

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:25cv749
)	
HOMEWORKS CONSTRUCTION, INC.,)	
)	
Defendants.)	
)	

COMPLAINT

Comes now the Plaintiff, United States of America (“United States”) by its attorneys, M. Scott Proctor, Acting United States Attorney for the Northern District of Indiana, through Wayne T. Ault, Assistant United States Attorney, acting on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), and for its complaint against Defendant Homeworks Constructions, Inc. (“HWC”) states:

INTRODUCTION

1. HWC has violated lead-based paint safety regulations—including by failing to contain dust and debris presumed to contain lead-based paint—while performing renovation projects in houses in Indiana and Michigan, primarily in South Bend.

2. Exposure to lead in dust is the most common cause of lead poisoning in children. Lead poisoning—particularly in children—can lead to severe, irreversible health problems. Lead exposure can affect children’s brains and developing nervous systems, causing reduced IQ, learning disabilities, and behavioral problems.

3. Between 2018 and 2021, HWC conducted at least 17 renovation projects in buildings presumed by law to contain lead-based paint. In dismantling, knocking down, and taking

apart painted walls, doors, windows, and other surfaces, HWC did not use legally required lead-safe work practices designed to prevent lead dust from contaminating other apartments, building common areas, or outside spaces. HWC also failed to provide lead paint safety pamphlets to residence owners. In addition, HWC failed to keep mandatory records about the work it performed to enable EPA to monitor HWC's compliance.

4. HWC's conduct violates Toxic Substances Control Act ("TSCA") sections 402(c), 406(b), and 407 (15 U.S.C. §§ 2682(c), 2686(b), and 2687) and the Renovation, Repair, and Painting Rule ("RRP Rule"), codified at 40 C.F.R., Part 745, Subpart E. Accordingly, the United States brings this action for an order enjoining HWC from conducting further demolition and other renovation work until it demonstrates compliance with TSCA and the RRP Rule; compelling HWC to comply with TSCA and the RRP Rule in the future; and requiring it to mitigate harm caused by its misconduct.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and Section 17 of TSCA, 15 U.S.C. § 2616.

6. Venue is proper in the Northern District of Indiana pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because violations occurred in this district, and because the Defendant resides and has its principal place of business in this district.

THE PARTIES

7. Plaintiff is the United States of America on behalf of EPA.

8. Defendant HWC is an Indiana corporation located at 1511 Pulaski St., South Bend, IN, that has performed numerous renovations covered by the RRP Rule at houses located in this District. HWC is a "person" and a "firm" performing renovations, as defined in 40 C.F.R. § 745.83.

STATUTORY AND REGULATORY BACKGROUND

9. Lead is toxic. *See* Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851. Ingestion of lead even in small quantities can cause serious health problems, including hypertension, kidney failure, and infertility. *Id.* Children under six years of age are most vulnerable to the harmful effects of lead. *Id.* Even “at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems.” *Id.*

10. In 1992, Congress enacted the Residential Lead-Based Paint Hazard Reduction Act of 1992 “to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction”; “to ensure that the existence of lead-based paint hazards are taken into account in the . . . renovation of homes and apartments”; and “to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.” 42 U.S.C. § 4851a. The Act amended TSCA by adding a new Title IV, entitled “Lead Exposure Reduction,” 15 U.S.C. §§ 2681 *et seq.*

11. In 2008, EPA promulgated the RRP Rule under TSCA section 402(c), 15 U.S.C. § 2682, to reduce the risk of lead exposure in the course of renovations by establishing training and certification requirements for renovation companies, mandating lead-safe work practice standards for compensated renovations in most pre-1978 residential buildings, and ensuring that owners and occupants of most pre-1978 residential buildings understand the risks of lead exposure before renovations begin.

12. The RRP Rule applies to renovations performed for compensation in “target housing,” except where the work area has been tested and found to be free of lead. 40 C.F.R. § 745.82. “Target housing” means most housing constructed before 1978, the year in which the

federal government first banned consumer use of lead-based paint in residential housing. 40 C.F.R. § 745.103. Housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) and zero-bedroom dwellings are excepted. 15 U.S.C. § 2681(17); 40 C.F.R. § 745.103. Target housing is presumed to contain lead-based paint.

13. “Renovation” is defined broadly to include “the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces,” and includes demolition work such as “the removal of building components (e.g., walls, ceilings, plumbing, windows)” as well as “[t]he 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)).” 40 C.F.R. § 745.83.

14. The RRP Rule contains certification requirements designed to ensure that individuals performing renovations have been trained to minimize lead exposure. The RRP Rule requires both that a renovation firm receive a certification before performing covered renovations and that all covered renovations must be performed or directed by at least one “Certified Renovator” who has successfully completed training in lead-safe renovation work practices from an accredited training provider. 40 C.F.R. §§ 745.81(a)(2), (3), 745.89(d), & 745.90(a).

