



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 5**

**77 WEST JACKSON BOULEVARD**

**CHICAGO, IL 60604-3590**

**March 31, 2022**

**VIA ELECTRONIC EMAIL**

Jay R. Langenbahn  
Attorney  
Lindhorst & Dreidame Co., L.P.A.  
312 Walnut Street, Suite 3100  
Cincinnati, Ohio 45202-4048  
jlangenbahn@lindhorstlaw.com

Consent Agreement and Final Order – In the Matter of: Windows Direct USA of  
Columbus, Inc, Docket No. TSCA-05-2022-0003

Dear Mr. Langenbahn:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in  
resolution of the above case. This document was filed on March 31, 2022 with the Regional  
Hearing Clerk.

The civil penalty in the amount of \$470 is to be paid in the manner described in paragraphs 54  
and 55. Please be certain that the docket number is written on both the transmittal letter and on  
the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

**CHRISTINA**  
**SALDIVAR**

Digitally signed by  
CHRISTINA SALDIVAR  
Date: 2022.03.23  
14:49:37 -05'00'

Christina Saldivar  
Pesticides and Toxics Compliance Section

Enclosure

cc: Mary McAuliffe, (C-14J)  
Sophie Grueterich (C-14J)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

|   |   |   |
|---|---|---|
| <b>In the Matter of:</b>                    | ) | <b>Docket No. TSCA-05-2022-0003</b>       |
|   | ) |   |
| <b>Windows Direct USA of Columbus, Inc.</b> | ) |   |
| <b>Columbus, Ohio,</b>                      | ) | <b>Penalty Under Section 16(a) of the</b> |
|   | ) | <b>Toxic Substances Control Act,</b>      |
| <b>Respondent.</b>                          | ) | <b>15 U.S.C. § 2615(a)</b>                |
| <hr/>                                       | ) |   |

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Windows Direct USA of Columbus, Inc., formerly with a place of business located at 11258 Cornell Park Drive, Ste. 612, Blue Ash, Ohio 45242.

4. Respondent incorporated in April 2019, closed the business in June 2020, and dissolved under Ohio State law in July 2021.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

8. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

9. Respondent waives its right to request a hearing as provided in 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

**Statutory and Regulatory Background**

10. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X), Pub. L. 102-550, 106 Stat. 3897 (codified throughout sections of 15 U.S.C. and 42 U.S.C.), Congress found, among other things, that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under the age of 6; at low levels, lead poisoning in children causes intelligence deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems; and the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children. A key component of the national strategy to reduce and eliminate the threat of childhood lead poisoning is to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

11. Section 1021 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 amended TSCA, 15 U.S.C. § 2601 *et seq.*, by adding Subchapter IV – Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692.

12. Section 11 of TSCA, 15 U.S.C. § 2610, provides EPA with authority to conduct

inspections upon the presentation of appropriate credentials and a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected.

13. Section 402(a) of TSCA, 15 U.S.C. § 2682(a), required the Administrator of EPA to promulgate regulations to ensure that individuals engaged in lead-based paint activities are properly trained; that training programs are accredited; that contractors engaged in such activities are certified; and that such regulations contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety.

14. Section 402(c) of TSCA, 15 U.S.C. § 2682(c), required the Administrator of EPA to promulgate guidelines for the conduct of renovation and remodeling activities to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing, public buildings built before 1978, and commercial buildings, and to revise the regulations under Section 402(a) of TSCA to apply those regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards.

15. Section 406(b) of TSCA, 15 U.S.C. § 2686(b), required the Administrator of EPA to promulgate regulations to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

16. Section 407 of TSCA, 15 U.S.C. § 2687, required the regulations promulgated by the Administrator under Subchapter IV to include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of the TSCA Lead Exposure Reduction requirements, 15 U.S.C. §§ 2681-2692.

17. Under Section 409 of TSCA, 15 U.S.C. § 2689, it shall be unlawful for any person to fail or refuse to comply with any rule or order issued under Subchapter IV – Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692. *See also* 40 C.F.R. § 745.87.

18. Under Section 15 of TSCA, 15 U.S.C. § 2614, it shall be unlawful for any person to fail or refuse to establish and maintain records, submit reports, notices, or other information, or permit access to or copying of records, as required by TSCA or a rule thereunder. *See also* 40 C.F.R. § 745.87.

19. Under Sections 402, 404, 406 and 407 of TSCA, 15 U.S.C. §§ 2682, 2684, 2686 and 2687, EPA promulgated regulations amending 40 C.F.R. Part 745, Subparts E and L, Residential Property Renovation and Lead-Based Paint Activities, to prescribe procedures and requirements for the accreditation of training programs, certification of individuals and firms engaged in lead-based paint activities, and work practice standards for renovation, repair, and painting activities in target housing and child-occupied facilities. *See* 73 Fed. Reg. 21691 (April 22, 2008).

