

1 SUZANNE ANDREWS
Regional Counsel
2
3 EDGAR P. CORAL
Assistant Regional Counsel
U.S. Environmental Protection Agency
4 Region IX
75 Hawthorne Street
5 San Francisco, CA 94105
(415) 972-3898
6 coral.edgar@epa.gov



7
8 UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

10
11 In the matter of:) Docket No. TSCA-09-2026-0012
12)
13 Landmark Modernization Contractors,) CONSENT AGREEMENT
AND FINAL ORDER
14 Respondent.) pursuant to 40 C.F.R. §§ 22.13(b),
22.18(b)(2), and 22.18(b)(3)
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17 I. CONSENT AGREEMENT

18 The United States Environmental Protection Agency, Region IX (“EPA”), and Landmark
19 Modernization Contractors (“Respondent”) agree to settle this matter and consent to the entry of
20 this Consent Agreement and Final Order (“CAFO”). This CAFO simultaneously initiates and
21 concludes this proceeding in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

22 A. AUTHORITY AND PARTIES

23 1. This is a civil administrative penalty action brought against Respondent pursuant to
24 Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), for violation
25 of Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with Sections 402 and 406 of
26 TSCA, 15 U.S.C. §§ 2682 and 2686, and their implementing federal regulations promulgated at
27 40 C.F.R. Part 745, Subpart E.
28

1 2. Complainant is the Manager of the Toxics Section in the Enforcement and
2 Compliance Assurance Division, EPA Region IX, who has been duly delegated the authority to
3 bring this action and to sign a consent agreement settling this action.

4 3. Respondent, a California corporation headquartered in Rocklin, California, provides
5 general contracting and construction management services to clients in the non-residential,
6 institutional, and commercial sectors throughout California.

7 B. STATUTORY AND REGULATORY BASIS

8 4. Pursuant to Sections 402(a) and (c) of TSCA, 15 U.S.C. §§ 2682(a) and (c), 40 C.F.R.
9 Part 745, Subpart E provides requirements for certification of individuals and firms engaged in
10 lead-based paint activities and work practice standards for renovation, repair, and painting
11 activities in target housing and child-occupied facilities.

12 5. Pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b), 40 C.F.R. Part 745,
13 Subpart E requires a person who performs for compensation a renovation of target housing and
14 child-occupied facilities to provide a lead hazard information pamphlet to the owners and
15 occupants (as well as the parents of children under the age of six in child-occupied facilities)
16 before beginning the renovation.

17 6. “Child-occupied facility” means a building, or portion of a building, constructed prior
18 to 1978, visited regularly by the same child, under six years of age, on at least two different days
19 within any week (Sunday through Saturday period), provided that each day’s visit lasts at least
20 three hours and the combined weekly visits last at least six hours, and the combined annual visits
21 last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care
22 centers, preschools, and kindergarten classrooms. Child-occupied facilities may be located in
23 target housing or in public or commercial buildings. With respect to common areas in public or
24 commercial buildings that contain child-occupied facilities, the child-occupied facility
25 encompasses only those common areas that are routinely used by children under age six, such as
26 restrooms and cafeterias.

27 7. “Person” means any natural or judicial person including any individual, corporation,
28 partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate

1 body; and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. §
2 745.83.

3 8. “Firm” means a company, partnership, corporation, sole proprietorship or individual
4 doing business, association, or other business entity; a Federal, State, Tribal, or local government
5 agency; or a nonprofit organization. 40 C.F.R. § 745.83.

6 9. “Renovation” means the modification of any existing structure, or portion thereof, that
7 results in the disturbance of painted surfaces, unless that activity is part of an abatement as
8 defined by 40 C.F.R. § 745.223. The term “renovation” includes (but is not limited to): the
9 removal, modification or repair of painted surfaces or painted components (*e.g.*, modification of
10 painted doors, surface restoration, window repair, surface preparation activity (such as sanding,
11 scraping, or other such activities that may generate paint dust)); the removal of building
12 components (*e.g.*, walls, ceilings, plumbing, windows); weatherization projects (*e.g.*, cutting
13 holes in painted surfaces to install blown-in insulation or to gain access to attics, planning
14 thresholds to install weatherstripping), and interim controls that disturb painted surfaces
15 The term “renovation” does not include minor repair and maintenance activities. 40 C.F.R. §
16 745.83.

