

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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In the Matter of:)
)
Juan C. Garcia d/b/a)
Master Roofing and Restoration)
19 Piave Street Rear)
Stamford, CT 06902-5596)
)
Respondent.)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
15 U.S.C. § 2615(a))
)

Docket No.
TSCA-01-2017-0060

COMPLAINT AND
NOTICE OF
OPPORTUNITY FOR
HEARING

COMPLAINT

I. STATUTORY AND REGULATORY BACKGROUND

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, U.S. Environmental Protection Agency (“EPA” or “Complainant”), Region 1. Respondent, Juan C. Garcia d/b/a Master Roofing and Restoration (“Master Roofing” or “Respondent”), is hereby notified of Complainant’s determination that Respondent has violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled “Residential Property

Renovation,” as set forth at 40 C.F.R. Part 745, Subpart E. Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA are subject to the assessment by Complainant of civil and/or criminal penalties.

2. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account during the renovation of homes and apartments. To carry out this purpose, the Act added a new title to TSCA entitled “Title IV-Lead Exposure Reduction,” which currently includes Sections 401-411 of TSCA, 15 U.S.C. §§ 2681-2692.

3. 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 the Act. 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” and the “Lead-Based Paint Activities Rule,” respectively).

4. Pursuant to 40 C.F.R. § 745.82, the regulations in 40 C.F.R. Part 745, Subpart E apply to all renovations performed for compensation in “target housing.” As

provided in 40 C.F.R. § 745.83, “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,” and includes the renovation of a building for the purpose of converting a building or portion of a building into target housing.

Pursuant to Section 401 of TSCA, 15 U.S.C. § 2681(17), “target housing” is defined as “any housing constructed prior to 1978, except housing for the elderly or disabled (unless any child who is less than six years old resides or is expected to reside in such housing), or any 0-bedroom dwelling.”

5. The RRP Rule sets forth procedures and requirements for, among other things, the accreditation of training programs, the certification of renovation firms and individual renovators, the work practice standards for renovation, repair and painting activities in target housing and child-occupied facilities, and the establishment and maintenance of records.

6. Pursuant to Section 409 of TSCA, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA (such as the RRP Rule). 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.

7. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of Section 409 of TSCA shall be liable to the United States for a civil penalty.

8. Section 16(a) of TSCA, 40 C.F.R. § 745.87(d), and 40 C.F.R. § 745.235(e) authorize the assessment of a civil penalty of up to \$25,000 per violation per day of the RRP Rule. Under the Debt Collection Improvement Act and 40 C.F.R. Part 19,

violations that occurred after January 12, 2009, are subject to penalties of up to \$32,500 per violation per day, and violations that occurred after January 12, 2009, are subject to penalties of up to \$37,500 per violation per day. *See* 78 Fed. Reg. 66643, 66647. Under the 2015 Civil Penalty Inflation Adjustment Act, the maximum penalty remained \$37,500 for violations occurring after November 2, 2015 and assessed after July 31, 2016 but before January 15, 2017. The statutory maximum penalty for violations for which the penalty is assessed after January 15, 2017 is \$38,114.

II. GENERAL ALLEGATIONS

9. Respondent is a sole proprietorship in Connecticut with its business address located at 19 Piave Street Rear, Stamford, CT 06902-5596, which is also the address of its principal owner and operator, Juan Garcia. Respondent is a construction business involved in roofing, other renovation, and painting services, with annual sales of \$140,000.

10. In 2014, Master Roofing was hired to complete a renovation on a single-family house located at 24 Hewlett St., Waterbury, CT ("24 Hewlett St."), which was constructed in 1900.

11. At all times relevant to this Complaint, the house at 24 Hewlett St. was "target housing," as defined in 40 C.F.R. § 745.83. Furthermore, the house does not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule.

12. In September 2014, the Waterbury, Connecticut Health Department ("WHD") received a complaint that renovation work being performed at 24 Hewlett St. did not have the proper containment and that dry sanding was occurring without a high-efficiency particulate air ("HEPA") exhaust attachment. Shortly thereafter, a

representative from the WHD visited 24 Hewlett St. After observing the work being performed by Respondent, the WHD representative stopped the work at the site due to the lack of proper lead-safe work practices. The representative then referred the matter to the Connecticut Department of Public Health ("CT DPH").

13. On September 23, 2014, a representative of the CT DPH visited 24 Hewlett St. and provided compliance assistance information regarding the RRP Rule to Respondent. The representative then referred the matter to EPA, Region 1.

