

failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart E, *Residential Property Renovation*, promulgated pursuant to Title IV (15 U.S.C. 2681-2692) of TSCA

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 Waters Restoration Inc., 3635 Tamm Avenue, St. Louis, 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. Section 406(b) of the law directed EPA to issue regulations requiring that compensated renovators distribute an approved lead information pamphlet to owners and occupants of housing constructed before the phase out of residential lead-based paint use in 1978 before beginning renovations. The regulations became effective on June 1, 1999 and are codified at 40 C.F.R. Part 745 Subpart E. The failure or refusal to comply with the regulations is a violation of Section 409 of TSCA.

Section IV

Violation

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

7. Respondent is and at all times referred to herein was a "person" within the meaning of TSCA.

8. Respondent is a "renovator" who performed "renovations" as defined by 40 C.F.R. § 745.83 for compensation.

9. Respondent performed renovations on properties at: 3943-3945 Keokus St., St. Louis, Missouri on or about August 21, 2009; 301 Carthage Avenue, St. Louis, Missouri on or about August 20, 2008; and, 3249 Walter Avenue, St. Louis, Missouri on or about July 25, 2009. These properties were constructed before 1978.

10. These properties are "target housing" as defined by 40 C.F.R. § 745.103.

11. Respondent failed to provide the owners and/or occupants of the properties listed in Paragraph 9, above, with an EPA-approved lead hazard information pamphlet and obtain a written acknowledgement or certificate of mailing prior to the commencement of renovation activities at the property.

12. Respondent's failure to perform the acts indicated in Paragraph 11 above are violations of 40 C.F.R. § 745.85(a) and 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.

Consent Agreement

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

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

15. 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.

16. 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.

17. 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.

18. Respondent consents to the issuance of the Final Order hereinafter.

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:**

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.

3. The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

4. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas, 66101.

IN THE MATTER OF Waters Restoration Inc.
Docket No. TSCA-07-2010-0024

RESPONDENT
WATERS RESTORATION INC.

Date: 9/7/10

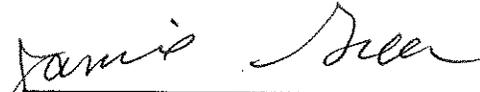
By: Michael D. Waters

MICHAEL D. WATERS
Print Name

PRESIDENT
Title

COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/16/10

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

Date: 9/16/10

By: 
Kent Johnson, Senior Assistant Regional Counsel
Office of Regional Counsel

IN THE MATTER OF Waters Restoration Inc.
Docket No. TSCA-07-2010-0024

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

Date:

Sept. 17, 2010. 

ROBERT L. PATRICK
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

IN THE MATTER OF Waters Restoration Inc., Respondent
Docket No. TSCA-07-2010-0024

CERTIFICATE OF SERVICE

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

Copy hand delivered to
Attorney for Complainant:

Kent Johnson
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Michael D. Waters, President
Waters Restoration Inc.
3635 Tamm Avenue
St. Louis, Missouri 63109

Dated: 9/17/10


Kathy Robinson
Hearing Clerk, Region 7