

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Karen E. Woodward 2/28/20
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2019-0052

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

David Bean
1129 Johnston Drive
Watchung, NJ 07069

Total Dollar Amount of Receivable \$ 2,000 Due Date: _____

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

FEB 27 2020

EPA ORC *WS*
Office of Regional Hearing Clerk

In the Matter of:)

David Bean)
1129 Johnston Drive)
Watchung, NJ 07069)

Respondent)

Docket No. TSCA-01-2019-0052

**CONSENT AGREEMENT
AND FINAL ORDER**

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency (“EPA”), having filed an Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondent, David Bean (“Respondent”) on September 30, 2019. EPA and Respondent hereby agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter. As used herein, Complainant and Respondent are referred to, collectively, as the “Parties.”

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of monetary penalties brought pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), regulations implementing TSCA at 40 C.F.R. § 745.118, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. In accordance with 40 C.F.R.

§ 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

2. EPA alleged in its Complaint that Respondent violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 *et seq.*, and federal regulations promulgated under these statutes, including 40 C.F.R. Part 745, Subpart E (Renovation, Repair and Painting Rule (“RRP Rule”), 40 C.F.R. §§ 745.80-745.92) and Subpart F (Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (“Disclosure Rule”), 40 C.F.R. §§ 745.100-745.119).

TERMS OF SETTLEMENT

3. The provisions of this CAFO shall apply to and be binding on Respondent and Respondent’s successors and assigns.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses he might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO.

5. Respondent hereby waives the right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and the right to appeal the Final Order.

6. Respondent hereby certifies that he is currently operating in compliance with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*, the Disclosure Rule set forth at 40 C.F.R. Part 745, Subpart F, and the RRP Rule set forth at 40 C.F.R. Part 745, Subpart E.

7. Within 30 days of the effective date of this CAFO, Respondent shall have in place a management system to ensure compliance with the Disclosure Rule and the RRP Rule in accordance with the Compliance Plan attached hereto.

8. a. Within 180 days of the effective date of this CAFO, Respondent shall submit to EPA copies of all leases, and associated documents pertaining to lead-based paint, executed since the effective date of this CAFO for all of Respondent's properties that were the subject of the Complaint and that are still owned and/or managed by Respondent. For any property that Respondent transferred during the 180-day period since the effective date of this CAFO, Respondent shall submit a copy of the sales contract and associated documents pertaining to lead-based paint.

b. Within 180 days of the effective date of this CAFO, Respondent shall submit to EPA all work orders for renovation activities that disturbed painted surfaces performed by Respondent or an outside contractor, excluding minor repairs, at Respondent's properties that were the subject of the Complaint and that are still owned and/or managed by Respondent during the 180-day period since the effective date of this CAFO, and a list identifying the renovation activities that were subject to the RRP Rule. For the renovation activities that were subject to the RRP Rule, Respondent shall provide copies of all documents demonstrating compliance with the RRP Rule. The documents described in paragraphs 8.a. and b. shall be sent to:

Jordan Alves
Inspector
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ECAD 05-4)
Boston, MA 02109-3912

PENALTY

9. Pursuant to Section 16(a) of TSCA, and in light of the nature of the violations, relevant statutory penalty criteria, EPA has determined that it is fair and proper to assess a civil penalty in the amount of two thousand dollars (\$2,000) for the violations alleged in this matter.

10. Respondent shall pay the civil penalty of \$2,000 within thirty (30) days of the effective date of this CAFO.

11. Respondent agrees to pay the civil penalty of \$2,000 in the manner described below:

a. Payment shall be in a single payment of \$2,000 due within 30 calendar days of the effective date of this CAFO. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day.

b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case (*In the Matter of David Bean; TSCA-01-2019-0052*), be in the amount stated above, and be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101
Include the phrase "Government Lockbox 979077" on the shipping label.

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004

Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORC 04-6)
Boston, MA 02109-3912

and

Kathleen Woodward
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORC 04-2)
Boston, MA 02109-3912

12. The failure by Respondent to pay the penalty in full by the due date may subject Respondent to a civil action to collect the assessed penalty, plus all accrued interest as calculated pursuant to paragraph 13 below, due to the United States upon such failure. Interest shall continue to accrue on all unpaid amounts until the total amount due has been received by the United States. Respondent shall be liable for such amounts regardless of whether EPA has notified Respondent of its failure to pay or made demand for payment. All payments to the United States under this paragraph shall be made in accordance with paragraph 11.

13. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest shall be payable at the rate of the United States Treasury tax and loan

rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

14. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agree not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

15. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the violations alleged in the Complaint. Payment of any civil and stipulated penalties required under this CAFO, completion of the requirements set forth in the Appendix, and compliance with paragraphs 7 and 8 above, shall be deemed to resolve all civil and administrative claims for matters addressed in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law.

