



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

September 28, 2018

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

BY HAND



Re: Civil Administrative Complaint for Penalties under the Toxic Substances Control Act;
In the Matter of Campos Construction; EPA Docket No. TSCA-01-2018-0058

Dear Ms. Santiago:

Enclosed for filing in the above-referenced action, please find the original and one copy of an Administrative Complaint and Opportunity to Request a Hearing and a Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen Woodward".

Kathleen E. Woodward
Senior Enforcement Counsel

Enclosure

cc: Valdemar DeSilva Campos, President, Campos Construction
Darya I. Zappia, Clerk/Registered Agent, Campos Construction

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

SEP 28 2018

EPA ORC *WS*
Office of Regional Hearing Clerk

In the Matter of:)
)
Campos Construction)
72 Groveside Road)
Portland, Maine 04102)
)
Respondent)
)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
15 U.S.C. § 2615(a))
)

Docket No.
TSCA-01-2018-0058
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, Campos Construction (“Campos Construction” 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 persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing)”.

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 2015 Civil Penalty Inflation Adjustment Improvements Act and 40

C.F.R. Part 19.4, the statutory maximum penalty for violations occurring after November 2, 2015, for which the penalty is assessed after January 15, 2018, is \$38,892.

II. RESPONDENT

9. Campos Construction is incorporated in the State of Maine with a business address of 72 Groveside Rd., Portland, Maine, 04102. According to filings with the Maine Secretary of State, Respondent is a “construction services” business.

10. Campos Construction does not have employees. Campos Construction at times subcontracts work to various individuals or painting firms. In those instances, Respondent functions as a general contractor.

11. Campos Construction is a certified firm under the RRP Rule (U.S. EPA-issued firm certificate #: NAT-F122613-1; expires May 15, 2019).

12. Campos Construction is a “Close Corporation” as that term is defined at 13 M.R.S. § 102(2-A).¹

13. According to filings with the Maine Secretary of State, Valdemar DeSilva (“Neto”) Campos (“Mr. Campos”) is the President, Treasurer, Secretary, and Director of Campos Construction.

14. On information and belief, at all relevant times herein, Mr. Campos made all hiring decisions on behalf of Campos Construction.

¹ "Close corporation" means a corporation that, at any given time, has not more than 20 shareholders of all classes of shares, whether or not the shareholders are entitled to vote. For purposes of determining whether a corporation is a close corporation, 2 or more persons owning shares of record in their names as joint tenants are counted as a single shareholder.

15. On information and belief, at all relevant times herein, Mr. Campos managed and directed individuals hired by Campos Construction.

16. Mr. Campos was not certified under the RRP Rule as an individual renovator until December 16, 2016 (Certificate Number: NAT-RV-I-129306-16-0189; expires December 16, 2021).

III. GENERAL ALLEGATIONS

Target Housing Located at 124-126 Emery Street, Portland, Maine

17. In 2016, BJB Realty of Portland, Maine, hired Campos Construction to repaint the exterior and perform repairs to the interior on a four-unit residential structure located at 124-126 Emery Street, Portland, Maine (“124-126 Emery Street”). Campos Construction was the general contractor for the renovation at 124-126 Emery Street in September, October, November, and December of 2016.

18. 124-126 Emery Street was constructed in 1910, and was therefore “target housing,” as defined in 40 C.F.R. § 745.103.

19. In September of 2016, the City of Portland, Maine, received a complaint that workers performing renovation work at 124-126 Emery Street were not following lead-safe practices. In response, a Code Enforcement Officer for the City of Portland visited 124-126 Emery Street. The Code Enforcement Officer ordered testing of paint chips for lead, and ordered that Respondent halt work until the results came back. Work continued despite the Code Enforcement Officer’s order.

20. On October 18, 2016, a representative of the State of Maine Department of Environmental Protection (“DEP Inspector”) inspected 124-126 Emery Street. During

the October 18, 2016 inspection there were no workers at 124-126 Emery Street. The DEP Inspector observed numerous paint chips around the perimeter of the building which he documented with photographs. The DEP Inspector tested some of the paint chips which tested positive for lead.

21. On November 8, 2016, the DEP Inspector re-inspected 124-126 Emery Street. During the inspection, he observed two workers scraping and repainting an entry porch on the side of 124-126 Emery Street. The DEP Inspector observed a ground cloth spread over the entire floor of the entry way and down the stairs. The ground cloth was covered in paint chips. The DEP Inspector tested some of the paint chips which tested positive for lead.

