

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

\_\_\_\_\_  
In the Matter of: )  
 )  
Rockwood Living, LLC )  
Avon Lake, Ohio )  
 )  
Respondent. )  
 )  
*Proceeding under Section 16(a) of the* )  
*Toxic Substances Control Act,* )  
*42 U.S.C. § 2615(a).* )  
\_\_\_\_\_ )

EPA Docket No. TSCA-05-2024-0006

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the U.S. Environmental Protection Agency (“EPA”), pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), alleges that Respondent, Rockwood Living, LLC, violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act (the “Act”), 42 U.S.C. § 4851 *et seq.*, and federal regulations promulgated pursuant to the Act, set forth at 40 C.F.R. Part 745, Subpart F.

This Consent Agreement and Final Order (“CAFO”) simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), at 40 C.F.R. Part 22. Complainant and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

**I. STATUTORY AND REGULATORY AUTHORITY**

1. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X), Pub.

L. 102-550, 106 Stat. 3897 (codified throughout sections of 15 U.S.C. and 42 U.S.C.), Congress found, among other things, that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under the age of 6; at low levels, lead poisoning in children causes intelligence 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.

2. 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.
3. Section 11 of TSCA, 15 U.S.C. § 2610, provides EPA with authority to conduct inspections upon the presentation of appropriate credentials and a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected.
4. Section 402(a) of TSCA, 15 U.S.C. § 2682(a), required 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.
5. Section 402(c) of TSCA, 15 U.S.C. § 2682(c), required 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, 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.

6. 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. § 754.87.
7. 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.
8. Under Sections 402, 404, 406 and 407 of TSCA, 15 U.S.C. §§ 2682, 2684, 2686 and 2687, EPA promulgated regulations amending 40 C.F.R. Part 745, Subparts E and L, Residential Property Renovation and Lead-Based Paint Activities, to prescribe procedures and requirements for the accreditation of training programs, certification of individuals and firms engaged in lead-based paint activities, and work practice standards for renovation, repair, and painting activities in target housing and child-occupied facilities. See 73 Fed. Reg. 21691 (April 22, 2008).
9. 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.
10. 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; the removal of building components; weatherization projects; and interim controls that disturb painted surfaces.

11. 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.
12. 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.
13. 40 C.F.R. Part 745, Subpart E, Residential Property Renovation, applies to all renovations performed for compensation in target housing and child-occupied facilities, with exceptions not relevant here. 40 C.F.R. § 745.82.
14. 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).
15. 40 C.F.R. § 745.89(d)(1) requires firms performing renovations in target housing to ensure that all individuals performing the renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with § 745.90.
16. Under 15 U.S.C. § 2689 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).

17. 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 \$48,512 per violation for each day of violation of Sections 15 and 409 of TSCA that occurred after November 2, 2015, and assessed after December 27, 2023.

## **II. GENERAL ALLEGATIONS**

18. Respondent is a limited liability company organized under the laws of the State of Ohio, with a place of business located at 32745 Walker Road, Suite B, Avon Lake, Ohio 44012.
19. At all times relevant to this CAFO, Respondent's limited liability corporation was a firm as defined by 40 C.F.R. § 745.83.
20. On or about July 23, 2019, Respondent performed a renovation and directed its employees to perform an interior renovation at 33393 Electric Boulevard, Units A1-16, Avon Lake, Ohio 44012 ("Property"), a multi-family building built in 1970.
21. Respondent is the owner of the Property and leases it to tenants for compensation.
22. On July 23, 2019, authorized EPA representatives arrived at the Property, and presented their federal inspector credentials and a written notice of inspection to Respondent's Agent-in-Charge with the intent to monitor Respondent's compliance with Sections 402 of TSCA.
23. The Agent-in-Charge telephoned Respondent requesting Respondent's approval to permit the EPA representatives access to the Property. Respondent directed its Agent-in-Charge to not permit the EPA representatives access to the Property.
24. On July 23, 2019, Respondent through its Agent-in-Charge did not permit the authorized EPA representative access to review or copy records necessary for Respondent to demonstrate compliance with 40 C.F.R. Part 745, Subpart E, and Section 407 of TSCA.