16. This CAFO in no way relieves Respondent of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

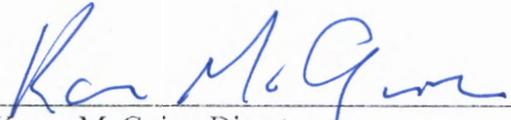
17. This CAFO shall not relieve Respondent of his obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

18. Except as specifically settled herein, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondent's violation of any applicable provision of law.

19. The Parties shall bear their own costs and fees in this action, including attorneys' fees. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

20. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

For Complainant, U.S. Environmental Protection Agency:



Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 1

Date: 2-14-20

For Respondent, David Bean:



David Bean

Date: 1/28/20

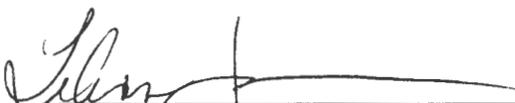
FINAL ORDER

Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C), authorizes EPA to compromise with or without conditions the maximum civil penalties which may be imposed under that Section. EPA has made such a compromise by applying the penalty factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), to the facts and circumstances of this case, including the circumstances of the violations and the culpability of the violator. Pursuant to those provisions, EPA has modified the maximum civil penalties and imposed the conditions described in paragraphs 7 and 8 of this Consent Agreement.

Pursuant to 40 C.F.R. § 22.18(b) and (c) of EPA's Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. The Respondent, David Bean, is ordered to pay the civil penalty amount specified in the Consent Agreement, in the manner indicated.

The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

Date: 2/25/20



LeAnn Jensen
Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

Compliance Plan

Lead Based-Paint and Lead-Based Paint Hazards Disclosure Rule

and

Renovation, Repair and Painting Rule

Organizational Responsibility

Mr. Bean assumes overall responsibility for compliance with the lead-paint related regulatory requirements that apply to properties that he owns and/or manages built before 1978 ("Property" or "Properties"). Mr. Bean and anyone working for or with Mr. Bean in the management of Properties will follow this Compliance Plan.

Disclosure of Information regarding Lead-Based Paint and/or Lead-Based Paint Hazards

The **attached form** entitled "Disclosure of Information on Lead-based Paint and/or Lead-Based Paint Hazards" ("Disclosure Form") will be completed with every lease transaction, including lease renewals, for Properties, in accordance with 40 C.F.R. 100, et seq. (Subpart F).

Renovation, Repair, and Painting Work

- If renovation, repair and/or painting work is to be performed on any Property, and the job requires disturbing more than 6 square feet of interior or 20 square feet of exterior paint, or if it involves replacing windows of any size, Mr. Bean and any employee or subcontractor of Mr. Bean, will use lead-safe practices in accordance with the Renovation, Repair and Painting Rule set forth at 40 C.F.R. 745.80 through 745.92 (Subpart E) .

Continued next page

- Mr. Bean will ensure that any subcontractor he hires to do work subject to the Renovation, Repair and Painting Rule is certified as both a firm and an individual renovator.
- Mr. Bean will use the following **attached forms** (“RRP-related Forms) when conducting RRP work at any of the Properties:
 - 1) “Sample Pre-Renovation Form” (2 pages)
 - 2) “Sample Renovation Recordkeeping Checklist) (1 page)
- Mr. Bean may periodically consult EPA’s “Small Entity Compliance Guide to Renovate Right” in carrying out his regulatory responsibilities.
<https://www.epa.gov/sites/production/files/documents/sbcomplianceguide.pdf>
- Mr. Bean will renew his Individual and Firm RRP Certifications every **3 years** in order to keep the certifications current.

Recordkeeping

- Mr. Bean will maintain for a period of at least **3 years** all lead-paint-related documents and Disclosure Forms.
- Mr. Bean will maintain for a period of at least **3 years** all documents relating to compliance with the Repair, Renovation and Painting Rule.

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (check (i) or (ii) below):

(i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

(c) _____ Lessee has received copies of all information listed above.

(d) _____ Lessee has received the pamphlet *Protect Your Family from Lead In Your Home*.

Agent's Acknowledgment (initial)

(e) _____ Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____	_____	_____	_____
Lessor	Date	Lessor	Date
_____	_____	_____	_____
Lessee	Date	Lessee	Date
_____	_____	_____	_____
Agent	Date	Agent	Date

Sample Pre-Renovation Form

This sample form may be used by firms to document compliance with the requirements of the Federal Lead-Based Paint Renovation, Repair, and Painting Program.

Occupant Confirmation

Pamphlet Receipt

I have received a copy of the lead hazard information pamphlet informing me of the potential risk of the lead hazard exposure from renovation activity to be performed in my dwelling unit. I received this pamphlet before the work began.

Printed Name of Owner-occupant

Signature of Owner-occupant

Signature Date

Renovator's Self Certification Option (for tenant-occupied dwellings only)

Instructions to Renovator: If the lead hazard information pamphlet was delivered but a tenant signature was not obtainable, you may check the appropriate box below.