22. During the November 8, 2016, inspection, the DEP Inspector spoke with Mr. Campos. Mr. Campos told the DEP Inspector that neither he nor his crew were certified as individual renovators under the RRP Rule. The DEP Inspector discussed with Mr. Campos the Maine Emergency Provision statute (38 M.R.S. § 1296) which provides that renovators shall take reasonable precautions to prevent the release of lead to the environment, including the cleanup, removal and appropriate disposal of all visible lead-based paint debris generated by a project. The DEP Inspector also discussed RRP Rule requirements with Mr. Campos.

23. During the November 8, 2016, inspection, Mr. Campos told the DEP Inspector that his crew would finish painting 124-126 Emery St. on November 8, 2016.

24. On November 10, 2016, EPA received a phone tip that there had been a painting crew working at 124-126 Emery Street since September, and that the crew had not been using lead-safe work practices. On November 10, 2016, an EPA Region 1

inspector viewed the exterior of 124-126 Emery Street. The EPA inspector observed piles of debris next to the building including a pile of discarded, painted wood that was not contained.

25. On December 1, 2016, two EPA Region 1 inspectors, joined by officials from DEP and the City of Portland Code Enforcement Office, conducted an inspection at 124-126 Emery Street with the purpose of evaluating compliance with the RRP Rule (“EPA Inspection”). Mr. Campos and an agent for BJB Realty also attended the inspection.

26. During the EPA Inspection, the EPA inspectors observed a large number of paint chips scattered on the ground surrounding the newly-painted building exterior.

27. During the EPA Inspection, Campos Construction was unable to provide the EPA inspectors with a written acknowledgement by the owner of 124-126 Emery Street certifying receipt of the EPA lead hazard “*Renovate Right*” 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 pursuant to 40 C.F.R. § 745.84.

28. Campos Construction also was unable to provide the EPA inspector with EPA-Certified Renovator Certificates for Mr. Campos and the workers hired by Campos Construction.

29. At the conclusion of the EPA Inspection, the EPA inspectors issued to Campos Construction a “Notice of Potential Violation of the Federal Renovation, Repair and Painting Rule.”

30. At all times relevant to the allegations set forth in this Complaint, Campos Construction's painting activities at 124-126 Emery Street constituted a "renovation" as defined in 40 C.F.R. § 745.83.

31. At all times relevant to the allegations set forth in this Complaint, the paint removal activities at 124-126 Emery Street constituted a "renovation for compensation" subject to the RRP Rule. See 40 C.F.R. § 745.82. Furthermore, the painting at 124-126 Emery Street did not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule.

32. At all times relevant to the allegations set forth in this Complaint, Campos Construction was a "renovator" as defined in 40 C.F.R. § 745.83.

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

34. At all times relevant to the allegations set forth in this Complaint, there was no certified renovator working on the renovation at 124-126 Emery Street, as required by 40 C.F.R. §§ 745.81(a)(3) and 745.89(d)(2).

Target Housing Located at One Cumberland Avenue, Portland, Maine

35. Munjoy Properties, L.L.C. of Portland, Maine ("Munjoy Properties"), is the owner of One and Three Cumberland Avenue, a single, six-unit residential structure located in Portland, Maine. Munjoy Properties hired Campos Construction to do renovation work in 2018 to the interior portion of the structure known as One Cumberland Avenue.

36. One Cumberland Avenue was constructed in 1920, and was therefore “target housing,” as defined in 40 C.F.R. § 745.103.

37. On July 20, 2018, an EPA Region 1 inspector, joined by a DEP inspector, conducted an inspection at One Cumberland Avenue with the purpose of evaluating Campos Construction’s compliance with the RRP Rule (“Joint Inspection”).

38. At the time of the Joint Inspection, Mr. Campos and one representative of Munjoy Properties were present. When the EPA inspector arrived at One Cumberland Avenue, Campos Construction workers were not actively engaged in interior painting and renovation work, but the conditions at the jobsite indicated that the renovation work was still underway.

39. At the time of the Joint Inspection, there were no tenants living at One Cumberland Avenue. There were adult tenants living in two of the three units located at Three Cumberland Avenue. No children were living in the two occupied units.

40. During the Joint Inspection, Mr. Campos was unable to provide the EPA inspector with a written acknowledgement by the owner of One Cumberland Avenue acknowledging receipt of the *Renovate Right* pamphlet.

41. During the Joint Inspection, Mr. Campos was not able to provide the EPA inspector with EPA Certified Renovator Certificates.