15. The RRP Rule requires that Certified Renovators perform or direct critical tasks during the renovation, such as posting warning signs, establishing containment of the work area, and verifying clean-up of the work area after the renovation. 40 C.F.R. § 745.90(b). The RRP Rule further requires that any individual working on a renovation who is not a Certified Renovator must

be trained by a Certified Renovator on lead safe work practices required by the RRP Rule. 40 C.F.R. §§ 745.81(a)(3) & 745.89(d)(1).

16. The RRP Rule also sets forth lead-safe work practice requirements designed to contain lead dust and debris in the renovation work area. Under the RRP Rule, renovators are required to close off the entire work area by sealing doors, closing windows, and covering air ducts, among other things. 40 C.F.R. §§ 745.85(a)(2) & 745.86(b)(6)(v). The RRP Rule also requires renovators to “clean the work area until no dust, debris or residue remains” after the renovation has been completed. 40 C.F.R. § 745.85(a)(5).

17. The RRP Rule further requires the provision of safety information designed to alert individuals in the vicinity of the renovation work area of the risks of lead exposure. Renovators must provide a pamphlet entitled “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools” (the “Lead Hazard Information Pamphlet”) to the owner and occupants of applicable housing before renovations begin and obtain either a written acknowledgment of receipt of the pamphlet from the owner or a certificate of mailing of the pamphlet. 40 C.F.R. §§ 745.81(b) & 745.84(a). The “Lead Hazard Information Pamphlet” informs owners and occupants of buildings constructed before 1978 of basic facts regarding the effects of lead poisoning as well as precautions residents can take when their homes are being renovated. In particular, the pamphlet points out that:

- a. Lead in dust is the most common way people are exposed to lead, and lead dust is often invisible;
- b. Lead-based paint was used in more than 38 million homes until it was banned for residential use in 1978; and

- c. Lead can affect children's brains and developing nervous systems, causing reduced IQ, learning disabilities, and behavioral problems and is also harmful to adults.

18. Renovators must also 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." 40 C.F.R. § 745.85(a)(1).

19. Finally, the RRP Rule sets forth recordkeeping requirements to permit EPA to ensure that the public health is being protected. The RRP Rule requires renovators to "retain and, if requested, make available to EPA all records necessary to demonstrate compliance" with the RRP Rule requirements described above. 40 C.F.R. § 745.86(a) & (b). Among the recordkeeping requirements are the following:

- a. 40 C.F.R. § 745.84(a)(1) provides that: "No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must (i) obtain, from the owner, a written acknowledgment that the owner has received the pamphlet or (ii) obtain a certificate of mailing at least 7 days prior to the renovation."
- b. 40 C.F.R. § 745.86(b)(6) provides that certain records must be retained, including: "Documentation of compliance with the requirements of § 745.85, including documentation that a Certified Renovator was assigned to the project, that the Certified Renovator provided on-the-job training for workers used on the project, that the Certified Renovator performed or directed workers who performed all of the tasks described in § 745.85(a), and that the Certified Renovator performed the post-renovation cleaning verification described in § 745.85(b)."

- c. 40 C.F.R. § 745.87(b) provides that failure to establish and maintain records or to make available or permit access to or copying of records, as required by this subpart, is a violation of Sections 15 and 409 of TSCA (15 U.S.C. §§ 2614 and 2689).

20. Violation of the RRP Rule is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, and thus constitutes a violation of the statute.

21. Section 17(a) of TSCA, 15 U.S.C. § 2616(a), provides federal district courts with jurisdiction to restrain any violation of Section 409 of TSCA, 15 U.S.C. § 2689.

22. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), imposes liability for civil penalties, for violations of section 409, to be assessed by EPA in an administrative proceeding in an amount up to \$48,512 per violation per day for violations occurring after November 2, 2015. 88 Fed. Reg. 89312 (Dec. 27, 2023). The United States reserves the right to contend that violations found by the finder of fact in this judicial matter will, under the doctrine of collateral estoppel, control in a future administrative proceeding for civil penalties.

GENERAL ALLEGATIONS

23. At all times relevant to this Complaint, HWC was a firm as defined by 40 C.F.R. § 745.83.

24. HWC directed workers to perform, for compensation, certain modifications of existing structures that resulted in disturbances of painted surfaces in residential housing built prior to 1978.

25. Thus, these modifications are renovations as defined in 40 C.F.R. § 745.83.

26. On May 7, 2021, the EPA issued a request for information to HWC, seeking various records associated with renovations HWC performed.

27. HWC's response revealed that, for seventeen (17) renovations:

- a. HWC failed to assign a certified renovator,
- b. HWC also failed to provide the required "Lead Hazard Information Pamphlet" to all owners, and
- c. HWC did not maintain the required records.

28. The seventeen (17) renovations, identified by project number, are attached to this Complaint as Exhibit 1.

29. The renovations were each performed at residential housing built prior to 1978, and therefore the residential housing was target housing as defined in 40 C.F.R. § 745.103.

30. During the course of its investigation, EPA additionally learned that HWC was likely still not treating all projects that qualified as renovations under the RRP Rule as "renovations" subject to the requirements.

