

comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart E, *Lead-Based Paint Renovation, Repair and Painting Rule*, (RRP Rule) promulgated pursuant to 15 U.S.C. §§ 2682, 2686 and 2687.

Section II

Parties

3. The Complainant, by delegation from the Administrator of EPA and the Regional Administrator, EPA, Region 7, is the Chief, Toxics and Pesticides Branch, EPA, Region 7.
4. The Respondent is an individual residing in Mexico, Missouri.

Section III

Statutory and Regulatory Background

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692.
6. On June 1, 1998, EPA promulgated information distribution and record keeping requirements codified at 40 C.F.R. Part 745, Subpart E, *Requirements for Hazard Education Before Renovation of Target Housing* (Pre-Renovation Education Rule or PRE Rule) pursuant to 15 U.S.C. § 2686. On April 22, 2008, EPA amended and re-codified the PRE Rule information distribution and recordkeeping requirements and promulgated additional regulations at 40 C.F.R. Part 745, Subpart E, *Lead-Based Paint Renovation, Repair and Painting Rule* (RRP Rule) pursuant to 15 U.S.C. §§ 2682, 2686 and 2687. The regulations aimed to protect the public from lead-based paint hazards associated with renovation, repair and painting activities. Under the RRP Rule each person or firm who performs for compensation a renovation of target housing or a child-occupied facility must be trained and certified by an EPA accredited training provider to

conduct renovation, remodeling and/or painting activities. Firms and individuals performing renovation, repair and painting projects for compensation that disturb lead-based paint must use certified renovators who follow specific work practices to prevent lead contamination. Prior to the start of renovation, the firm or individual performing the renovation must provide the owners and occupants of the target housing units subject to regulated renovation, repair, and/or painting a copy of the U.S. Environmental Protection Agency-approved *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* pamphlet, and maintain written acknowledgment that the pamphlet has been provided.

7. Section 402 of TSCA, 15 U.S.C. § 2682, requires that the Administrator of EPA promulgate regulations regarding the activities of individuals and contractors engaged in lead-based paint activities, including renovation of residences built prior to 1978, and regulations for the certification of such individuals and contractors.

8. EPA promulgated regulations regarding lead-based paint activities, including renovation of residences built prior to 1978, and regulations for the certification of individuals and firms who are involved in these activities. These regulations are found within 40 C.F.R. Part 745, Subpart E.

9. 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 six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling. 15 U.S.C. § 2681(17).

10. 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 this part (40 C.F.R. § 745.223). The term renovation includes

but is not limited to the following: 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 (e.g., walls, ceilings, 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. 40 C.F.R. § 745.83.

11. 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. 40 C.F.R. § 745.83.

12. 40 C.F.R. § 745.81(a)(2)(ii) states that on or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from EPA under § 745.89 in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in § 745.82.

13. 40 C.F.R. § 745.89(a)(1) states that firms that perform renovations for compensation must apply to EPA for certification to perform renovations or dust sampling.

14. Pursuant to 40 C.F.R. § 745.89(d)(2), firms performing renovations must ensure that a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90.

15. Pursuant to 40 C.F.R. § 745.81(a)(4)(ii), all renovations must be performed in accordance with the work practice standards in 40 C.F.R. § 745.85. The “Work Practice Standards” that must be followed by firms performing renovations on target housing are set forth at 40 C.F.R. § 745.85. The Work Practice Standards include, but are not limited to:

a. Occupant Protection. Firms 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. 40 C.F.R. § 745.85(a)(1).

b. Interior Renovations. Close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material. 40 C.F.R. § 745.85(a)(2)(i)(B). Close windows and doors in the work area. 40 C.F.R. § 745.85(a)(2)(i)(C). Cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area. 40 C.F.R. § 745.85(a)(2)(i)(D).

c. Exterior Renovations. Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. 40 C.F.R. § 745.85(a)(4)(i). At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris. 40 C.F.R. § 745.85(a)(4)(ii).

16. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

17. Failure to comply with any provision of 40 C.F.R. Part 745, Subpart E (RRP Rule) 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).

18. Section 16(a) of TSCA, 42 U.S.C. § 2615, and 40 C.F.R. § 745.87(d), authorize the EPA Administrator to assess a civil penalty of up to \$25,000 for each violation of Section 409 of TSCA. Each day that such a violation continues constitutes a separate violation of Section 15 of TSCA, 15 U.S.C. § 2614. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred after January 12, 2009.

Section IV

General Factual Allegations

19. Respondent is, and at all times referred to herein was, a “firm” and a “person” within the meaning of TSCA.

20. On April 9, 2015, pursuant to its authority under Section 11 of TSCA, 15 U.S.C. § 2610, a representative of the United States Environmental Protection Agency, Region 7 conducted an inspection of 1214 North Olive Street, Mexico, Missouri (hereinafter, “the Property”), where Respondent was in the process of conducting “renovations”, as defined by C.F.R. § 745.83, for compensation.

21. The Property was constructed before 1978.

22. The Property is “target housing” as defined by 40 C.F.R. § 745.103.

Section V

Violations

Count 1

23. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

24. At the time of the EPA inspection it was discovered that Respondent failed to apply for and obtain EPA certification prior to commencing the renovation for compensation on the Property, which is a violation of 40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a)(1).

25. Respondent's failure to apply to the EPA for certification pursuant to 40 C.F.R. § 745.89(a) prior to performance of the renovation on the Property is a violation of 40 C.F.R. § 745.81(a)(2)(ii). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 2

26. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

27. At the time of the EPA inspection it was discovered that Respondent failed to assign a certified renovator to the renovation activity, as required by 40 C.F.R. § 745.89(d)(2).

28. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 3

29. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

30. The EPA inspection revealed that Respondent failed to post protective signs as required by 40 C.F.R. §745.85(a)(1).

31. Respondent's failure to post signs clearly defining the work area and warning

occupants and other persons not involved in renovation to remain outside of the work area is a violation of 40 C.F.R. § 745.85(a)(1) pursuant to 40 C.F.R. § 745.81(a)(4)(ii). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 4

32. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

33. The EPA inspection revealed that Respondent failed to close and cover all duct openings in the work area with impermeable material as required by 40 C.F.R. § 745.85(a)(2)(i)(B).

34. Respondent's failure to Respondent's failure to close and cover all duct openings in the work area with impermeable material is a violation of 40 C.F.R. § 745.85(a)(2)(i)(B) pursuant to 40 C.F.R. § 745.81(a)(4)(ii). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 5

35. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

36. The EPA inspection revealed that Respondent failed to close windows and doors in the work area, cover doors with plastic sheeting or other impermeable material, and/or cover doors used as an entrance to the work with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area, as required by 40 C.F.R. §745.85(a)(2)(i)(C).

37. Respondent's failure to failure to close windows and doors in the work area, cover doors with plastic sheeting or other impermeable material, and/or cover doors used as an

entrance to the work with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area is a violation of 40 C.F.R. § 745.85(a)(2)(i)(C) pursuant to 40 C.F.R. § 745.81(a)(4)(ii). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 6

38. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

39. The EPA inspection revealed that Respondent failed to, cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area, as required by 40 C.F.R. § 745.85(a)(2)(i)(D).

40. Respondent's failure to cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area, is a violation of 40 C.F.R. § 745.85(a)(2)(i)(D) pursuant to 40 C.F.R. § 745.81(a)(4)(ii). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 7

41. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

42. The EPA inspection revealed that Respondent failed to contain waste from renovation activities to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal, as required by 40 C.F.R. § 745.85(a)(4)(i).

43. Respondent's failure to contain waste from renovation activities to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal, is a violation of 40 C.F.R. § 745.85(a)(4)(i) pursuant to 40 C.F.R. § 745.81(a)(4)(ii).

Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 8

44. The facts stated in Paragraphs 19 through 22 above are herein incorporated.

45. The EPA inspection revealed that Respondent failed to, at the conclusion of each work day and/or at the conclusion of the renovation, ensure that waste that has been collected from renovation activities is stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris, as required by 40 C.F.R. § 745.85(a)(4)(ii).

46. Respondent's failure to, at the conclusion of each work day and/or at the conclusion of the renovation, ensure that waste that has been collected from renovation activities is stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris, as required by 40 C.F.R. § 745.85(a)(4)(ii) pursuant to 40 C.F.R. § 745.81(a)(4)(ii). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Section VI

Consent Agreement

47. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.

48. Respondent neither admits nor denies the factual allegations set forth above.

49. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

50. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

51. Respondent certifies by the signing of this Consent Agreement and Final Order that it is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart E.

52. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a civil penalty as specified in the Final Order.

53. The effect of settlement described in paragraph 54 herein is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in paragraph 51 of this Consent Agreement and Final Order.

54. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a mitigated penalty, based on the Ability to Pay (ATP) determination, of Five Hundred Dollars (\$500) as set forth in Paragraph 1 of the Final Order. The ATP determination was based on the Respondent's Ability to Pay claim and financial information submitted to EPA. This financial information was reviewed, and it was determined that a mitigated civil penalty of five-hundred dollars (\$500) was appropriate. Payment of this civil penalty in full shall resolve all civil and administrative claims for all violations of Section 409 of TSCA, 15 U.S.C. 2689 and 40 C.F.R. Subpart E alleged in this document.

55. Respondent understands that its failure to timely pay any portion of the civil penalty described in Paragraph 1 of the Final Order below may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will

be charge for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

Section VII

Final Order

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a civil penalty of Five Hundred Dollars (\$500) within thirty (30) days of the effective date of this Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

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

2. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Raymond C. Bosch, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

3. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

4. This CAFO 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.

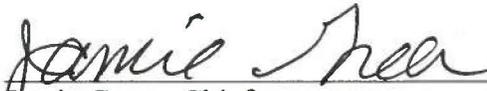
RESPONDENT:
BRADLEY REEDER
d/b/a Reeder Construction

Date: 7/20/16

By: 
Brad Reeder
Print Name

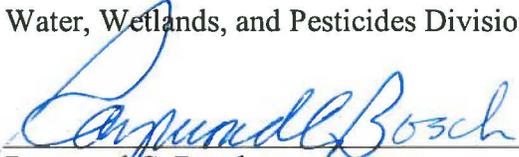
COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/26/2016



Jamie Green, Chief
Toxics and Pesticides Branch
Water, Wetlands, and Pesticides Division

Date: 9-26-2016



Raymond C. Bosch
Office of Regional Counsel

IT IS SO ORDERED.

Date: Sept. 26, 2016

Karina Borrromeo
Karina Borrromeo
Regional Judicial Officer
U.S. Environmental Protection Agency

IN THE MATTER Of Bradley Reeder d/b/a Reeder Construction, Respondent
Docket No. TSCA-07-2016-0027

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

bosch.raymond@epa.gov

Copy by First Class Mail to Respondent:

Bradley Reeder
d/b/a Reeder Construction
25058 Audrain Road 384
Mexico, Missouri 65265

Dated: 9/27/16


Kathy Robinson
Hearing Clerk, Region 7