

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7

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

2019 APR 17 AM 9:41

In the Matter of)
)
Blackhawk Developments LLC,) Docket No. TSCA-07-2019-0170
)
Respondent.)

**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

COMPLAINT

Jurisdiction

1. This Complaint and Notice of Opportunity for Hearing (“Complaint”) serves as notice that the United States Environmental Protection Agency, Region 7 (“EPA” or “Complainant”), has reason to believe that Respondent has violated Section 409 of the Toxic Substances Control Act (“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*, promulgated pursuant to 15 U.S.C. §§ 2682, 2686, and 2687.

2. This administrative action for the assessment of civil penalties is instituted pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the EPA’s 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 (“Consolidated Rules”), a copy of which is enclosed along with this Complaint.

Parties

3. Complainant, by delegation from the Administrator of the EPA and the Regional Administrator, EPA Region 7, is the Chief of the Toxics and Pesticides Branch, EPA, Region 7.

4. Respondent is Blackhawk Developments LLC, is a limited liability company operating under the laws of the state of Missouri.

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. One of the stated purposes of the Act is to implement a broad program to reduce lead-based paint hazards in the Nation's housing stock. 42 U.S.C. § 4851a(2). The Act amended TSCA by adding *Title IV—Lead Exposure Reduction*, Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692.

6. 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 residence built prior to 1978, and regulations for the certification of such individuals and contractors.

7. Pursuant to Section 402(a) of TSCA, 15 U.S.C. § 2682(a), the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart L, *Lead Based Paint Activities*. See *Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities*, 61 Fed. Reg. 45778, 45813 (Aug. 29, 1996). Pursuant to Section 406(b) and Section 407 of TSCA, 15 U.S.C. § 2686(b) and 2687, the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart E, *Residential Property Renovation*. See *Lead; Requirements for Hazard Education Before Renovation of Target Housing*, 63 Fed. Reg. 29908, 29919 (June 1, 1998). Finally, pursuant to Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), the EPA amended and re-codified regulations at 40 C.F.R. Part 745, Subparts E and L, and added additional regulations at 40 C.F.R. Subpart L (“Renovation, Repair, and Painting Rule”). See *Lead; Renovation, Repair, and Painting Program*, 73 Fed. Reg. 21692, 21758 (Mar. 31, 2008).

8. The regulations set forth at 40 C.F.R. Subpart E, *Residential Property Renovation*, including the Renovation, Repair, and Painting Rule, require that owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before renovations begin, establish work practice standards for renovations that disturb painted surfaces in target housing and child-occupied facilities and requires that firms and individuals performing, offering, or claiming to perform such renovations are properly trained and obtain EPA certification.

9. The requirements set forth in the regulations at 40 C.F.R. Subpart E, *Residential Property Renovation*, apply to all renovations performed for compensation in target housing and child-occupied facilities, unless otherwise excluded as set forth in 40 C.F.R. § 745.82.

10. The regulation at 40 C.F.R. § 745.83 defines “renovation” as 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 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, planing thresholds to install weather stripping); and interim controls that disturb painted surfaces.

11. Section 401(17) of TSCA, 15 U.S.C. § 2681(17), defines “target housing” as any

housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any child who is less than six years of age resides or is expected to reside in such housing).

12. The regulation at 40 C.F.R. § 745.83 defines “firm” as 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.

13. The regulation at 40 C.F.R. § 745.83 defines “person” as any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

14. The regulation at 40 C.F.R. § 745.87(a) provides that failure or refusal to comply with any provision of 40 C.F.R. Part 745, Subpart E, is a violation of Section 409 of TSCA, 15 U.S.C. § 2689. Section 409 of TSCA, 15 U.S.C. § 2689, provides that it shall be unlawful for any person to fail to comply with, *inter alia*, any provision of 40 C.F.R. Part 745, Subpart E.

