

FILED

May 28, 2024

7:07AM

U.S. EPA REGION 7
HEARING CLERK

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

In the Matter of:

Barnes Interior Remodeling, LLC
5012 Leavenworth Street
Omaha, Nebraska 68106

)
)
) **Docket No.** TSCA-07-2024-0066
)
)

Respondent.

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), and 40 C.F.R. § 22.13(b).

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Barnes Interior Remodeling, LLC (“Respondent”) failed to comply with certain regulations governing residential property renovation, in violation of Section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2689 *et seq.*

2. Section 402(c) of TSCA, 15 U.S.C. § 2682(c), requires the Administrator of EPA to promulgate regulations governing renovation and remodeling activities to ensure, among other things, that contractors engaged in such activities are certified by EPA to perform these activities. These regulations are codified at Part 745 of Title 40 of the Code of Federal Regulations.

3. Section 409 of TSCA, 15 U.S.C. § 2689, states that it shall be unlawful for any person to fail or refuse to comply with a provision of this subchapter or with any rule or order issued under this subchapter.

4. Pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the EPA conducted a records inspection in response to information provided by Barnes Interior Remodeling LLC, to evaluate Respondent’s compliance with TSCA and the requirements of the Renovation, Repair, and Painting Rule (“EPA inspection”).

5. The EPA review of records revealed that Respondent had performed renovations between May 1, 2020 and July 5, 2023, for compensation, at the following properties, which are “target housing” as defined by Section 401(17) of TSCA, 15 U.S.C. § 2681(17):

a. 4534 Walnut Street, Omaha, NE 68106

- b. 4686 Marcy Street, Omaha, NE 68106
- c. 1923 South 113th Street, Omaha, NE 68144
- d. 840 N 67th Avenue, Omaha, NE 68132

6. The regulation at 40 C.F.R. § 745.86(b) requires firms performing renovations to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with the RRP Rule for a period of three years following completion of the renovation.

7. Respondent performed renovation projects on the “target housing” as described in Paragraph 5 above. The EPA’s review revealed that Respondent failed to prepare and retain records of the renovation projects, as required by 40 C.F.R. §§ 745.86(a) and 745.86(b)(6). Respondent therefore violated Section 409 of TSCA, 15 U.S.C. § 2689.

8. The regulation at 40 C.F.R. § 745.84(a)(1) requires that firms performing renovations in any residential dwelling unit of target housing must, no more than sixty (60) days before beginning renovation activities, provide the owner with the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* and either obtain the owner’s written acknowledgment that the owner has received the pamphlet or obtain a certificate of mailing at least seven days prior to the renovation.

9. For the renovation of the Properties, Respondent failed to obtain either owner acknowledgement of receipt of the pamphlet or a certificate of mailing, as required by 40 C.F.R. § 745.84(a)(1)(i)-(ii). Respondent therefore violated Section 409 of TSCA, 15 U.S.C. § 2689.

10. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B). After considering these factors, EPA has determined, and Respondent agrees, that settlement of this matter for a civil penalty of one thousand six hundred dollars (\$1,600.00) is in the public interest.

11. Not more than thirty (30) days after the effective date of the Final Order, Respondent shall pay the penalty amount listed in Paragraph 10 by one of the following methods.

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

12. A copy of the signed agreement and check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov;

Mary Woodruff
Woodruff.Mary@epa.gov, and

Milady Peters, Paralegal
peters.milady@epa.gov.

By written notice to Respondent, EPA may change the address and/or persons listed above.

13. EPA is authorized to enter into this Expedited Settlement Agreement (“Agreement”), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).

14. In signing this Agreement, Respondent: (a) admits that it is subject to TSCA and its implementing regulations; (b) admits that EPA has jurisdiction over Respondent and Respondent’s conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any and all remedies, claims for relief and other available rights to judicial or administrative review Respondent may have with respect to any issue of fact or law set forth in this Agreement and Final Order, including the opportunity for a hearing or appeal pursuant to TSCA and 40 C.F.R. Part 22 and any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

15. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violations and is in compliance with Section 402 of TSCA, 15 U.S.C. § 2682, and its implementing regulations at 40 C.F.R. Part 745; (b) agrees to provide payment of the civil penalty set forth in Paragraph 11; (c) agrees to submit a true and accurate proof of payment of said civil penalty as set forth in Paragraph 12; and (d) agrees to release said payment to EPA upon entry of the Final Order attached hereto.

16. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in Paragraph 10, Respondent shall only be resolved of liability for federal civil penalties for the violations and facts alleged herein.

17. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

18. This Agreement does not affect the rights of EPA or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violations of law. EPA reserves its rights to take enforcement action for any other violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.

19. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection of the amount due plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.

20. Each party shall bear its own costs and fees, if any.

21. This Agreement, authorized by EPA's execution of the Final Order attached hereto, constitutes a final order under 40 C.F.R. Part 22.

22. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

23. Respondent consents to receiving the filed Agreement electronically at the following e-mail address: barnes6720870@gmail.com. Respondent understands that the Expedited Settlement Agreement and Final Order will become publicly available upon filing.

FOR THE RESPONDENT:



Signature

4-20-24

Date

Michael Barnes

Printed Name

OWNER

Title

FOR THE COMPLAINANT:

Jodi Bruno
Acting Director
Enforcement and Compliance Assurance Division

Date

Christopher Muehlberger
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of Section 16 of Toxic Substances Control Act, 15 U.S.C. § 2615, and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall comply with all terms of the Expedited Settlement Agreement;
2. Respondent is assessed a civil penalty of one thousand six hundred dollars (\$1,600.00);
and
3. Respondent shall, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, make payment via a certified or cashier's check or money order or through a wire transfer as described in the Expedited Settlement Agreement.

This Agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

Date

**CERTIFICATE OF SERVICE
(To be completed by EPA)**

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order, EPA Docket No. TSCA-07-2024-0066, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Mary Woodruff, Enforcement and Compliance Assurance Division
Woodruff.Mary@epa.gov

Milady Peters, Office of Regional Counsel
peters.milady@epa.gov

Copy via e-mail to Respondent:

Michael Barnes
Barnes Interior Remodeling, LLC
5012 Leavenworth Street
Omaha, Nebraska 68106
barnes6720870@gmail.com

Copy via e-mail to the State of Nebraska:

Doug Gillespie
Program Manager
Nebraska Department of Health and Human Services
Doug.Gillespie@nebraska.gov

Dated this _____ day of _____, _____.
