

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of :
:
MC Contracting, Paint, & Roofing, LLC :
dba M.C. Painting & Contractor and :
M.C. Painting Group, :
:
Respondent :
:
Proceeding under Section 16(a) of :
the Toxic Substances Control Act :
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CONSENT AGREEMENT
AND
FINAL ORDER

Docket No.
TSCA-02-2016-9167

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U.S. Environmental Protection Agency

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (hereinafter "Consolidated Rules of Practice"). Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order ("CA/FO") pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant and Respondent agree that settling this matter by entering into this CA/FO, pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.18(b)(3) of the Consolidated Rules of

Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is MC Contracting, Paint, & Roofing, LLC (“hereinafter “Respondent” or “MC Painting”).
2. Respondent also does business as M.C. Painting & Contractor and M.C. Painting Group.
3. Respondent’s primary place of business is located at 7607 Bradford Street, Philadelphia, PA 19152.
4. Respondent is a “firm” as that term is defined at 40 C.F.R. § 745.83.
5. Respondent is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Section 402 of TSCA, 15 U.S.C. § 2682, and set out at Title 40 of the Code of Federal Regulations (C.F.R.) Part 745, Subpart E (the “Renovation, Repair, and Painting Rule”) (the “RRP Rule”).
6. The RRP Rule requires that firms conducting renovations (as defined at 40 C.F.R. § 745.83) in target housing must undertake such renovations in accordance with the work practice standards of 40 C.F.R. Part 745, Subpart E.
7. Under Section 409 of TSCA, 15 U.S.C. § 2689, it is a violation for a firm conducting renovation, repair or painting work in target housing, subject to the requirements of 40 C.F.R. Part 745, to violate any requirement of the RRP Rule.
8. From at least September 24, 2013, to October 18, 2013, Respondent conducted renovation, repair and/or painting activities in a private residence located at 132 East Oak Avenue, Moorestown, N.J. (the “Property”).
9. The Property is considered “target housing” as defined at Section 401 of TSCA, 15 U.S.C. § 2681 and Section 40 C.F.R. §745.103.

10. On September 24, 2013, October 11, 2013, and October 18, 2013, an inspector from the Burlington County Health Department (“BCHD”) conducted inspections (“BCHD Inspections”) of the Respondent conducting renovation, repair and/or painting work at the Property.

11. On or about September 26, 2013, a tip/complaint was submitted by BCHD to the EPA Region 2 Lead Team alleging that Respondent was not complying with the RRP Rule while conducting renovation, repair and/or painting activities at the Property.

12. On October 21, 2013, an EPA inspector conducted a desktop inspection and contacted Respondent by phone and email requesting additional information regarding Respondent’s residential work at the Property at the time of BCHD’s inspection (“EPA’s Inspection”).

13. Based on BCHD’s and EPA’s Inspections, EPA determined that at the time of BCHD’s Inspection, Respondent violated:

- a) 40 C.F.R. § 745.89(a) pursuant to 40 CFR § 745.81(a)(2)(ii) - Respondent was not a certified firm at the time of its renovation of the Property during BCHD’s Inspection;
- b) 40 C.F.R. § 745.84(a)(1) - Respondent failed to provide a lead hazard pamphlet to the owner/occupant of the Property;
- c) 40 C.F.R. § 745.85(a)(1) - Respondent failed to post signs outside clearly defining the renovation work area;
- d) 40 C.F.R. § 745.85(a)(2)(ii)(C) - Respondent failed to cover the ground in the renovation work area with impermeable plastic sheeting for 10 feet in all directions;
- e) 40 C.F.R. § 745.85(a)(4)(ii) - Respondent failed to store waste under

containment at the conclusion of the workday; and

- f) 40 C.F.R. § 745.85 – Respondent failed to establish and maintain records documenting compliance.

14. Respondent's failures to comply with the provisions of the RRP Rule, as described in the previous paragraph, constitute independently-assessable violations of §§ 402 and 409 of TSCA, 15 U.S.C. §§ 2682 and 2689.

CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

1. Respondent shall hereinafter maintain compliance with all applicable statutory provisions of TSCA, 15 U.S.C. § 2601 et seq. and its implementing regulations.
2. Respondent certifies that it is currently in compliance with the statutory provisions of TSCA and the RRP Rule codified at 40 C.F.R. § 745, Subpart E.
3. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) to commence a civil administrative proceeding for the violations described in the "Findings of Fact and Conclusions of Law" section, above, and (b) neither admits to nor denies the specific factual allegations contained in the "Findings of Fact and Conclusions of Law" section, above.
4. Respondent shall pay, by cashier's or certified check or electronic fund transfer, a civil penalty in the amount of **THREE THOUSAND DOLLARS (\$3,000)** according to the following schedule: