



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 22 2017

REPLY TO THE ATTENTION OF:

LC-17J

Copy by E-mail to Respondent:
mirekconstruction@gmail.com

Mr. Miroslaw Skora / President
Miron Masonry Company
P.O. Box 463
Park Ridge, Illinois 60068

Consent Agreement and Final Order in the Matter of:
Miron Masonry Company: Docket No. **TSCA-05-2017-0003**

Mr. Skora:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on 5/22/2017 with the Regional Hearing Clerk.

The civil penalty in the amount of \$100.00 is to be paid in the manner described in paragraph's 40 & 41. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Bessler", written over a horizontal line.

Scott Bessler
Physical Scientist
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Miron Masonry Company
Park Ridge, Illinois,

Respondent



Docket No. TSCA-05-2017-0003

Proceeding to Assess a Civil Penalty
Under Section 16(a) of the Toxic Substances
Control Act, 15 U.S.C. § 2615(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. The Complainant is, by lawful delegation, the Acting Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region 5.
3. Respondent is Miron Masonry Company, located at 1848 Norman Boulevard, Park Ridge, Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the general allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, at 42 U.S.C. § 4851 *et seq.*, 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.

10. Section 1021 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 amended TSCA by adding Subchapter IV – Lead Exposure Reduction.

11. Section 402(a) of TSCA, 15 U.S.C. § 2682, 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; and that contractors engaged in such activities are certified.

12. Section 407 of TSCA, 15 U.S.C. § 2687, required that the regulations promulgated by the Administrator include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of TSCA Subchapter IV.

13. In 1996, EPA promulgated regulations to implement Section 402(a) of TSCA, 15 U.S.C. § 2682(a). These regulations are set forth at 40 C.F.R. Part 745, Subpart L. In 1998, EPA promulgated regulations to implement Section 406(b) of TSCA, 15 U.S.C. § 2686(b). These regulations are set forth at 40 C.F.R. Part 745, Subpart E. In 2008, EPA promulgated regulations to implement Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), by amending 40 C.F.R. Part 745, Subparts E and L (the “Renovation, Repair and Painting Rule” or the “RRP Rule”).

14. 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.

15. 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 (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.

16. 40 C.F.R. § 745.103 defines *residential dwelling* to mean a single family dwelling, including attached structures such as porches and stoops; or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

17. 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.

18. 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 in target housing or child occupied facilities without certification from EPA under 40 C.F.R. § 745.89 unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82(a) or (c).

19. 40 C.F.R. § 745.81(a)(4)(ii) requires that on or after July 6, 2010, all renovations must be performed in accordance with the work practice standards in 40 C.F.R. § 745.85 and the associated recordkeeping requirements in 40 C.F.R. § 745.86(b)(1) and (b)(6) in target housing or child-occupied facilities, unless the renovation qualifies for the exception identified in 40 C.F.R. § 745.85(a).

20. 40 C.F.R. § 745.85(a) requires that renovations must be performed by certified firms using certified renovators as directed in 40 C.F.R. § 745.89. The responsibilities of certified firms are set forth in 40 C.F.R. § 745.89(d) and the responsibilities of certified renovators are set forth in 40 C.F.R. § 745.90(b).

21. Pursuant to Section 409 of TSCA, 15 U.S.C. § 2689, it is unlawful for any person to

fail to comply with any rule issued under Subchapter IV of TSCA (such as the RRP Rule).

22. Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with a requirement of the RRP Rule is a violation of Section 409 of TSCA.

23. 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, 15 U.S.C. § 2689. Each day that such a violation continues constitutes a separate violation of Section 409 of TSCA. 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.

General Allegations

24. Respondent is a company doing business in the State of Illinois.

25. Respondent, being a company, and at all times referred to herein, was a *firm* as defined by 40 C.F.R. § 745.83.

26. In October 2014, EPA received a tip/complaint regarding Respondent's compliance with Section 402 and 406(b) of TSCA.

27. Based on information provided by the tip/complaint, Respondent performed, or directed workers who performed, modifications of existing structures that resulted in disturbances of painted surfaces as detailed below.

Housing Address	Year Built	Work	Date(s) Work Performed
1736 West Crystal Street, Chicago, Illinois	1881	Drilling, cutting and removal of brick for the installation of a second and first story opening on the east side of the property.	September 10-12, 2014

28. The housing, addressed above, was residential housing.

29. The residential housing was built prior to 1978.

30. Therefore, the residential housing was *target housing* as defined at 40 C.F.R. § 745.103.

31. The Work referenced in Paragraph 27 above was a *renovation* as defined at 40 C.F.R. § 745.83.

32. Among all of the pictures and videos provided to EPA with the tip/complaint, the ground is not covered with plastic sheeting or other disposable impermeable material between residences.