25. On August 21, 2019, Respondent's Agent-in-Charge telephoned the EPA Representatives explaining that an interior renovation was occurring during the July 23, 2019, renovation referenced in paragraph 20.
26. Based on the July 23, 2019, attempted inspection and subsequent communications with Respondent, as well as building-year information publicly available on the property value assessment website (accessed on July 23, 2019) of Lorain County (<https://www.loraincounty.com/auditor/>), Respondent performed, or directed workers to perform for compensation, the following modifications of existing structures that resulted in disturbances of painted surfaces in the following residential housing built prior to 1978.
27. Respondent performed or directed performance of modifications of the buildings' existing structures that resulted in disturbance of painted surfaces and, therefore, constituted renovations as defined in 40 C.F.R. § 745.83.
28. The interior renovation referenced in paragraph 20 was conducted at residential housing built prior to 1978 and, therefore, the residential housing is target housing as defined in 40 C.F.R. § 745.103.

### **III. VIOLATIONS**

29. Each of the three below-referenced violations alleged in this CAFO is a prohibited act under TSCA Section 409, 15 U.S.C. § 2689 and 40 C.F.R. § 745.118(e), and each is a violation for which penalties may be assessed pursuant to Section 16 of TSCA, 15 U.S.C. 2615.

#### **Count 1 – Failure or Refusal to Permit the EPA Representative Entry or Inspection**

30. Complainant incorporates paragraphs 1 through 29 of this CAFO as if set forth in this paragraph.
31. On July 23, 2019, Respondent refused to permit an EPA representative access to review or copy records necessary for Respondent to demonstrate compliance as required by 40 C.F.R. Part 745,

Subpart E and Section 407 of TSCA during an inspection.

32. Respondent's failure or refusal to permit the EPA representative access to review or copy records necessary for Respondent to demonstrate compliance as required by 40 C.F.R. Part 745, Subpart E and Section 407 of TSCA, constitutes a violation under 40 C.F.R. § 745.87(c) and Sections 11 and 15 of TSCA, 15 U.S.C. §§ 2610 and 2689.

**Count 2 – Failure to Obtain Firm Certification**

33. Complainant incorporates paragraphs 1 through 29 of this CAFO as if set forth in this paragraph.
34. 40 C.F.R. §§ 745.89(a) and 745.82(a)(2)(ii) require firms that perform, offer, or claim to perform renovations for compensation to obtain firm certification under EPA.
35. Respondent was not registered as a certified firm under EPA at the time of renovation at the Property referenced in paragraph 20 and did not qualify for an exemption under 40 C.F.R. § 745.82(b).
36. Respondent's failure to be registered as a certified firm before performing the renovation at the Property referenced in paragraph 20, constitutes a violation under 40 C.F.R. § 745.89(a) and 40 C.F.R. § 745.81(a)(2)(ii) and 15 U.S.C. § 2689.

**Count 3 - Failure to Ensure that all Individuals Working on Behalf of the Firm are either Certified Renovators or Trained by a Certified Renovator**

37. Complainant incorporates paragraphs 1 through 29 of this CAFO as if set forth in this paragraph.
38. The July 23, 2019, attempted inspection revealed that the employees under Respondent performing the renovation the Property referenced in paragraph 20 were not certified renovators or had been trained by a certified renovator.
39. Respondent failed to ensure that all individuals working on behalf of the firm at the Property referenced in paragraph 20 were either certified renovators or had been trained by a certified

renovator in accordance with 40 C.F.R. § 745.90.

40. Respondent's failure to ensure that all individuals working on behalf of the firm at the Property referenced in paragraph 20 were either certified renovators or had been trained by a certified renovator in accordance with 40 C.F.R. § 745.90, constitutes a violation of 40 C.F.R. § 745.89(d)(1), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.

#### **IV. TERMS OF SETTLEMENT**

41. This CAFO shall apply to and be binding upon Respondent, its successors and assigns.
42. Respondent stipulates that EPA has jurisdiction over the subject matter alleged herein and that the CAFO states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue. Without admitting or denying the factual allegations contained in this CAFO, Respondent consent for purposes of settlement to the terms of this CAFO.
43. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the CAFO and waives its right to appeal the Final Order accompanying this Consent Agreement.
44. Respondent certifies that it will operate its business in compliance with Section 409 of TSCA, 15 U.S.C. § 2689, the Act, and federal regulations promulgated under TSCA and the Act, including 40 C.F.R. Part 745, Subpart F.
45. Respondent consents to the issuance of this CAFO and for the purposes of settlement to the performance of a supplemental environmental project as described below.