General Factual Allegations

15. On or about April 24, 2018, and pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the EPA conducted an inspection at 4222 Hartford Street in St. Louis, Missouri (“the Property”) to evaluate Respondent’s compliance with TSCA and the requirements of the Renovation, Repair, and Painting Rule (“EPA inspection”). A copy of the inspection report was mailed to Respondent on August 10, 2018.

16. At all times relevant to this Complaint, the Property was “target housing” as defined by Section 401(17) of TSCA, 15 U.S.C. § 2681(17). The EPA inspection and subsequent investigation revealed that the Property was built in 1908.

17. Respondent is, and at all times referred to herein was, a company doing business in the state of Missouri.

18. Respondent is, at all times referred to herein, was a “person” and a “firm” as defined by 40 C.F.R. § 745.83.

19. At the time of the EPA inspection, and at all times referred to herein, Respondent was engaged in a “renovation” of the Property as defined by 40 C.F.R. § 745.83. The EPA inspection revealed that Respondent was removing, modifying or repairing painted surfaces when sanding and repainting stairs and removing and installing windows, and was removing building components for new plumbing, bathrooms, electrical, roof, and HVAC system.

20. At all times referred to herein, Respondent’s renovation was a “renovation for compensation” per 40 C.F.R. § 745.82(a).

21. As a result of the EPA inspection and additional information obtained by the Agency, Complainant has determined that violations of the Renovation, Repair, and Painting Rule, 40 C.F.R. Part 745, Subpart E, and Section 409 of TSCA, 15 U.S.C. § 2689, occurred as a result of Respondent's renovation activities at the Property.

Alleged Violations

22. Complainant hereby states and alleges that Respondent has violated TSCA and the federal regulations promulgated thereunder as follows:

Count 1

23. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

24. Pursuant to 40 C.F.R. § 745.89(a)(1), firms performing renovations for compensation must apply to EPA for certification to perform renovations. With certain exceptions not relevant here, 40 C.F.R. § 745.81(a)(2)(ii) prohibits firms from performing, offering, or claiming to perform renovations without certification from EPA in target housing or child-occupied facilities.

25. At the time of the EPA inspection, the inspector requested a copy of Respondent's firm's certification. Respondent was not able to provide a copy of the firm's certification and stated that the firm was not an EPA certified renovation firm. A review of the Federal Lead-Based Paint Program database revealed that at the time of the inspection, Respondent had not applied for firm certification.

26. Respondent's failure to apply to the EPA for certification in accordance with 40 C.F.R. § 745.89(a)(1) prior to performance of the renovation on the Property is a violation of 40 C.F.R. § 745.81(a)(2)(ii). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 2

27. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

28. Pursuant to 40 C.F.R. § 745.89(d)(2), firms must assign a certified renovator to each renovation performed by the firm and ensure the discharge of all the certified renovator responsibilities identified in 40 C.F.R. § 745.90.

29. At the time of the EPA inspection, the inspector requested a copy of the certified renovator's certificate that was assigned to the renovation. Respondent was not able to provide a copy of a certified renovator's certificate and stated that he was not a certified renovator.

30. Respondent's failure to assign a certified renovator to the renovation of the Property and ensure the discharge all the certified renovator responsibilities is a violation of 40 C.F.R. § 745.89(d)(2). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. §2689.

Count 3

31. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

32. Pursuant to 40 C.F.R. § 745.84(a)(1), prior to renovation activities but no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must provide the owner of the unit with the EPA approved pamphlet.

33. At the time of the EPA inspection, the inspector requested an example of the Renovate Right brochure and Pre-renovation Education material receipt documentation used by the firm. Respondent was not able to provide an example and stated that an EPA approved pamphlet was not provided to the Property owner.

34. Respondent's failure to provide the Property owner with the EPA approved pamphlet is a violation of 40 C.F.R. § 745.84(a)(1). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 4

35. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

36. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. The work practice standard at 40 C.F.R. § 745.85(a)(1) requires firms to 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.