17 10. “Painted surface” means a component surface covered in whole or in part with paint
18 or other surface coatings. 40 C.F.R. § 745.83.

19 11. “Component or building component” means specific design or structural elements or
20 fixtures of a building or residential dwelling that are distinguished from each other by form,
21 function, and location. These include, but are not limited to interior components such as . . .
22 windows and trim (including sashes, window heads, jambs, sills or stools and troughs) . . . and
23 exterior components such as . . . windowsills or stools and troughs, casings, sashes and wells. 40
24 C.F.R. § 745.83.

25 12. “Renovator” means any individual who either performs or directs workers who
26 perform renovations. A certified renovator is a renovator who has successfully completed a
27 renovator course accredited by EPA or an EPA-authorized State or Tribal program. 40 C.F.R. §
28 745.83.

1 13. “Pamphlet” means the EPA pamphlet titled, “Renovate Right: Important Lead
2 Hazard Information for Families, Child Care Providers and Schools,” developed under Section
3 406(a) of TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal
4 pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same
5 purpose. 40 C.F.R. § 745.83.

6 14. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty
7 Inflation Adjustment Rule at 40 C.F.R. Part 19 (as amended by 90 Fed. Reg. 1375 (January 8,
8 2025)), authorize civil penalties not to exceed \$49,772 per day for each violation of Section 409
9 of TSCA, 15 U.S.C. § 2689, that occurred after November 2, 2015, where penalties are assessed
10 on or after January 8, 2025.

11 C. ALLEGED VIOLATIONS

12 15. Respondent is a “person,” as that term is defined at 40 C.F.R. § 745.83.

13 16. At all times relevant to this CAFO, Respondent was a “firm,” as that term is defined
14 at 40 C.F.R. § 745.83.

15 17. In or around 2022-2023, Respondent performed “renovations,” as that term is defined
16 at 40 C.F.R. § 745.83, for compensation at the kindergarten portion of the public building located
17 at the Brisbane Elementary School (500 San Bruno Avenue) in Brisbane, California (the
18 “Property”).

19 18. At all times relevant to this CAFO, the Property was a “child-occupied facility,” as
20 that term is defined at 40 C.F.R. § 745.83.

21 19. Firms that perform renovations for compensation must apply to EPA for certification
22 to perform renovations. 40 C.F.R. § 745.89(a).

23 20. On or after April 22, 2010, no firm may perform a renovation without certification
24 from EPA under 40 C.F.R. § 745.89(a) in target housing or child-occupied facilities unless the
25 renovation is performed in target housing or child-occupied facilities that have been determined
26 to be lead-free pursuant to 40 C.F.R. § 745.82(a). 40 C.F.R. § 745.81(a)(2)(ii).

27 21. At all times relevant to this CAFO, Respondent did not have a certification from
28 EPA to perform renovations for compensation at the Property.

1 22. At all times relevant to this CAFO, the Property had not been determined to be lead-
2 free pursuant to 40 C.F.R. § 745.82(a) before the renovations for compensation occurred.

3 23. Respondent's performance of renovations for compensation at the Property without
4 certification from EPA under 40 C.F.R. § 745.89(a) constitutes one violation of 40 C.F.R. §
5 745.81(a)(2)(ii) and Section 409 of TSCA, 15 U.S.C. § 2689.

6 24. No more than 60 days before beginning renovation activities in any child-occupied
7 facility, the firm performing the renovation must provide the owner of the building with the
8 "pamphlet," as that term is defined at 40 C.F.R. § 748.83, and either obtain from the owner a
9 written acknowledgment that the owner has received the "pamphlet" or obtain a certificate of
10 mailing at least seven days prior to the renovation. 40 C.F.R. § 745.84(c)(1).

11 25. Respondent did not either obtain from the owner a written acknowledgment that the
12 owner has received the "pamphlet" or obtain a certificate of mailing at least seven days prior to
13 the renovations at the Property.

14 26. Respondent's failure to either obtain from the owner a written acknowledgment that
15 the owner has received the "pamphlet" or obtain a certificate of mailing at least seven days prior
16 to the renovations at the Property constitutes one violation of 40 C.F.R. § 745.84(c)(1) and
17 Section 409 of TSCA, 15 U.S.C. § 2689.