14. Subsequently, an EPA representative contacted Respondent and arranged for a site visit at 24 Hewlett St. on November 24, 2014.

15. On November 24, 2014, the EPA representative met with Mr. Gustavo Garcia, whose son, Mr. Juan Garcia, is the owner of Master Roofing. Later that day, with the cooperation of Mr. Juan Garcia, the EPA representative conducted an inspection at Respondent's office ("EPA Inspection") located in Stamford, CT to determine Respondent's compliance with the RRP Rule requirements during the renovation of 24 Hewlett St.

16. During the EPA Inspection, Mr. Juan Garcia admitted that Respondent was not a certified firm as required by the RRP Rule.

17. During the EPA Inspection Mr. Juan Garcia admitted that he was not a certified renovator, and that he had not assigned a certified renovator to perform the work at 24 Hewlett St. on behalf of Respondent.

18. During the EPA Inspection, Respondent also was unable to provide the EPA inspector with a written acknowledgement by the owner of 24 Hewlett St. certifying receipt of the EPA lead hazard pamphlet that renovators are required to provide to home

owners or occupants of target housing prior to the start of renovation work on such housing.

19. On May 3, 2016, EPA Region 1 issued to Respondent a “Notice of Finding of Violation of RRP Rule and TSCA and Opportunity for Settlement,” and a proposed settlement agreement, proposing to settle the matter for a \$2,580, consistent with the EPA Office of Enforcement and Compliance Assurance’s May 3, 2012 Pilot RRP Penalty Program for Micro-Businesses. Micro-Businesses are defined under the Pilot RRP Penalty Program as those businesses with an annual income under \$300,000. The proposed agreement contained a six-month payment plan as requested by Respondent based on its claim of inability to pay the penalty in a lump sum.

20. After receiving the proposed settlement agreement, Mr. Garcia claimed he was unable to make the penalty payments, but never provided financial documentation to support his inability to pay claim, as requested by EPA.

21. At all times relevant to the allegations set forth in this Complaint, Respondent’s paint removal activities at 24 Hewlett St. constituted a “renovation,” as defined in 40 C.F.R. § 745.83.

22. At all times relevant to the allegations set forth in this Complaint, the paint removal activities at 24 Hewlett St. constituted a “renovation for compensation” subject to the RRP Rule. See 40 C.F.R. § 745.82. Furthermore, this paint removal at 24 Hewlett St. did not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule.

23. At all times relevant to the allegations set forth in this Complaint, Respondent was a “renovator” as defined in 40 C.F.R. § 745.83.

24. At all times relevant to the allegations set forth in this Complaint, Respondent was a "firm," as defined in 40 C.F.R. § 745.83.

25. At all times relevant to the allegations set forth in this Complaint, Respondent did not assign a certified renovator to the renovation at 24 Hewlett St., as required by 40 C.F.R. § 745.81(a)(3).

26. Based on the above-described inspections, Complainant has identified the following violations of Section 409 of TSCA, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and the RRP Rule, as set forth at 40 C.F.R. Part 745, Subpart E.

III. VIOLATIONS

Count 1 – Failure to Obtain Firm Certification under RRP Rule

27. Complainant incorporates by reference paragraphs 1 through 26.

28. Firms that perform renovations for compensation in target housing must apply to EPA for certification to perform renovations or dust sampling under 40 C.F.R. §745.89(a), pursuant to 40 C.F.R. § 745.81(a)(2)(ii), which provides that no firm may perform, offer, or claim to perform renovations in target housing or child-occupied facilities without certification from EPA under § 745.89.

29. The house at 24 Hewlett St. is target housing because it was built in 1900, well prior to 1978, and the renovation activities performed by Respondent at that address occurred after April 10, 2010.

30. At the time of the EPA Inspection, Master Roofing had not applied for or received RRP firm certification from the EPA.

31. Respondent's failure to obtain RRP Firm Certification prior to performing renovation work on the house at 24 Hewlett St. constitutes a violation of 40 C.F.R. §§ 745.89(a) and 745.81(a)(2)(ii).

32. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

Count 2 - Failure to Provide Pre-Renovation Education Information

33. Complainant incorporates by reference paragraphs 1 through 32.

34. Pursuant to 40 C.F.R. § 745.84(a)(1), no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, a firm must provide lead hazard information in the form of an EPA pamphlet to the owner of the unit, and obtain a written acknowledgement of receipt or certificate of mailing such pamphlet, in the manner specified at 40 C.F.R. §§ 745.84(a)(1)(i) or (a)(1)(ii).

