and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certification of mailing at least 7 days prior to the renovation.

27. 40 C.F.R. § 745.85(a) requires that renovations must be performed by certified firms, in accordance with 40 C.F.R. § 745.89, using certified renovators in accordance with 40 C.F.R. § 745.90.

28. 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.

29. 40 C.F.R. § 745.86(b) states the records that must be retained pursuant to paragraph (a) of that section shall include (where applicable) records listed in subsection (b).

30. C.F.R. § 745.86(b)(1) requires records or reports certifying that a determination had been made that lead-based paint was not present on the components affected by the renovation, as described in 745.82(a). Such reports include: (i) Reports prepared by a certified inspector or certified risk assessor; (ii) 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; and (iii) Records prepared by a certified renovator after collecting paint chip samples, including a description of the components that were tested including their locations, the name and address of the NLLAP-recognized entity performing the analysis, and the results for each sample.

31. 40 C.F.R. § 745.86(b)(6) requires a firm to retain records that document compliance with the work practice standards in 40 C.F.R. § 745.85, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks described in § 745.85(a), and that the certified renovator performed the post-renovation cleaning verification described in § 745.85(b).

32. 40 C.F.R. § 745.86(b)(6) requires the documentation to include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project that:

- (i) Training was provided to workers (topics must be identified for each worker).
- (ii) Warning signs were posted at the entrances to the work area.
- (iii) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified.
- (v) The work area was contained by:
 - (A) Removing or covering all objects in the work area (interiors).
 - (B) Closing and covering all HVAC ducts in the work area (interiors).
 - (C) Closing all windows in the work area (interiors) or closing all windows in and within 20 feet of the work area (exteriors).
 - (D) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within 20 feet of the work area (exteriors).
 - (E) Covering doors in the work area that were being used to allow passage but prevent spread of dust.
 - (F) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic sheeting

or other disposable impermeable material anchored to the building extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering, weighted down by heavy objects (exteriors).

(G) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(iv) If paint chip samples were collected, that the samples were collected at the specified locations, that the specified NLLAP-recognized laboratory analyzed the samples, and that the results were as specified.

(vi) Waste was contained on-site and while being transported off-site.

(vii) The work area was properly cleaned after the renovation by:

(A) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(B) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

(viii) The certified renovator performed the post-renovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).

33. 40 C.F.R. § 745.87(b) states failure or refusal to establish and maintain records or to make available or permit access to or copying of records, as required by subpart E, is a violation of TSCA sections 15 and 409 (15 U.S.C. 2614 and 2689).

34. 40 C.F.R. § 745.81(a)(2)(ii) requires that on 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 or child occupied facilities, unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82(a).

35. Under 15 U.S.C. § 1689 and 40 C.F.R. § 745.87(a), failing to comply with any requirement of 40 C.F.R. Part 745, Subpart E, violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

36. Section 16(a) of TSCA, 15 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 \$41,056 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 December 23, 2020.

Factual Allegations and Alleged Violations

37. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

38. At all times relevant to this CAFO, Respondent was a corporation with a place of business located at 2100 Center Road, Avon, Ohio 44011, and was therefore a *firm* as defined by 40 C.F.R. § 745.83.

39. On July 24, 2018, representatives of EPA conducted an inspection at Respondent's place of business located at 2100 Center Road, Avon, Ohio 44011, regarding Respondent's compliance with the residential property renovation requirements at 40 C.F.R. Part 745, Subpart E.

40. On March 13, 2019, Complainant issued a request for information to Respondent, seeking, among other things, a copy of the renovator certification showing completion of an EPA accredited training course, a copy of the firm certification received by EPA, copies of all contracts and/or agreements for renovation (contracts) and copies of all acknowledgements of receipt of a pamphlet by the owners and occupants of residential housing.

41. On April 16, 2019, Respondent provided Complainant with documents responsive to the request for information referenced in paragraph 40.

42. On January 31, 2020, Respondent was issued a firm certification (Certificate Number NAT-F152328-2) and provided the firm certification records via electronic mail to the Complainant.