18 27. Firms performing renovations must retain documentation of compliance with the
19 requirements of § 745.85, including documentation that: a certified renovator was assigned to
20 the project; a certified renovator provided on-the-job training for workers used on the project; a
21 certified renovator performed or directed workers who performed all of the work practice tasks
22 described in § 745.85(a); and a certified renovator performed the post-renovation cleaning
23 verification described in § 745.85(b). 40 C.F.R. § 745.86(b)(6).

24 28. Respondent did not retain documentation for the renovations performed at the
25 Property that: a certified renovator was assigned to the project; a certified renovator provided
26 on-the-job training for workers used on the project; a certified renovator performed or directed
27 workers who performed all of the work practice tasks described in § 745.85(a); and a certified
28 renovator performed the post-renovation cleaning verification described in § 745.85(b).

1 E. CIVIL ADMINISTRATIVE PENALTY

2 34. In full and final settlement of the violations specifically alleged in Section I.C of this
3 CAFO, Respondent shall pay a civil administrative penalty of TWENTY-ONE THOUSAND,
4 FOUR HUNDRED, AND NINETY-TWO DOLLARS (\$21,492). Respondent shall pay this civil
5 penalty within thirty (30) days of the effective date of this CAFO. The civil penalty shall be paid
6 by remitting a certified or cashier's check, including the name and docket number of this case,
7 for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other
8 methods listed below) and sent as follows:

9 Regular Mail:

10 U.S. Environmental Protection Agency
11 PO Box 979078
12 St. Louis, MO 63197-9000

13 Wire Transfers:

14 Wire transfers must be sent directly to the Federal Reserve Bank in New
15 York City with the following information:
16 Federal Reserve Bank of New York
17 ABA = 021030004
18 Account = 68010727
19 SWIFT address = FRNYUS33
20 33 Liberty Street
21 New York, NY 10045
22 Beneficiary = U.S. Environmental Protection Agency

23 Certified or Overnight Mail:

24 U.S. Environmental Protection Agency
25 Government Lockbox 979078
26 3180 Rider Trail S.
27 Earth City, MO 63045

28 ACH (also known as Remittance Express or REX):

Automated Clearinghouse (ACH) payments to EPA can be made through
the U.S. Treasury using the following information:

U.S. Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account = 31006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737

1 Remittance Express (REX) = (866) 234-5681

2 On Line Payment:

3 This payment option can be accessed from the information below:

4 www.pay.gov
5 Enter "SFO 1.1" in the search field
6 Open form and complete required fields

7 If clarification regarding a particular method of payment remittance is
8 needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

9 A copy of each check, or notification that the payment has been made by one of the other
10 methods listed above, including proof of the date payment was made, shall be sent with a
11 transmittal letter, indicating Respondent's name, the case title, and docket number, to the
12 following regular mail or email addresses:

13 Regional Hearing Clerk
14 Office of Regional Counsel (ORC-1)
15 U.S. Environmental Protection Agency, Region IX
16 75 Hawthorne Street
17 San Francisco, CA 94105
18 R9HearingClerk@epa.gov

19 Rieko Nishimura
20 Toxics Section
21 Enforcement and Compliance Assurance Division (ENF-2-3)
22 U.S. Environmental Protection Agency, Region IX
23 75 Hawthorne Street
24 San Francisco, CA 94105
25 nishimura.rieko@epa.gov

26 35. Respondent shall not use payment of any penalty under this CAFO as a tax deduction
27 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to
28 use such payment as a tax deduction.

29 36. If Respondent fails to pay the assessed civil administrative penalty of TWENTY-
30 ONE THOUSAND, FOUR HUNDRED, AND NINETY-TWO DOLLARS (\$21,492), as
31 identified in Paragraph 34, by the deadline specified in that Paragraph, then Respondent shall pay
32 a stipulated penalty to EPA of FIVE HUNDRED DOLLARS (\$500) per day in addition to the
33 assessed penalty. Stipulated penalties shall accrue until such time as the assessed penalty and all
34 accrued stipulated penalties are paid and shall become due and payable upon EPA's written

1 request. Failure to pay the civil administrative penalty specified in Paragraph 34 by the deadline
2 specified in that Paragraph may also lead to any or all of the following actions:

3 (1) EPA may refer the debt to a credit reporting agency, a collection
4 agency, or to the Department of Justice for filing of a collection action in the appropriate United
5 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and
6 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such
7 collection proceeding.