42. The EPA inspector observed the following conditions during the Joint Inspection:

- a. There was no containment of dust and debris from the renovation and painting work, i.e., the floors were not covered with plastic;

- b. Dust and debris coated the floors, including floors outside of the work area; and
- c. Doors were not covered with plastic sheeting or other impermeable material at points of entry and egress to the work area.

43. At all times relevant to the allegations set forth in this Complaint, the painting and renovation activities performed by Campos Construction at One Cumberland Avenue constituted a “renovation” as defined in 40 C.F.R. § 745.83.

44. At all times relevant to the allegations set forth in this Complaint, the painting and renovation activities performed by Campos Construction at One Cumberland Avenue constituted a “renovation for compensation” subject to the RRP Rule. See 40 C.F.R. § 745.82. Furthermore, the renovation at One Cumberland Avenue did not satisfy the requirements for an exception to the provisions of TSCA or the RRP Rule.

45. During the Joint Inspection, Mr. Campos informed the EPA Inspector that the two workers hired by Campos Construction and working at One Cumberland Avenue were not certified under the RRP Rule as individuals or firms.

46. At all times relevant to the allegations set forth in this Complaint, there was no certified renovator working on the renovation at One Cumberland Avenue, as required by 40 C.F.R. §§ 745.81(a)(3) and 745.89(d)(2).

47. Based on the above-described inspections at 124-126 Emery Street and One Cumberland Avenue, 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 Assign a Certified Renovator to Perform Renovation Activities

48. Complainant incorporates by reference paragraphs 1 through 47.
49. Pursuant to 40 C.F.R. § 745.89(d)(2), firms performing renovations must ensure that a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90.
50. At no time before or during the renovation at 124-126 Emery Street were the workers performing the renovation activities either certified renovators or trained by a certified renovator as required by 40 C.F.R. § 745.90.
51. Campos Construction did not assign a certified renovator to the renovation performed at 124-126 Emery Street as required under 40 C.F.R. §§ 745.89(d)(2).
52. At no time before or during the renovation at One Cumberland Avenue were the workers performing the renovation activities either certified renovators or trained by a certified renovator as required by 40 C.F.R. § 745.90.
53. Campos Construction did not assign a certified renovator to the renovation performed at One Cumberland Avenue as required under 40 C.F.R. 40 C.F.R. §§ 745.89(d)(2).
54. Campos Construction's failure to ensure that individuals performing renovation activities at 124-126 Emery Street and One Cumberland Avenue were either certified renovators or trained by a certified renovator, and Campos Construction's failure to ensure that a certified renovator was assigned to the 124-126 Emery Street and One

Cumberland Avenue renovations to carry out all of the responsibilities in 40 C.F.R. C.F.R. § 745.90 constituted violations of 40 C.F.R. §§ 745.89(d)(1) and (d)(2) and Section 409 of TSCA.

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

Count 2 – Failure to Meet Work Practice Standard of Covering the Ground with Impermeable Material to Collect Paint Debris

56. Complainant incorporates by reference paragraphs 1 through 55.

57. 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)(2)(ii)(C), before beginning an exterior renovation, the renovator must cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater.

58. While renovating 124-126 Emery Street, Campos Construction failed to cover the ground with impermeable material to collect falling paint debris, resulting in lead-based paint debris falling directly onto the ground around the perimeter of 124-126 Emery Street.

59. Campos Construction's failure to cover the ground with impermeable material before beginning the renovation constitutes a violation of 40 C.F.R.

§ 745.85(a)(2)(ii)(C) as referenced by 40 C.F.R. § 745.89(d)(3), and Section 409 of TSCA.

60. 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 Practice Standard of Containing Waste from Renovation Activities

61. Complainant incorporates by reference paragraphs 1 through 60.

62. 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)(4)(i), renovators must 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.

63. During the renovation at 124-126 Emery Street, Campos Construction left a pile of renovation debris, including painted wood pieces outside, in the driveway, uncontained and exposed to the elements, for at least five days (November 10 through November 14, 2016).

64. Campos Construction's failure to contain renovation waste constitutes a violation of 40 C.F.R. § 745.85(a)(4)(i) as referenced by 40 C.F.R. § 745.89(d)(3), and Section 409 of TSCA.

65. 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 Clean the Work Area until No Dust, Debris, or Residue Remains after the Renovation has been Completed

66. Complainant incorporates by reference paragraphs 1 through 65.

67. 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)(5), renovators must clean the work area until no dust, debris, or residue remains after the renovation has been completed.