#### **V. CIVIL PENALTY**

46. Respondent shall pay a civil penalty of six thousand one hundred thirty-seven (\$6,137). EPA has determined, consistent with statutory penalty criteria and applicable policies, and in conjunction



with Respondent's agreement to perform a Supplemental Environmental Project ("SEP"), that this is an appropriate settlement penalty based on the nature of the alleged violations and other relevant factors.

47. Respondent shall pay the penalty of \$6,137 dollars within 30 days of the effective date of this CAFO. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall reference "In the Matter of Rockwood Living LLC; Consent Agreement and Final Order, EPA Region 5," Respondent's name and address, and the EPA Docket Number of this action (TSCA-05-2024-0006), 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. Environmental Protection Agency  
Fines and Penalties  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:

U.S. Environmental Protection Agency  
Government Lockbox 979078  
3180 Rider Trail S.  
Earth City, Missouri 63045

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"

At the time of the payment, a copy of the check (or notification of other type of payment) shall also be sent to (copies may be sent by email):

Regional Hearing Clerk  
U.S. EPA, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Craig Meredith (ECP-17J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
[meredith.craig@epa.gov](mailto:meredith.craig@epa.gov)  
and  
[R5lecab@epa.gov](mailto:R5lecab@epa.gov)

Richard Murawski (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
[murawski.richard@epa.gov](mailto:murawski.richard@epa.gov)

48. If Respondent does not pay the civil penalty within 30 days of the effective date of the CAFO, Respondent shall pay interest on the late amount pursuant to 31 U.S.C. § 3717, plus any late charges to cover the cost of processing and handling the delinquent claim. The interest on the late amount shall be calculated at the rate of the U.S. Treasury tax and loan rate, in accordance with 31 C.F.R § 901.9(b)(2).
49. Nothing in this CAFO 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 agreement or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any applicable provision of law.
50. The civil penalty due, and any interest, non-payment penalties or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondents agree to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 U.S.C. §

1.162-21, and further agree not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

#### **V. SUPPLEMENTAL ENVIRONMENTAL PROJECT**

51. In response to the alleged violations of 40 C.F.R. Part 745 and in settlement of this matter, although not required by 40 C.F.R. Part 745 or any other federal, state, or local law, Respondent agrees to complete a supplemental environmental project (SEP), in accordance with the schedules set forth in the EPA-approved Work Plans further described in Attachment A.
52. The SEP is consistent with applicable EPA policy, specifically the "2015 Update to the 1998 U.S. Environmental Protection Agency Supplemental Environmental Projects Policy," dated March 10, 2015. The SEP advances at least one of the objectives of 40 C.F.R. Part 745 by identifying and abating lead-based paint in target housing thereby reducing the risk of lead-poisoning in children. The SEP is not inconsistent with any provision 40 C.F.R. Part 745. The SEP relates to the alleged violations and is designed to reduce the adverse impact to public health and the environment to which the alleged violations contribute and the overall risk to public health and the environment potentially affected by the alleged violations.
53. Respondent shall complete the SEP by hiring a licensed contractor to perform lead-based paint abatement activities (including lead-based paint abatement, inspection, and risk assessment) at the Property. These projects are further described in and shall be implemented in accordance with the Scope of Work attached to and incorporated into this CAFO as Attachment A (the "SOW").
54. Respondent agrees to spend at least \$6,530 on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.
55. Respondent certifies the truth and accuracy of each of the following:

- a. That its cost estimate of \$6,530, and any cost information provided to EPA in connection with EPA's approval of the SEP, is complete and accurate;
- b. That it will not include administrative costs or employee oversight of the implementation of the SEPs in its project costs;
- c. That, as of the date it signs this CAFO, it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement. or as injunctive relief awarded in any other action in any forum;
- d. That it has not received, and will not have received, credit for the SEP in any other enforcement action;
- e. That it will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That the SEP is not a project that it was planning or intending to perform, or implement other than in settlement of the claims resolved in this CAFO;
- g. That, for Federal Income Tax purposes, it will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP;
- h. That it is not party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in this CAFO; and it has inquired of the SEP Property receiving the SEP and the contractor implementing the SEP whether either entity is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the Property and contractor.
- i. That it selected the Property to receive the SEP; and
- j. That it selected the contractor(s) to assist with implementation of the SEP.