8 (2) The U.S. Government may collect the debt by administrative offset
9 (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a
10 person to satisfy the debt the person owes the U.S. Government), which includes, but is not
11 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
12 C.F.R. §§ 13(C) and 13(H).

13 (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke
14 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing
15 business with EPA or engaging in programs EPA sponsors or funds.

16 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.
17 Government may assess interest, administrative handling charges, and nonpayment penalties
18 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the
19 civil administrative penalty specified in Paragraph 34 by the deadline specified in that Paragraph.

20 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §
21 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established
22 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
23 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
24 (30) days of the effective date of this CAFO.

25 (b) Administrative Handling Charges. Pursuant to 31 U.S.C. §
26 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge, based on
27 either actual or average cost incurred (including both direct and indirect costs), for every month
28 in which any portion of the assessed penalty is more than thirty (30) days past due.

1 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)
2 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,
3 may be assessed on all debts more than ninety (90) days delinquent.

4 F. CERTIFICATION OF COMPLIANCE

5 37. In executing this CAFO, Respondent certifies that it is now fully in compliance with
6 the federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

7 G. RETENTION OF RIGHTS

8 38. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
9 liabilities for federal civil penalties for the violations and facts specifically alleged in Section I.C
10 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil
11 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
12 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal
13 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it
14 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address
15 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

16 39. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's
17 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,
18 and permits.

19 H. ATTORNEYS' FEES AND COSTS

20 40. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in
21 this proceeding.

22 I. EFFECTIVE DATE

23 41. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be
24 effective on the date that the Final Order contained in this CAFO, having been approved and
25 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

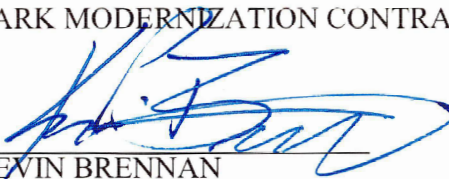
J. BINDING EFFECT

42. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

43. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT LANDMARK MODERNIZATION CONTRACTORS:

9/2/25
DATE


KEVIN BRENNAN
President
Landmark Modernization Contractors

FOR COMPLAINANT EPA:

10/1/2025
DATE

MATTHEW SALAZAR
MATT SALAZAR, P.E.
Manager, Toxics Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

Digitally signed by
MATTHEW SALAZAR
Date: 2025.10.01
11:20:34 -07'00'

1 II. FINAL ORDER

2 EPA and Landmark Modernization Contractors having entered into the foregoing
3 Consent Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2026-0012) be
5 entered, and Respondent shall pay a civil administrative penalty in the amount of TWENTY-
6 ONE THOUSAND, FOUR HUNDRED, AND NINETY-TWO DOLLARS (\$21,492) and
7 comply with the terms and conditions set forth in the Consent Agreement.

8
9 **Beatrice
Wong**

Digitally signed by
Beatrice Wong
Date: 2025.10.02
11:28:17 -07'00'

10 _____
11 DATE

12 _____
13 BEATRICE WONG
14 Regional Judicial Officer
15 U.S. Environmental Protection Agency, Region IX
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing Consent Agreement and Final Order in the matter of Landmark
3 Modernization Contractors (Docket No. TSCA-09-2026-0012) was filed with the Regional Hearing
4 Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and
5 correct copy of the same was sent to the following parties via electronic mail, as indicated below:

6 **RESPONDENT:**

Kevin Brennan
President
Landmark Modernization Contractors
4312 Anthony Court, Suite B
Rocklin, CA 95677
Kbrennan@landmarkconst.net

9
10 **COMPLAINANT:**

Edgar Coral
Office of Regional Counsel
U.S. EPA, Region IX
Air & Toxics Section I (ORC-2-1)
75 Hawthorne Street
San Francisco, CA 94105
Coral.Edgar@epa.gov

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18 Ponly Tu
19 Regional Hearing Clerk
20 U.S. EPA - Region IX
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