43. Based on information provided by Respondent from the on-site inspection and Information Request Letter, and building-year information publicly available on the Cuyahoga, Lorain, Erie and Medina County property value assessment websites (accessed on June 7, 2018), Respondent performed or directed workers who performed for compensation exterior painting at the properties described in the Table below:

Renovation Work Performed at Target Housing

Line Number	Property Address	Residence Type	Built Year	Contract Date	Contracted Work
1	28359 Center Ridge Road, Westlake, Ohio 44145	Single Family	1890	3/24/2016	Exterior Painting
2	1448 Woodward Avenue, Lakewood, Ohio 44107	Single Family	1919	8/2/2016	Exterior Painting
3	1346 Gladys Avenue, Lakewood, Ohio 44107	Single Family	1908	9/12/2016	Exterior Painting
4	15408 Clifton Blvd, Lakewood, Ohio 44107	Single Family	1922	10/2/2016	Exterior Painting
5	4144 Shore Drive, Lorain, Ohio 44053	Single Family	1930	11/2/2016	Exterior Painting
6	17437 Norton Avenue, Lakewood, Ohio 44107	Single Family	1917	9/5/2017	Exterior Painting
7	2336 Ogontz Avenue, Lakewood, Ohio 44107	Single Family	1941	10/11/2017	Exterior Painting
8	37093 Giles Road, Grafton, Ohio 44044	Detached Residential Structure	1900	5/15/2018	Exterior Painting
9	173 Spring Street, Amherst, Ohio 44001	Single Family	1916	5/15/2018	Exterior Painting
10	756 Perry Street, Vermillion, Ohio 44089	Duplex	1855	6/2/2018	Exterior Painting

11	2126 Wooster Road, Rocky River, Ohio 44116	Single Family	1900	7/8/2018	Exterior Painting
12	1365 Belle Avenue, Lakewood, Ohio 44107	Single Family	1912	10/13/2018	Exterior Painting
13	21438 Nottingham Drive, Fairview Park, Ohio 44126	Single Family	1965	5/21/2017	Exterior Painting
14	1568 Cordova Avenue, Lakewood, Ohio 44107	Single Family	1911	6/2/2017	Exterior Painting
15	2153 Glenbury Avenue, Lakewood, Ohio 44107	Single Family	1924	7/10/2017	Exterior Painting
16	1307 Nicholson Avenue, Lakewood, Ohio 44107	Single Family	1921	4/23/2018	Exterior Painting
17	117 W Union Street, Medina, Ohio 44256	Single Family	1923	6/5/2018	Exterior Painting

44. The exterior painting that Respondent performed at the properties listed in the Table at paragraph 43 were modifications of the buildings' existing structures that resulted in disturbance of painted surfaces and were therefore renovations as defined in 40 C.F.R. § 745.83.

45. During the July 24, 2018 inspection, 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 17 renovations identified in the Table at paragraph 43 but did not provide any records necessary to demonstrate compliance with work practice standards in 40 C.F.R. § 745.85.

46. The buildings listed at the addresses in the Table at paragraph 43 are residential housing built prior to 1978, and therefore are *target housing* as defined in 40 C.F.R. § 745.103.

47. Respondent either performed or directed workers to perform the renovations described in the Table at paragraph 43 and is therefore a *renovator* as defined in 40 C.F.R. § 745.83.

48. On December 16, 2020, EPA advised Respondent by letter that EPA was planning to file a civil administrative complaint against Respondent for specific alleged violations of the Residential Property Renovation Rule and that the complaint would seek a civil penalty.

49. On December 28, 2020, Respondent received the notice of intent letter referred to in paragraph 48, above.

50. Respondent claimed an inability to pay the proposed penalty and has submitted an Affidavit with financial information, tax returns filed for the tax years 2017 through 2020, a franchise agreement, and a completed Business Organization Ability to Pay Claim Financial Data Request Form.

51. Complainant has considered the information provided by Respondent in assessing the alleged violations and proposing a penalty.

Counts 1 to 5 – Failure to Obtain Written Acknowledgement From Owners

52. Complainant incorporates paragraphs 1 through 51 of this CAFO as if set forth in this paragraph.

53. 40 C.F.R. § 745.84(a)(1) required Respondent, before beginning renovation activities, to provide to the owners of each residence, described in rows 13 through 17 of the Table at paragraph 43, the EPA pamphlet entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* and to obtain either (i) a written acknowledgement of receipt from the owner of the dwelling unit or (ii) a certification of mailing at least 7 days prior to the renovation.

54. Respondent performed a contracted renovation at the target housing listed at rows 13 through 17 of the Table at paragraph 43 but failed to provide each owner with a pamphlet and/or to obtain either the written acknowledgement or receipt from the owner, or the certificate of mailing as required by 40 C.F.R. § 745.84(a)(1).

55. Respondent's failure to provide the pamphlet and/or obtain either the written acknowledgement of receipt or the certificate of mailing for each of the contracted renovations listed at rows 13 through 17 of the Table at paragraph 43 constitutes five (5) violations of 40 C.F.R. § 745.84(a)(1), and 15 U.S.C. § 2689.