37. At the time of the EPA inspection, the inspector observed that there were no signs posted clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area.

38. Respondent's failure to ensure that warning signs were posted in accordance with 40 C.F.R. § 745.85(a)(1) is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 5

39. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

40. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. The work practice standard at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal.

41. At the time of the EPA inspection, the inspector observed uncontained waste from renovation activities, including paint chips and debris in the front yard, and painted wood waste in the dumpster.

42. Respondent's failure to ensure that waste from renovation activities was contained in accordance with 40 C.F.R. § 745.85(a)(4)(i) is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 6

43. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

44. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. The work practice standard at 40 C.F.R. § 745.85(a)(2)(i)(B) requires firms to close and cover all duct openings in the work area with impermeable material before beginning the renovation.

45. At the time of the EPA inspection, the inspector observed duct openings in the work area that were not closed and covered with impermeable material.

46. Respondent's failure to ensure that duct openings were closed and covered with impermeable material in accordance with 40 C.F.R. § 745.85(a)(2)(i)(B) is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 7

47. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

48. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. The work practice standard at 40 C.F.R. § 745.85(a)(2)(i)(D) requires firms to cover the floor surface with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or sufficient distance to contain the dust, whichever is greater.

49. At the time of the EPA inspection, the inspector observed no impermeable material on the floor surface in the work area.

50. Respondent's failure to ensure the floor surface of the work area was covered with impermeable material in accordance with 40 C.F.R. § 745.85(a)(2)(i)(D) is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 8

51. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

52. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. The work practice standard at 40 C.F.R. § 745.85(a)(2)(i)(C) requires firms to cover doors with plastic sheeting or other impermeable material.

53. At the time of the EPA inspection, the inspector observed that the front entry door and the rear entry door, both being used as an entry to the work area, were not covered with impermeable material.

54. Respondent's failure to ensure that the doors with impermeable material in accordance with 40 C.F.R. § 745.85(a)(2)(i)(C) is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 9

55. The facts stated in Paragraphs 15 through 21 above are herein incorporated.

56. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. The work practice standard at 40 C.F.R. § 745.85(a)(3)(ii) prohibits the use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, unless such machine was equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation. Machines must be operated so that no visible dust or release of air occurs outside the shroud or containment system.

57. At the time of the EPA inspection, the inspector observed a worker using a high speed sander to remove paint on an interior surface without a containment shroud or HEPA vacuum attachment to collect dust and debris at the point of generation.

58. Respondent's use of a high speed sander to remove paint is not in accordance with 40 C.F.R. § 745.85(a)(3)(ii) and a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Relief Sought

59. Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615 for violations of Section 409 of TSCA, 15 U.S.C. § 2689. Pursuant to Section 16 of TSCA, 15 U.S.C. 2615, and based upon the facts set forth herein, it is proposed that a civil administrative penalty be assessed against Respondent.

60. Section 16(a) of TSCA, 42 U.S.C. § 2615(a), as amended, and 40 C.F.R. § 745.87(d), authorize the EPA Administrator to assess a civil penalty of not more than \$37,500 per day for violations of Section 409 of TSCA, 15 U.S.C. § 2689. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties

Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$39,873 for violations that occur after November 2, 2015, and are assessed after February 6, 2019.

61. In assessing a penalty for the alleged violations in this Complaint, Complainant considered the particular facts of this matter and applied the statutory factors set forth in Section 16(a)(2)(B), 15 U.S.C. § 2615(a)(2)(B), including the nature, circumstances, extent, and gravity of the violation or violations, 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 matters as justice may require, and made specific reference to EPA's guidance document for proposed penalties entitled, "Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule" (the "LBP Consolidated ERPP"), a copy of which is enclosed with this Complaint. The LBP Consolidated ERPP provides a rational, consistent and equitable calculation methodology for applying the statutory factors to particular cases.