56. EPA may inspect the Property at any time to monitor Respondent's compliance with this CAFO's SEP requirements.
57. SEP Completion Report
- a. Respondent must submit a SEP Completion Report to EPA within 30 days of the completion of the SEP.
  - b. This SEP Completion Report must contain the following information, with supporting documentation:
    - i. A detailed description of the SEP as implemented;
    - ii. An itemization of all expenditures associated with the SEP;
    - iii. A description of the environmental and public-health benefits resulting from the SEP; and
    - iv. A certification that Respondent has fully implemented the SEP pursuant to the provisions of this CAFO. The appropriate corporate officer must sign the following statement: "I certify that Rockwood Living, LLC has fully implemented the SEP pursuant to the provisions of the CAFO. I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."
  - c. Respondent agrees that failure to submit the SEP Completion Report required by under this CAFO shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties as set forth in this CAFO.

- d. Respondent must submit the SEP Completion Report and all other notices and reports required by this CAFO, via email to Craig Meredith at [meredith.craig@epa.gov](mailto:meredith.craig@epa.gov).

58. EPA acceptance of SEP Completion Report

- a. Following receipt of the SEP Completion Report, EPA will notify Respondent, in writing, indicating:
  - i. That there are deficiencies in the SEP as completed or in the SEP Completion Report and that EPA will give Respondent 30 days (or more, if appropriate) to correct the deficiencies; and/or
  - ii. That Respondent has achieved satisfactory completion of the SEPs or the SEP Completion Report; and/or
  - iii. That Respondent has not achieved satisfactory completion of the SEPs or the SEP Completion Report.
- b. If EPA determines the SEP Completion Report to be deficient, but EPA has not yet made a final determination about the adequacy of the completion of the SEPs, Respondent may object in writing to EPA's notification of deficiency within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

59. Stipulated Penalties: If Respondent violates any requirement of this CAFO relating to the SEP, upon demand by EPA, Respondent must pay stipulated penalties to the United States as follows:

- a. Late SEP Completion: Except as provided in subparagraphs (b) and (c) below, if Respondent did not achieve satisfactory completion of the SEPs according to the requirements of this CAFO, Respondent agrees to pay the following per-day per-violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:
  - i. \$300 per day for days 1-30
  - ii. \$500 per day for days 31-60
  - iii. \$700 per day for days 61 and on
  
- b. Late SEP Completion Report: If Respondent did not timely submit a SEP Completion Report in accordance with the timelines set forth in this CAFO, Respondent agrees to pay the following per-day stipulated penalty for each day after the SEP Completion Report was due until Respondent submits the SEP Completion Report in its entirety:
  - i. \$200 per day for days 1-30
  - ii. \$300 per day for days 31-60
  - iii. \$400 per day for days 61 and on
  
- c. If Respondent fails to satisfactorily complete the SEP, which includes spending the minimum amount on the SEP set forth in paragraph 54 above, or otherwise abandons the SEP, Respondent shall pay a stipulated penalty to the United States in the amount of \$13,314. "Satisfactory completion" of the SEP means Respondent spent no less than \$6,530 to implement the SEP as set forth in the SOW. U.S. EPA, at its sole discretion, will determine whether Respondent has achieved satisfactory completion of the SEP.

- d. EPA, at its sole discretion, may waive or reduce its demand for a stipulated penalty.
  - e. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The instructions for payment shall be set forth in EPA's demand letter.
60. Any public statement, oral or written, in print, film, or other media, that Respondent or a representative of Respondent makes in reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language, "Rockwood Living, LLC undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Rockwood Living, LLC for alleged violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992."
61. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:
- a. Respondent must notify EPA in writing within ten days after learning of an event which caused or may cause a delay in completing any of the SEPs. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past, current, and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this subparagraph, Respondent will not receive an extension of time to complete the SEP.
  - b. If the parties agree that unforeseeable circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will agree to an extension of time.




- c. If EPA does not agree that unforeseeable circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delay in completing any of the SEP will not be excused.
- d. Respondent has the burden of proving that unforeseeable circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph (b) above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

## **VI. General Provisions**

- 62. The parties consent to service of this CAFO by e-mail at the following valid email addresses: [murawski.richard@epa.gov](mailto:murawski.richard@epa.gov) (for Complainant), and [rsirak@beneschlaw.com](mailto:rsirak@beneschlaw.com) (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.
- 63. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.
- 64. The 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 violation of law.
- 65. This CAFO does not affect Respondent's responsibility to comply with TSCA and other applicable federal, state and local laws. Except as provided in paragraph 63, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.
- 66. Respondent certifies that it is complying fully with 40 C.F.R. Part 745.
- 67. The terms of this CAFO bind Respondent, its successors and assigns.

68. Each person signing this consent 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.
69. Each party agrees to bear its own costs and attorneys' fees in this action.
70. This CAFO constitutes the entire agreement between the parties.

**Consent Agreement and Final Order  
In the Matter of: Rockwood Living, LLC, Respondent  
Docket No.: TSCA-05-2024-0006**

  
\_\_\_\_\_  
Nathan Gamellia  
Owner  
Rockwood Living, LLC

  
\_\_\_\_\_  
Date

**Consent Agreement and Final Order  
In the Matter of: Rockwood Living, LLC, Respondent  
Docket No.: TSCA-05-2024-0006**

**United States Environmental Protection Agency, Complainant**

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

**Consent Agreement and Final Order**  
**In the Matter of: Rockwood Living, LLC, Respondent**  
**Docket No.: TSCA-05-2024-0006**

**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.

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

Attachment A  
**Supplemental Environmental Project Scope of Work**  
*In the Matter of Rockwood Living, LLC*  
Docket Number TSCA-05-2024-0006

1. **Description of Project:** On or before May 20, 2024, Rockwood Living, LLC (“Respondent”) shall spend at least \$6,530 performing lead abatement activities in target housing owned by Respondent (including lead-based paint inspections, risk assessments, abatement, and pre-abatement testing and post-abatement inspection and reporting) located at 33393 Electric Boulevard, Units A1-16, Avon Lake, Ohio 44012 (“Property”). To complete the Supplemental Environmental Projects (“SEP”), Respondent shall perform the following work:
  - a. Hire a licensed paint risk assessor and inspector to conduct a comprehensive lead-based paint risk assessment and inspection (“Survey”) on all buildings/units at the Property constructed before 1978.
  - b. If the LBP survey shows that LBP is present in Unit A1, within 30 days of the completion of the LBP survey, submit a work plan (“Unit A1 Work Plan”) to EPA for review and approval for abatement of all LBP present in Unit A1 of the Property. Respondent shall abate all LBP in Unit A1 in accordance with the schedule set forth in the EPA-approved Unit A1 Work Plan.
  - c. If the LBP survey shows LBP in any other unit at the Property, within 60 days of the completion of the LBP survey, submit a work plan (“All Unit Work Plan”) to EPA for review and approval for abatement of LBP in any other unit on the Property. Respondent shall abate all LBP in all other units at the Property in accordance with the schedule set forth in the EPA-approved All Unit Work Plan.
2. **Standard of Care:** The SEPs shall be performed in accordance with State of Ohio, Revised Statutes for Lead Abatement (Title 38, Chapter 12-B, 1997). The SEPs also shall be performed in accordance with the United States Department of Housing and Urban Development Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing (2012) and any other applicable federal, state, or local law or regulation. All lead abatement work conducted for the SEPs is subject to routine inspections conducted by the Ohio Department of Health. The SEP work is subject to review and inspection by EPA, as well as clearance inspections.
3. **Schedule:** Respondent shall complete the SEPs on the following schedule:
  - a. At least five (5) days prior to commencement of any lead abatement work, Respondent shall provide to EPA copies of licenses or certifications required by Ohio Lead Abatement Requirements for all individuals and/or firms that will conduct lead abatement in fulfillment of SEP requirements;
  - b. Respondent shall complete the SEPs in accordance with the schedules set forth in the Unit A Work Plan and/or All Unit Work Plan.
4. **SEP Progress Report.** Respondent shall submit a written SEP Progress Report to EPA no later than sixty (60) days after commencing the SEP. The SEP Progress Report shall include:

- a. a detailed description of the work completed to date;
  - b. sampling results (if any) generated to date;
  - c. total cost of work undertaken to date;
  - d. any problems encountered during the abatement and the solutions thereto; and
  - e. the work that is expected to be performed to conclude the SEPs.
5. **SEP Completion Report.** Within thirty (30) days of completing the SEP, Respondent shall submit a SEP Completion Report containing the following information:
- a. a detailed description of the SEP as implemented, including cleaning verification information and before and after photographs;
  - b. a description of any implementation problems encountered during the last reporting period and the solutions thereto;
  - c. itemized costs, documented by copies of invoices, purchase orders, receipts, canceled checks, or wire transfer records that specifically identify and itemize the individual costs associated with the SEP. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such; and
  - d. an explanation of the environmental benefits of the SEP.
6. **Compliance with Applicable Laws.** The completion of the SEP discussed in this Scope of Work shall not relieve the Respondents of their obligations to comply with all applicable provisions of federal, state, or local law.