31. Therefore, HWC likely committed additional violations of the RRP Rule.

FIRST CLAIM FOR RELIEF

Violations of TSCA and the RRP Rule: Failure to Use Certified Renovators and Ensure Proper Training

(15 U.S.C. § 2689; 40 C.F.R. §§ 745.81(a)(3), 745.89(d)(1), and 745.89(d)(2))

32. The United States re-alleges paragraphs 1 through 31 above as if fully set forth herein.

33. The RRP Rule, specifically at 40 C.F.R. § 745.89(d)(1), requires the firm performing the renovation to ensure that all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90.

34. HWC failed to assign a Certified Renovator to its renovations of target housing listed on Exhibit 1 in violation of 40 C.F.R. §§ 745.81(a)(3) and 745.89(d)(2), and 15 U.S.C. § 2689.

35. The circumstances of HWC's repeated violations, including its failure to recognize projects were subject to the RRP Rule even after the EPA commenced its investigation, demonstrate that without judicial relief HWC will continue to violate TSCA and the RRP Rule.

36. HWC's renovation activities, including its violations of the RRP Rule's certification requirements, threaten irreparable harm to the health and safety of people living in or near buildings HWC renovates, visitors to these buildings, and to the untrained workers involved in these renovations and their families. These activities likewise threaten irreparable harm to the United States' interest in protecting the public from the harmful effects of lead exposure.

37. Pursuant to Sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the Court should issue an order (i) restraining HWC from conducting any further renovation work until it can demonstrate compliance with TSCA and the RRP Rule; (ii) enjoining HWC to perform all future renovation work in compliance with TSCA and the RRP Rule; (iii) requiring HWC to mitigate the harms caused by its conduct; and (iv) providing other available equitable remedies.

SECOND CLAIM FOR RELIEF

Violations of TSCA and the RRP Rule: Failure to Provide Lead Hazard and Warning Information

(15 U.S.C. § 2689; 40 C.F.R. §§ 745.81(b), 745.84(a), and 745.85(a)(1))

38. The United States re-alleges paragraphs 1 through 37 above as if fully set forth herein.

39. HWC failed to provide a Lead Hazard Information Pamphlet to the owner(s) or occupant(s) of target housing listed in Exhibit 1 in violation of 40 C.F.R. §§ 745.81(b) and 745.84(a), and 15 U.S.C. § 2689.

40. The circumstances of HWC's repeated violations, including its failure to recognize projects were subject to the RRP Rule even after the EPA commenced its investigation, demonstrate that without judicial relief HWC will continue to violate TSCA and the RRP Rule.

41. HWC's renovation activities, including its violations of the RRP Rule's safety information distribution requirements, threaten irreparable harm to the health and safety of people living in or near buildings HWC renovates and visitors to these buildings. These activities likewise threaten irreparable harm to the United States' interest in protecting the public from the harmful effects of lead exposure.

42. Pursuant to Sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the Court should issue an order (i) restraining HWC from conducting any further renovation work until it can demonstrate compliance with TSCA and the RRP Rule; (ii) enjoining HWC to perform all future renovation work in compliance with TSCA and the RRP Rule; (iii) requiring HWC to mitigate the harms caused by its conduct; and (iv) providing other available equitable remedies.

THIRD CLAIM FOR RELIEF

Violations of TSCA and the RRP Rule: Failure to Maintain Records Demonstrating Compliance with the RRP Rule

(15 U.S.C. § 2689; 40 C.F.R. §§ 745.86 and 745.87(b))

43. The United States re-alleges paragraphs 1 through 42 above as if fully set forth herein.

44. HWC failed to establish and maintain records required by 40 C.F.R. §§ 745.86 and 745.87(b) and 15 U.S.C. § 2689 for renovations of target housing listed on Exhibit 1.

45. The circumstances of HWC's repeated violations, including its failure to recognize projects were subject to the RRP Rule even after the EPA commenced its investigation, demonstrate that without judicial relief HWC will continue to violate TSCA and the RRP Rule.

46. HWC's renovation activities, including its violations of the RRP Rule's recordkeeping requirements, threaten irreparable harm to the United States' interest in protecting the public from the harmful effects of lead exposure, including EPA's interest in monitoring compliance with TSCA and the RRP Rule.

47. Pursuant to Sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the Court should issue an order (i) restraining HWC from conducting any further renovation work until it can demonstrate compliance with TSCA and the RRP Rule; (ii) enjoining HWC to perform all future renovation work in compliance with TSCA and the RRP Rule; (iii) requiring HWC to mitigate the harms caused by its conduct; and (iv) providing other available equitable remedies.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court:

- i. Enter judgment against HWC and in favor of the United States for the violations alleged in this Complaint;
- ii. Enter an order restraining HWC from performing any renovation work in target housing until it can demonstrate compliance with TSCA and the RRP Rule;
- iii. Enter a permanent injunction compelling HWC to comply with TSCA and the RRP Rule;
- iv. Order HWC to mitigate the harms caused by its conduct; and

- v. Grant such further equitable and other relief as the Court deems just and appropriate.

Respectfully submitted,

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