68. Campos Construction failed to clean the work area until no dust, debris, or residue remained after the renovation was completed, leaving paint chips on the ground surrounding the perimeter of 124-126 Emery Street.

69. Campos Construction's failure to clean the work area following completion of the renovation constitutes a violation of 40 C.F.R. § 745.85(a)(5) as referenced by 40 C.F.R. § 745.89(d)(3), and Section 409 of TSCA.

70. 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 5: Failure to Meet Work Practice Standard of Containing Waste from Interior Renovation Activities

71. Complainant incorporates by reference paragraphs 1 through 70.

72. 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)(2)(i)(A) through (D), renovators must isolate the work area so that no dust and debris leaves the work area while the renovation is being performed.

73. During the EPA Inspection at One Cumberland Avenue, the EPA inspector observed that the floors were not covered in plastic, there were no plastic barriers in place at points of entry and egress, dust covered the bare floor, and there was dust and debris outside of the work area.

74. Campos Construction's failure to use work practice standards required to contain the work area constitutes a violation of 40 C.F.R. § 745.85(a)(2)(i) as referenced by 40 C.F.R. § 745.89(d)(3), and Section 409 of TSCA.

75. 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 6: Failure to Establish and Maintain Records

76. Complainant incorporates by reference paragraphs 1 through 75.

77. Pursuant to 40 C.F.R. § 745.86(a), firms must establish and maintain records necessary to demonstrate RRP Rule compliance including acknowledgement of receipt of the *Renovate Right* pamphlet.

78. During the EPA Inspection at 124-125 Emery Street, Campos Construction was unable to provide to the EPA inspector a record acknowledging receipt of the *Renovate Right* pamphlet as required pursuant to 40 C.F.R. § 745.84(a)(1)(i).

79. During the EPA Inspection at One Cumberland Avenue, Campos Construction was unable to provide to the EPA inspector a record acknowledging receipt of the *Renovate Right* pamphlet as required pursuant to 40 C.F.R. § 745.84(a)(1)(i).

80. Campos Construction's failure to establish and maintain records necessary to demonstrate compliance with the RRP Rule constitutes a violation of 40 C.F.R. § 745.86(a) and Section 409 of TSCA.

81. The above-listed violations alleged in this count are prohibited acts under TSCA Section 409 and 40 C.F.R. § 745.87(b), and violations for which penalties may be assessed pursuant to Section 16 of TSCA.

IV. PROPOSED PENALTY

82. 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 a 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.

83. 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 proposes that Respondent be assessed a civil penalty in the amount of thirty-seven thousand twenty-five dollars (**\$37,025**) 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

84. 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.

85. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where a Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of a 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 a 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.

86. 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 I
5 Post Office Square – Suite 100
Mail Code: ORC04-6
Boston, Massachusetts 02109-3912

87. 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 Kathleen Woodward, 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:

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

88. If Respondent fail 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 the Respondent, without further proceedings, thirty (30) days after the default order becomes final.

89. 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

90. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or her 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 Kathleen E. Woodward, Senior Enforcement Counsel, at the address cited above or by calling (617) 918-1780. 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



Date

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)	
)	
Campos Construction)	Docket No. TSCA-01-2018-0058
72 Groveside Road)	
Portland, ME 04102)	
Respondent)	Certificate of Service
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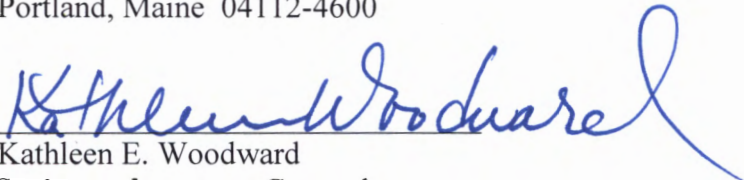
I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity for a Hearing has been sent to the following persons on the date noted below:

Original and One Copy (Hand-Delivered):	Wanda Santiago Regional Hearing Clerk U.S. EPA, Region I 5 Post Office Square, Suite 100 (ORC04-6) Boston, MA 02109-3912
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Copy, including 40 C.F.R. Part 22 and Disclosure Rule Penalty Enforcement Response And Penalty Policy (Certified Mail, Return Receipt Requested):	Valdemar DeSilva Campos, President Campos Construction 92 Groveside Road Portland, Maine 04102
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Darya I. Zappia, Esq.
P.O. Box 4600
Portland, Maine 04112-4600

Dated: September 28, 2018


Kathleen E. Woodward
Senior Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912

Attachment I

In the Matter of Campos Construction Docket Number TSCA-01-2017-0058

PROPOSED PENALTY SUMMARY

The following provides the justification for the proposed penalty calculation in the administrative penalty action against Campos Construction which seeks to assess a civil penalty in the amount of **\$37,025** 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”). A breakdown of the penalty by count is set forth below.