33. Among all of the pictures and videos provided to EPA with the tip/complaint, there is no vertical containment or equivalent extra precautions erected between residences.

34. The pictures and videos provided to EPA with the tip/complaint show that a light-colored dust covers multiple surfaces on the adjacent property—windows, window sills, roof, front steps, plants, ground, and air conditioner—as well as the surface of a vehicle parked on the street.

Counts

35. **Count 1**: Respondent performed, offered, or claimed to perform a renovation at 1736 West Crystal Street, Chicago, Illinois, but failed to first obtain from EPA the certification in violation of 40 C.F.R. § 745.89, 40 C.F.R. § 745.81(a)(2)(ii), 40 C.F.R. § 745.87(a) and 15 U.S.C. § 2689.

36. **Count 2**: Respondent performed, offered, or claimed to perform a renovation at 1736 West Crystal Street, Chicago, Illinois, but failed to cover the ground with plastic sheeting or other disposable impermeable material extending beyond the perimeter of surfaces undergoing renovation a sufficient distance to collect falling paint debris for the activities described in

paragraph 27, above, in violation of 40 C.F.R. § 745.85(a)(2)(ii)(C), 40 C.F.R. § 745.81(a)(4)(ii), 40 C.F.R. § 745.87(a) and 15 U.S.C. § 2689.

37. **Count 3**: Respondent performed, offered, or claimed to perform a renovation at 1736 West Crystal Street, Chicago, Illinois, but failed to take extra precautions in containing the work area to ensure that dust and debris from the renovation did not contaminate other buildings or other areas of the property or migrate to adjacent properties for the activities described in paragraph 27, above, in violation of 40 C.F.R. § 745.85(a)(2)(ii)(D), 40 C.F.R. § 745.81(a)(4)(ii), 40 C.F.R. § 745.87(a) and 15 U.S.C. § 2689.

38. Respondent's failures described in paragraphs 35-37 constitute three violations of 40 C.F.R. Part 745 and 15 U.S.C. § 2689.

Civil Penalty

39. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$100. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violation or violations alleged and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require. Complainant also considered EPA's Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule, dated August 19, 2010.

40. Within 30 days after the effective date of this CAFO, Respondent must pay a \$100 civil penalty for the TSCA violations sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state "In the Matter of Miron Masonry Company" and the Docket Number of this CAFO.

41. A transmittal letter stating Respondent's Name, Address, Case Title, Case Docket Number and the Billing Document Number must accompany each payment. Respondent must send a copy of each check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Scott Bessler (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Mark Koller (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

42. This civil penalty is not deductible for federal tax purposes.

43. If Respondent does not pay timely the penalty as set forth in paragraph 39, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

44. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

45. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: koller.mark@epa.gov (for Complainant), and mirekconstruction@gmail.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

46. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations alleged in the CAFO.

47. This 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 violations of law.

48. This CAFO does not affect Respondent’s responsibility to comply with TSCA, regulations promulgated thereunder, and other applicable federal, state, and local laws.

49. Respondent certifies that it is complying with TSCA and regulations promulgated thereunder.

50. The terms of this CAFO bind Respondent, and its successors and assigns.

51. Each person signing this 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.

52. Each party agrees to bear its own costs and attorney's fees in this action.
53. This CAFO constitutes the entire agreement between the parties.

In the Matter of: Miron Construction Company
Docket No. TSCA-05-2017-0003

Miron Construction Company, Respondent

04.10.2017
Date

Mirosław Skora
Mirosław Skora, President
Miron Construction Company

United States Environmental Protection Agency, Complainant

05/18/2017
Date

Ignacio L. Arrázola
Ignacio L. Arrázola
Acting Director
Land and Chemicals Division

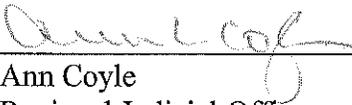
In the Matter of: Miron Masonry Company

Docket No. TSCA-05-2017-0003

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.

May 19, 2017
Date


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

In the matter of: Miron Masonry Company

Docket Number: **TSCA-05-2017-0003**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order** which was filed on 5/22/2017 in the following manner to the addressees:

Copy by E-mail to Respondent:
mirekconstruction@gmail.com

Copy by E-mail to
Attorney for Complainant:

Mark Koller
koller.mark@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: 5/22/2017



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5