

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

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7  
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**BEFORE THE ADMINISTRATOR**

**In the Matter of**

**Housemasters Contracting Co.,**

**Respondent.**

**Docket No. TSCA-07-2015-0014**

**CONSENT AGREEMENT AND FINAL ORDER**

The U.S. Environmental Protection Agency (EPA), Region 7 and Housemasters Contracting Co., have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Renovation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

**Section I**

**Jurisdiction**

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to 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 Housemasters Contracting Company, a Company in good standing under the laws of the state of 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. Section 406 of TSCA, 15 U.S.C. § 2686, requires that the Administrator of EPA promulgate regulations to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

10. EPA promulgated regulations requiring each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation. These regulations are found within 40 C.F.R. Part 745, Subpart E.

11. 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).

12. 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, planning thresholds to install weather stripping), and interim controls that disturb painted surfaces. 40 C.F.R. § 745.83.

13. 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

14. 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.

15. 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. Certification. 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 §745.90. 40 C.F.R. § 745.89(d)(2).

b. Information distribution requirements. Not more than 60 days before beginning renovation activities in common areas of multi-unit target housing, the firm performing the renovation must provide the owner with the pamphlet, and comply with one of the following: obtain, from the owner, a written acknowledgment that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation. 40 C.F.R. § 745.84(b)(1).

c. 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 verifications have been completed. 40 C.F.R. § 745.85(a)(1).

16. 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).

17. 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**

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

19. Respondent acted as General Contractor on interior and exterior renovations that occurred at 4247-4249 Russell Boulevard, St. Louis, Missouri, which included regulated RRP activities.

20. On March 27, 2014, 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 a work practices inspection of Housemasters Contracting Company's "renovation" activities, as defined by C.F.R. § 745.83, performed at 4247-4249 Russell Boulevard, St. Louis, Missouri.

21. The Property was constructed before 1978.

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

23. The EPA inspection found that the Respondent had failed to follow some RRP Rules in the work area.

24. At the time of the EPA inspection, the EPA found that no children were present at or lived at the property during the renovation activities.

### Violations

25. The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder, as follows:

### Count 1

26. The facts stated in Paragraphs 18 through 24 above are herein incorporated.

27. At the time of the EPA inspection, it was discovered that Respondent failed to provide the owner of the multi-family housing with EPA approved lead hazard information pamphlet, which is a violation of 40 C.F.R. § 745.84(b)(1).

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 2**

29. The facts stated in Paragraphs 18 through 24 above are herein incorporated.

30. At the time of the EPA inspection, it was discovered that Respondent failed to post signs clearly defining the work area and warning occupants and others not involved in the renovation activity to remain outside of the work area, which is a violation of 40 C.F.R. § 745.85(a)(1).

31. 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**

32. The facts stated in Paragraphs 18 through 24 above are herein incorporated.

33. At the time of the EPA inspection, it was discovered that Respondent, a firm that performs renovations for compensation, did not apply to EPA for certification to perform renovations or dust sampling, which is a violation of 40 C.F.R. § 745.89(a)(1).

34. 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.

**Section V**

**Consent Agreement**

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



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

37. 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.

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

39. 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.

40. Respondent certifies by the signing of this CAFO that it is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart E.

41. The effect of settlement described in the following paragraph is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in the immediately preceding Paragraph of this CAFO.

42. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty of Zero Dollars (\$0) based on the Ability to Pay (ATP) determination. 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 Respondent cannot pay any portion of the proposed penalty at this time.

## **Section VI**

### **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, in settlement of the allegations set forth in the complaint, shall not be assessed a civil penalty.

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

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.

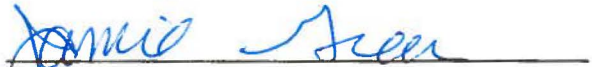
**RESPONDENT**  
Housemasters Contracting Company

Date: 7/24/15

By:   
\_\_\_\_\_  
Scott Allen  
for Housemasters Contracting Company

**COMPLAINANT**  
**U. S. ENVIRONMENTAL PROTECTION AGENCY**

Date: 8/13/2015



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

Date: 8/13/15



Lucretia Myers  
Assistant Regional Counsel  
Office of Regional Counsel

IT IS SO ORDERED. This Order shall become effective immediately.

Date: 8-17-15

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

IN THE MATTER OF Housemasters Contracting Co., Respondent  
Docket No. TSCA-07-2015-0014

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 by email to Attorney for Complainant:

myers.lucetia@epa.gov

Copy by First Class Mail to:

Mr. Scott Allen  
Housemasters Contracting Co.  
2812 Accomac St.  
St. Louis, Missouri 63104

Dated: 8/17/15



Kathy Robinson  
Hearing Clerk, Region 7