COUNT 1 - 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 40 C.F.R. § 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 40 C.F.R. § 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. § 745.89(d) 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 projects:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Campos Construction	124-126 Emery Street	12/1/16	Minor	Minor	\$4,667
Campos Construction	One Cumberland Avenue	7/20/18	Minor	Minor	\$4,667

COUNT 2 – Failure to Meet Work Practice Standard of Covering the Ground with Impermeable Material to Collect Paint Debris

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. Pursuant to 40 C.F.R. § 745.85(a)(2)(ii)(C), before beginning the renovation, the renovator must cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater.

Circumstance Level: Failure to cover the ground with impermeable material prior to beginning a renovation results in a *high probability* of impacting the human health and the environment by allowing dust and debris contaminated with lead to collect on the ground. 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)(2)(ii)(C) is a *Level 2a* 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 cover the ground with impermeable material to collect paint debris at the following project:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Campos Construction	124-126 Emery Street	12/1/16	Minor	Minor	\$6,223

COUNT 3 – Failure to Meet Work Practice Standard of Containing Waste from Renovation Activities

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. Pursuant to 40 C.F.R. § 745.85(a)(4)(i), renovators must 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.

Circumstance Level: 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 results in a *high probability* of impacting the human health and the environment by allowing debris exposed and accessible to human contact. 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. § 745.85(a)(4)(i) is a *Level 2a* 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 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 at the following project:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Campos Construction	124-126 Emery Street	12/1/16	Minor	Minor	\$6,223

COUNT 4 – Failure to Meet Work Practice Standard of Cleaning the Work Area until no Dust, Debris, or Residue Remains after the Renovation has been Completed

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. Pursuant to 40 C.F.R. § 745.85(a)(5), renovators must clean the work area until no dust, debris, or residue remains after the renovation has been completed.

Circumstance Level: Failure to clean the work area until no dust, debris, or residue remains after the renovation has been completed results in a *high probability* of impacting the human health and the environment by allowing dust and debris contaminated with lead to be exposed and accessible to human contact. 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. § 745.85(a)(5) is a *Level 1a* 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 clean the work area until no dust, debris, or residue remains after the renovation has been completed at the following project:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Campos Construction	124-126 Emery Street	12/1/16	Minor	Minor	\$7,778

COUNT 5 – Failure to Meet Work Practice Standard of Containing Waste from Interior Renovation Activities

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. Pursuant to 40 C.F.R. § 745.85(a)(2)(i)(A)-(D), renovators must isolate the work area so that no dust and debris leaves the work area while the renovation is being performed.

Circumstance Level: Failure to isolate the work area so that no dust and debris leaves the work area while the renovation is being performed results in a *high probability* of impacting the human health and the environment by allowing debris to be exposed and accessible to human contact. 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. § 745.85(a)(2)(i) is a *Level 2a* 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 isolate the work area so that no dust and debris leaves the work area while the renovation is being performed at the following project:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Campos Construction	One Cumberland Avenue	7/20/18	Minor	Minor	\$6,223

COUNT 6 – Failure to Establish and Maintain Records

Provision 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. Pursuant to 40 C.F.R. § 745.86(a), firms must establish and maintain records necessary to demonstrate RRP Rule compliance including acknowledgement of receipt of the Pamphlet.

Circumstance Level: The Pamphlet increases the owner’s ability to properly assess information regarding the risks associated with exposure to lead-based paint, lead dust, and debris. The requirement that renovators retain acknowledgement of receipt of the Pamphlet by the owner increases the likelihood that the renovator will provide the Pamphlet to the owner. Under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R. § 745.86(a) is a *Level 6a* 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 establish and maintain records necessary to demonstrate RRP Rule compliance including acknowledgement of receipt of the Pamphlet at the following projects:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Campos Construction	124-126 Emery Street	12/1/16	Minor	Minor	\$622
Campos Construction	One Cumberland Avenue	7/16/18	Minor	Minor	\$622

Total Penalty under the LPB Consolidated ERPP: \$37,025