Declined – I certify that I have made a good faith effort to deliver the lead hazard information pamphlet to the rental dwelling unit listed below at the date and time indicated and that the occupant declined to sign the confirmation of receipt. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Unavailable for signature – I certify that I have made a good faith effort to deliver the lead hazard information pamphlet to the rental dwelling unit listed below and that the occupant was unavailable to sign the confirmation of receipt. I further certify that I have left a copy of the pamphlet at the unit by sliding it under the door or by (fill in how pamphlet was left).

Printed Name of Person Certifying Delivery

Attempted Delivery Date

Signature of Person Certifying Lead Pamphlet Delivery

Unit Address

Note Regarding Mailing Option — As an alternative to delivery in person, you may mail the lead hazard information pamphlet to the owner and/or tenant. Pamphlet must be mailed at least 7 days before renovation. Mailing must be documented by a certificate of mailing from the post office.

Sample Forms (continued)

Renovation Notice — For use in notifying tenants of renovations in common areas of multi-family housing.

The following renovation activities will take place in the following locations:

Activity (e.g., sanding, window replacement)

Location (e.g., lobby, recreation center)

The expected starting date is _____ and the expected ending date is _____.
Because this is an older building built before 1978, some of the paint disturbed during the renovation may contain lead. You may obtain a copy of the pamphlet, *Renovate Right*, by telephoning me at _____. Please leave a message and be sure to include your name, phone number and address. I will either mail you a pamphlet or slide one under your door.

Date

Printed name of renovator

Signature of renovator

Record of Tenant Notification Procedures

Project Address _____

Street (apt. #) _____

City _____

State _____

Zip Code _____

Owner of multi-family housing _____

Number of dwelling units _____

Method of delivering notice forms (e.g. delivery to units, delivery to mailboxes of units)

Name of person delivering notices _____

Signature of person delivering notices _____

Date of Delivery _____

Sample Renovation Recordkeeping Checklist

Name of Firm: _____

Date and Location of Renovation: _____

Brief Description of Renovation: _____

Name of Assigned Renovator: _____

Name(s) of Trained Worker(s), if used: _____

Name of Dust Sampling Technician,
Inspector, or Risk Assessor, if used: _____

Copies of renovator and dust sampling technician qualifications (training certificates, certifications) on file.

Certified renovator provided training to workers on (check all that apply):

Posting warning signs Setting up plastic containment barriers

Maintaining containment Avoiding spread of dust to adjacent areas

Waste handling Post-renovation cleaning

Test kit or test results from an EPA-recognized laboratory on collected paint chip sample, used by certified renovator to determine whether lead was present on components affected by renovation (identify method used, type of test kit used (if applicable), laboratory used to conduct paint chip analysis, describe sampling locations and results): _____

Warning signs posted at entrance to work area.

Work area contained to prevent spread of dust and debris

All objects in the work area removed or covered (interiors)

HVAC ducts in the work area closed and covered (interiors)

Windows in the work area closed (interiors)

Windows in and within 20 feet of the work area closed (exteriors)

Doors in the work area closed and sealed (interiors)

Doors in and within 20 feet of the work area closed and sealed (exteriors)

Doors that must be used in the work area covered to allow passage but prevent spread of dust

Floors in the work area covered with taped-down plastic (interiors)

Ground covered by plastic extending 10 feet from work area—plastic anchored to building and weighed down by heavy objects (exteriors)

Vertical containment installed if property line prevents 10 feet of ground covering, or if necessary to prevent migration of dust and debris to adjacent property (exteriors)

Waste contained on-site and while being transported off-site.

Work site properly cleaned after renovation

All chips and debris picked up, protective sheeting misted, folded dirty side inward, and taped for removal

Work area surfaces and objects cleaned using HEPA vacuum and/or wet cloths or mops (interiors)

Certified renovator performed post-renovation cleaning verification (describe results, including the number of wet and dry cloths used): _____

If dust clearance testing was performed instead, attach a copy of report

I certify under penalty of law that the above information is true and complete.

Name and title

Date

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

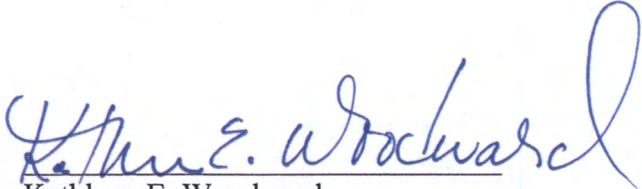
In the Matter of:)	
)	
David Bean)	Docket No. TSCA-01-2019-0052
1129 Johnston Drive)	
Watchung, NJ 07069)	
Respondent)	Certificate of Service
)	
)	

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and One Copy (Hand-Delivered):	Wanda Santiago Regional Hearing Clerk U.S. EPA, Region I 5 Post Office Square, Suite 100 (ORC 04-6) Boston, MA 02109-3912
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Copy, Certified Mail, Return Receipt Requested	David Bean 1129 Johnston Drive Watchung, NJ 07069
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Dated: February 27, 2020


Kathleen E. Woodward
Senior Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100 (ORC 04-2)
Boston, Massachusetts 02109-3912