**Counts 6 to 22 – Failure to Retain All Records Necessary to Demonstrate Compliance with
40 C.F.R. Part 745, Subpart E**

56. Complainant incorporates paragraphs 1 through 51 of this CAFO as if set forth in this paragraph.

57. 40 C.F.R. § 745.86(a) requires firms performing renovations to retain and make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of three (3) years following the renovations.

58. In the 12 renovations described in rows 1 through 12 of the Table at paragraph 43, Respondent failed to establish and maintain the following records set forth at 40 C.F.R. § 745.86(b)(6):

- a. Documentation of compliance with the work practice standards in 40 C.F.R. § 745.85,
- b. Documentation that a certified renovator was assigned to the project,

- c. Documentation that the certified renovator provided on-the-job training for workers used on the project,
- d. Documentation that the certified renovator performed or directed workers who performed all of the tasks described in 40 C.F.R. § 745.85(a),
- e. Documentation that the certified renovator performed the post-renovation cleaning verification described in 40 C.F.R. § 745.85(b), and
- f. 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.

59. In the 5 renovations described in rows 13 through 17 of the Table at paragraph 43, Respondent failed to establish and maintain records or reports certifying that a determination had been made that lead-based paint was not present on the components affected by the renovation, as set forth at 40 C.F.R. § 745.86(b)(1).

60. For each renovation project described in the Table at paragraph 43, Respondent failed to retain and make available to EPA all records necessary to demonstrate compliance with Subpart E for a period of 3 years following completion of the renovations, in violation of 40 C.F.R. § 745.86(a) and 15 U.S.C. § 2689.

61. Respondent's failure to retain and make available to EPA all records necessary to demonstrate compliance with Subpart E for each of the contracted renovations listed in the Table at paragraph 43 for a period of 3 years following completion of the renovations constitutes seventeen (17) violations of 40 C.F.R. § 745.86(a) and 15 U.S.C. § 2689.

Civil Penalty

62. 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 \$1,000. 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 culpability, and such other factors as justice may require.

63. Within 30 days after the effective date of this CAFO, Respondent must pay the \$1,000 civil penalty for the TSCA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must state Respondent's name and the docket number of this CAFO.

64. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Michael Todd (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Maria Gonzalez (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

65. This civil penalty is not deductible for federal tax purposes.

66. If Respondent does not timely pay the civil penalty, EPA may refer this matter to the Attorney General, who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). Respondent acknowledges that the validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

67. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

68. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: gonzalez.maria@epa.gov (for Complainant), and zfwlpa@aol.com (for Respondent).

69. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

70. 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.

71. 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.

72. Respondent certifies that it is complying with TSCA and 40 C.F.R. Part 745.

73. 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).

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

75. 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.

76. Each party agrees to bear its own costs and attorney's fees in this action.

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

78. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

Consent Agreement and Final Order
In the Manner of: Cleveland Professional Painters, LLC
Docket No. TSCA-05-2022-0002

Cleveland Professional Painters, LLC Respondent

11/23/2021

Date

DocuSigned by:

Matt Siebert

5EAF A0375524498

Mr. Matthew Siebert

~~Owner~~

Vice President

Cleveland Professional Painters, LLC

Consent Agreement and Final Order
In the Manner of: Cleveland Professional Painters, LLC
Docket No. TSCA-05-2022-0002

United States Environmental Protection Agency, Complainant

12/16/21

Date

MICHAEL
HARRIS

Digitally signed by MICHAEL
HARRIS
Date: 2021.12.16 16:45:19
-06'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

Consent Agreement and Final Order
In the Matter of: Cleveland Professional Painters, LLC
Docket No. TSCA-05-2022-0002

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.

Date

ANN COYLE Digitally signed by ANN COYLE
Date: 2021.12.17 14:01:34 -06'00'

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

Consent Agreement and Final Order
In the Matter of: Cleveland Professional Painters, LLC
Docket Number: TSCA-05-2022-0002

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on December 20, 2021, this day in the following manner to the addressees:

Copy by e-mail to
Respondent:

Mr. Matthew Siebert
Vice President
Cleveland Professional Painters, LLC
d/b/a CertaPro Painters of Westlake
26145 Center Ridge Road
Westlake, Ohio 44145
msiebert@certapro.com

Copy by e-mail to
Attorney for Respondent:

Lewis A. Zipkin
zfwlpa@aol.com

Copy by e-mail to
Attorney for Complainant:

Maria Gonzalez
gonzalez.maria@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Isidra Martinez
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5