62. Complainant proposes that Respondent be assessed a civil penalty in the amount of Fifty Thousand One Hundred Sixty-Four Dollars (\$50,164.00) for the TSCA violations alleged in this Complaint. *See* Attachment 1 to this Complaint explaining the reasoning for this penalty.

63. The proposed penalty is based on the best information available to EPA at the time the Complaint is issued. The penalty may be adjusted if Respondent establishes bona fide issues of ability to pay or other defenses relevant to the appropriate amount of the proposed penalty.

Payment of Proposed Penalty in Full

64. Respondent may resolve this proceeding at any time by paying the full penalty proposed in this Complaint and filing a copy of the check or other instrument of payment with the Regional Hearing Clerk. Payment of Fifty Thousand One Hundred Sixty-Four Dollars (\$50,164.00) may be made by certified or cashier's check payable to the "Treasurer, United States of America," and remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000.

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

A copy of the check or other payment must simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency

Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219;

and

Clarissa Howley Mills, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Payment should reference the name and docket number of this Complaint.

Payment of the Proposed Penalty in Lieu of an Answer

65. If Respondent wishes to resolve a proceeding by paying the proposed penalty in full instead of filing an answer to the Complaint it may do so within thirty (30) days of receipt of the Complaint, in accordance with the procedures set forth above and in Rule 22 of the Consolidated Rules. If Respondent wishes to resolve a proceeding by paying the proposed penalty in full instead of filing an answer but needs additional time to pay the penalty, it may file a written statement with the Regional Hearing Clerk within thirty (30) days of receipt of the Complaint, in accordance with Rule 22.18(a)(1) of the Consolidated Rules. The written statement shall state that Respondent agrees to pay the proposed penalty in full within sixty (60) days of receipt of the Complaint. The written statement need not contain any responses to, or admission of, the allegations in the Complaint. Respondent must then pay the full amount of the proposed penalty within sixty (60) days of receipt of the Complaint. Failure to pay the full penalty within sixty (60) days of receipt of the Complaint may subject Respondent to default, as set forth below.

NOTICE OF OPPORTUNITY FOR HEARING

Answer and Request for Hearing

66. Pursuant to Section 16(a)(2) of TSCA, 15 U.S.C. § 1215(a)(2), Respondent has the right to request a hearing to contest any material fact contained in this Complaint or to contest the appropriateness of the penalty proposed herein.

67. Any hearing that is requested shall be held and conducted in accordance with 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.

68. Respondent must file a written answer within thirty (30) days of receipt of this Complaint if Respondent: (a) contests any material fact upon which the Complaint is based; (b) contends that the penalty proposed in this Complaint is inappropriate; or (c) contends that it is

entitled to judgment as a matter of law. The answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the answer shall so state. Failure to admit, deny or explain any of the factual allegations in the Complaint constitutes an admission of the allegation. The answer shall also state: (d) the circumstances or arguments which are alleged to constitute the grounds of any defense; (e) the facts that Respondent disputes; (f) the basis for opposing the proposed penalty; and (g) whether a hearing is requested.

69. The original and one copy of the answer shall be filed with the following, in accordance with Section 22.15 of the Consolidated Rules:

The original answer shall be filed with:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

A copy of the answer shall be sent to:

Clarissa Howley Mills, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

70. After the filing of Respondent's Answer to the Complaint, the Hearing Clerk at EPA Headquarters will serve as the Regional Hearing Clerk, and all further filings in this matter (except for the filing of a Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.18(b)(3)) must be filed with the Hearing Clerk at the following addresses, as appropriate:

If using the US Postal Service:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900R
1200 Pennsylvania Avenue NW
Washington, DC 20460

If using UPS/FedEx/DHL:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue NW
Washington, DC 20460

Default

71. If within thirty (30) days of receipt of this Complaint, Respondent fails to: (a) submit full payment of the proposed penalty; (b) submit a written statement to the Regional Hearing Clerk that Respondent agrees to pay the penalty within sixty (60) days of receipt of the Complaint; or (c) file a written answer to the Complaint; Respondent may be found in default. Default by Respondent constitutes, for the purposes of this proceeding, an admission of all facts alleged in the Complaint, a waiver of a Respondents' right to contest such factual allegations, and a waiver of Respondent's right to a hearing under TSCA. A Default Order may thereafter be issued by the Presiding Officer and the civil penalty proposed in the Complaint shall be assessed unless the Presiding Officer finds that the proposed penalty is clearly inconsistent with the record of the proceeding or TSCA.