35. Respondent did not provide an EPA pamphlet or EPA-approved pamphlet to the owner of 24 Hewlett St. before commencing renovation activities including lead paint removal using high speed machines without a HEPA exhaust control attachment.

36. Respondent's failure to distribute a pamphlet to the owner of 24 Hewlett St. prior to commencing renovation activities at the property violated 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA.

37. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

Count 3 - Failure to Meet Work Practices Standards

38. Complainant incorporates by reference paragraphs 1 through 37.

39. 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. Pursuant to 40 C.F.R. § 745.85(a)(3)(ii), 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, is prohibited on painted surfaces unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation.

40. While renovating 24 Hewlett St., Respondent used machines that remove lead-based paint through high speed operation without a HEPA vacuum attachment.

41. Respondent's failure to ensure the use of HEPA exhaust control attachments on high speed paint removal machines constitutes a violation of 40 C.F.R. § 745.89(d)(3) and 40 C.F.R. § 745.85(a)(3)(ii), and Section 409 of TSCA.

42. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

Count 4 - Failure to Assign a Certified Renovator

43. Complainant incorporates by reference paragraphs 1 through 42.

44. Pursuant to 40 C.F.R. § 745.89(d), firms performing renovations must ensure that (1) 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 § 745.90, and (2) a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90.

45. Master Roofing did not assign a certified renovator to the renovation performed at 24 Hewlett St. even though that renovation involved modification of a house built in 1900 and significant disturbance of painted surfaces.

46. Respondent's failure to assign a certified renovator to the renovation project at 24 Hewlett St. constitutes a violation of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA.

47. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

IV. PROPOSED PENALTY

48. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires Complainant to consider the nature, circumstances, extent and gravity of the violations and, with respect to Respondent, its ability to pay, the effect of the proposed penalty on the ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

49. To assess a penalty for the alleged violations in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to account EPA's August 2010 Interim Final Policy 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 penalty factors enumerated above to particular cases. Complainant also has taken into account EPA’s March 5, 2017 Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements, a copy of which is enclosed with this Complaint. Complainant proposes that Respondent be assessed a civil penalty in the amount of **one thousand three hundred fifty-four dollars (\$1,354)** for the TSCA violations alleged in this Complaint. (See Attachment I to this Complaint explaining the reasoning for this penalty.)

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

50. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with EPA’s Consolidated Rules of Practice, 40 C.F.R. Part 22, a copy of which is enclosed with this Complaint. Any request for a hearing must be included in Respondent’s written Answer to this Complaint (“Answer”) and filed with the Regional Hearing Clerk at the address listed below within thirty (30) days of receipt of this Complaint.

51. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of Respondent to deny an allegation contained in the Complaint constitutes an admission of that allegation. The Answer must also state the circumstances or arguments

alleged to constitute the grounds of any defense; the facts that Respondent disputes; the basis for opposing any proposed penalty; and whether a hearing is requested. See 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

52. Respondent shall send the original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to the Regional Hearing Clerk at the following address:

Wanda A. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square – Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

53. Respondent shall also serve a copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to Andrea Simpson, the attorney assigned to represent Complainant in this matter, and the person who is designated to receive service in this matter under 40 C.F.R. § 22.5(c)(4), at the following address:

Andrea Simpson
Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square – Suite 100
Mail Code: OES04-2
Boston, Massachusetts 02109-3912

54. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40

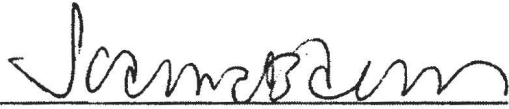
C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent, without further proceedings, thirty (30) days after the default order becomes final.

55. The filing of service of documents other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the "Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer," a copy of which has been provided with the Complaint.

VI. SETTLEMENT CONFERENCE

56. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or his designee concerning the violations alleged in this Complaint. Such conference provides Respondent with an opportunity to respond informally to the allegations, and to provide whatever additional information may be relevant to the disposition of this matter. To explore the possibility of settlement, Respondent or Respondent's counsel should contact Andrea Simpson, Senior Enforcement Counsel, at the address cited above or by calling (617) 918-1738. Please note that a request for an informal settlement conference by Respondent does not automatically extend the 30-day time period within which a written Answer must be

submitted in order to avoid becoming subject to default.



Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region 1

8/9/17
Date

Attachment I

In the Matter of Master Roofing and Restoration Docket Number TSCA-01-2017-0060

PROPOSED PENALTY SUMMARY

The following provides the justification for the proposed penalty calculation in the administrative penalty action against Master Roofing and Restoration which seeks to assess a civil penalty in the amount of \$1,354 for alleged violations of the Lead Disclosure Rule and the Renovation, Repair and Painting (“RRP”) Rule. The penalty was calculated according to EPA’s August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (“LBP Consolidated ERPP”) and the March 5, 2017 *Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements*. A breakdown of the penalty by count is set forth below.

COUNT I – Failure of a Firm to Obtain Initial Certification

Provision Violated: 40 C.F.R. § 745.81(a)(2)(ii) requires that all firms performing renovations for compensation must apply to EPA for certification to perform renovations or dust sampling. No firm may perform, offer, or claim to perform renovations without certification from EPA under 40 C.F.R. § 745.89 in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82.

Circumstance Level: The failure to obtain certification from EPA prior to performing renovations results in a *medium probability* of impacting human health and the environment because a firm that is not certified by EPA is less likely to comply with the work practice standards of 40 C.F.R. § 745.85. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R. § 745.81(a)(2)(ii) is a *Level 3a* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The documented absence of children or pregnant women warrants a *minor* extent factor.

Respondent failed to obtain firm certification before conducting a renovation at the following 24 Hewlett target housing unit:

Respondent	Address	Date of Renovat.	Children	Extent of Harm	Gravity-based Penalty
Master Roofing	24 Hewlett Street	9/14	None	Minor	\$4,500

COUNT II – Failure to Provide a Lead-Safe Renovation Pamphlet

Provisions Violated: 40 C.F.R. § 745.84(a)(1) requires firms performing renovations to, no more than 60 days before beginning renovation activities, provide the owner of the unit with a full and complete copy of an EPA-developed or EPA-approved lead-safe renovation pamphlet (“Pamphlet”), as defined at 40 C.F.R. § 745.83. The renovating firm must also either: (i) obtain from the owner a written acknowledgment that the owner has received the Pamphlet; or (ii) obtain a certificate of mailing at least seven days prior to the renovation.

Circumstance Level: The failure to provide the owner of the unit with the EPA-approved lead-safe renovation pamphlet results in a *high probability* of impacting the human health and the environment by impairing the owner’s ability to properly assess information regarding the risks associated with exposure to lead-based paint, lead dust, and debris. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R § 745.84(a)(1) is a *Level 1b* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The documented absence of children or pregnant women warrants a *minor* extent factor.

Respondent failed to provide a lead-safe renovation pamphlet to the occupants of the following target housing units before conducting renovations at those units:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Master Roofing	24 Hewlett Street	9/14	Minor	Minor	\$2,840

COUNT III – Failure to Prohibit the Use of Machines that Remove Lead-Based Paint through High Speed Operation without HEPA Exhaust Control

Provision Violated: 40 C.F.R. § 745.89(d)(3), requires that 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. 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, on painted surfaces unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation.

Circumstance Level: The use of high speed equipment on painted surfaces without a HEPA vacuum attachment to collect dust and debris results in a *high probability* of impacting the human health and the environment by releasing dust and debris contaminated with lead. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R § 745.89(d)(3) and 40 C.F.R. § 85(a)(3)(ii) is a *Level 1a* violation.

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Master Roofing	24 Hewlett Street	9/14	Minor	Minor	\$7,500

COUNT IV - Failure to Assign Certified Renovators

Provision Violated: 40 C.F.R. § 745.89(d) requires that all firms performing renovations must ensure that all (1) 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 § 745.90, and (2) a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90.

Circumstance Level: The failure to ensure that a certified renovator is assigned to the renovation results in a high probability of a renovation firm failing to comply with the work practice standards of 40 C.F.R § 745.85. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R. § 745.107(a)(1) is a *Level 3a* violation.

Extent of Harm: The LBP Consolidated ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Respondent failed to assign a certified renovator to the following renovation project:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Master Roofing	24 Hewlett Street	9/14	Minor	Minor	\$4,500

Total Penalty under the LPB Consolidated ERPP: \$19,340

Gross Annual Revenue: \$140,000

Equation Multiplier: $\$140,000 \div \$2,000,000 = .07$

Graduated Penalty Calculation: $\$19,340 \times .07 = \$1,354$

Total Penalty: \$1,354