Informal Settlement Conference

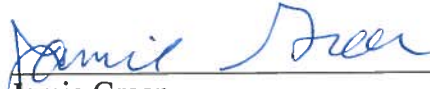
72. The EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of TSCA and the regulations upon which this action is based. Regardless of whether Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settlement. To request an informal settlement conference, please contact:

Clarissa Howley Mills, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Telephone (913) 551-7743
Email: mills.clarissa@epa.gov

73. Any settlement which may be reached as a result of such a conference shall be recorded in a written consent agreement signed by all parties or their representatives and shall conform with the provisions of Section 22.18(b)(2) of the Consolidated Rules. No settlement or consent agreement shall dispose of this proceeding without a final order from the Regional Judicial Officer or the Regional Administrator.

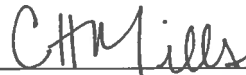
74. A request for an informal settlement conference does not extend the thirty (30) day period during which a written answer and request for a hearing must be submitted. The informal conference procedure may be pursued as an alternative to and simultaneously with the adjudicatory hearing procedure.

Date: 4/16/19



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

Date: 4/17/2019



Clarissa Howley Mills
Attorney
Office of Regional Counsel

Attachments

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct copy of the foregoing Complaint and Notice of Opportunity for Hearing was hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219, on April 17, 2019. A true and correct copy of the foregoing Complaint and Notice of Opportunity for Hearing together with a copy of 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, and the EPA's "Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule" were sent by certified mail, return receipt requested on April 17, 2019 to:

Jeffrey Holmes
Registered Agent
Blackhawk Developments LLC
4358 Blythewood Drive
St. Louis, Missouri 63033



Signature

ATTACHMENT 1: PENALTY CALCULATION

Children (Ages)	Violation	Extent	Circumstance	Gravity Based Penalty
Vacant single family property	Count 1: Failure of a firm to obtain initial certification from EPA 40 C.F.R. § 745.89(a).	Minor	Level 3a	\$4,667
	Count 2: Failure to assign a certified renovator 40 C.F.R. § 745.89(d)(2).	Minor	Level 3a	\$4,667
	Count 3: Failure to timely provide the owner of the unit with the <i>Renovate Right</i> pamphlet. 40 C.F.R. § 745.84(a)(1).	Minor	Level 1b	\$4,080
	Count 4: Failure to post signs clearly defining the work area and warning occupants and other persons to remain outside work area. 40 C.F.R. § 745.85(a)(1).	Minor	Level 1b	\$4,080
	Count 5: Failure to contain waste from renovation activities to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. 40 C.F.R. § 745.85(a)(4)(i).	Minor	Level 2a	\$6,223
	Count 6: Failure to close and cover all duct openings in the work area with impermeable material. 40 C.F.R. § 745.85(a)(2)(i)(B).	Minor	Level 2a	\$6,223
	Count 7: Failure to cover the floor surface with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or sufficient distance to contain the dust, whichever is greater. 40 C.F.R. § 745.85(a)(2)(i)(D).	Minor	Level 2a	\$6,223
	Count 8: Failure to cover doors with plastic sheeting or other impermeable material. 40 C.F.R. § 745.85(a)(2)(i)(C).	Minor	Level 2a	\$6,223
	Count 9: Failure to prohibit the use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, unless such machine was used with a HEPA vacuum attachment to collect dust and debris at the point of generation. 40 C.F.R. § 745.85(a)(3)(ii).	Minor	Level 1a	\$7,778