20. 40 C.F.R. § 745.83 defines *firm* to mean a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

21. 40 C.F.R. § 745.83 defines *pamphlet* to mean the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* developed under Section 406(a) of TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revisions or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information).

22. 40 C.F.R. § 745.83 defines *renovation* to mean the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by this part (40 C.F.R. § 745.223). The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components; the removal of building components; weatherization projects; and interim controls that disturb painted surfaces.

23. 40 C.F.R. § 745.83 defines *renovator* to mean an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA authorized State or Tribal Program.

24. 40 C.F.R. § 745.103 defines *target housing* to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

25. 40 C.F.R. Part 745, Subpart E, Residential Property Renovation, applies to all renovations performed for compensation in target housing and child-occupied facilities, with exceptions not relevant here. 40 C.F.R. § 745.82.

26. 40 C.F.R. § 745.84(a)(2) requires that the firm performing the renovation in target housing must provide the adult occupant if the owner does not occupy the dwelling unit with the pamphlet no more than 60 days before beginning renovation activities, and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certification of mailing at least seven days prior to the renovation.

27. 40 C.F.R. § 745.84(d)(1) requires that the firm performing the renovation in target housing obtain written acknowledgement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of the renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of the signature.

28. 40 C.F.R. § 745.86(a) requires firms performing renovations to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of three years following completion of the renovation.

29. 40 C.F.R. § 745.86(b)(6) requires firms to retain records that document compliance with the work practice standards in 40 C.F.R. § 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), that the certified renovator performed the post-renovation cleaning verification described in § 745.85(b). If the renovation firm was unable to comply with all of the requirements of this rule due to an emergency as defined in § 745.82, the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project.

30. 40 C.F.R. § 745.87(c) requires firms performing renovations to establish and maintain records and make them available to EPA or permit access to or copying of records.

31. 40 C.F.R. § 745.81(a)(2)(ii) requires that on or after April 22, 2010, 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(a).

32. Under 15 U.S.C. § 2689 and 40 C.F.R. § 745.87(a), failing to comply with any requirement of 40 C.F.R. Part 745, Subpart E, violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

33. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19 authorize the Administrator of EPA to assess a civil penalty of up to \$41,056 per violation for each day of violation of Sections 15 and 409 of TSCA that occurred after November 2, 2015, and assessed on or after December 23, 2020.

#### **Factual Allegations and Alleged Violations**

34. At all times relevant to this CAFO, Respondent's corporation was a firm as defined by 40 C.F.R. § 745.83.

35. On October 10, 2019, Complainant issued an administrative subpoena to Respondent, under authority of Section 11 of TSCA, 15 U.S.C. § 2610, seeking, among other things, a copy of the renovator certification showing completion of an EPA accredited training course, a copy of the firm certification received by EPA, copies of all contracts and/or agreements for renovation (contracts) and copies of all acknowledgements of receipt of a pamphlet by the owners and occupants of residential housing from October 7, 2016 to October 7, 2019.

36. On January 28, 2020, Respondent provided Complainant with documents responsive to the TSCA administrative subpoena referenced in paragraph 35.

37. Based on the information provided to Complainant by Respondent, as well as



building-year information publicly available on the property value assessment website (accessed on January 31, 2019) of Franklin County (<https://www.franklincountyauditor.com/>) and Fairfield County (<http://realestate.co.fairfield.oh.us/>), Respondent performed, or directed workers to perform for compensation, the following modifications of existing structures that resulted in disturbances of painted surfaces in the following residential housing built prior to 1978, referenced in this Table:

| <b>Line No.</b> | <b>Residential Property Address</b>     | <b>Residence Type</b> | <b>Built Year</b> | <b>Work Contract Date</b> | <b>Contracted Work</b> |
|-----------------|---|-----------------------|-------------------|---------------------------|------------------------|
| 1               | 305 Marietta Street, Bremen, OH 43107   | Single Family         | 1900              | 07/18/2019                | Replace Windows        |
| 2               | 1553 Virginia Ave, Columbus, OH 43212   | Single Family         | 1948              | 05/23/2019                | Replace Windows        |
| 3               | 749 Collingwood Ave, Columbus, OH 43213 | Single Family         | 1922              | Not Dated                 | Replace Windows        |
| 4               | 224 E 7th Avenue, Columbus, OH 43201    | Single Family         | 1911              | Not Dated                 | Replace Windows        |

38. At the four renovations referenced in paragraph 37, Respondent performed or directed performance of modifications of the buildings' existing structures that resulted in disturbance of painted surfaces and were therefore renovations as defined in 40 C.F.R. § 745.83.

39. The four renovations referenced in paragraph 37 were each performed at residential housing built prior to 1978, and therefore each residential housing was target housing as defined in 40 C.F.R. § 745.103.

**Count 1 – Failure to Obtain Firm Certification**

40. Complainant incorporates paragraphs 1 through 39 of this CAFO as if set forth in this paragraph.

41. 40 C.F.R. §§ 745.89(a) and 745.82(a)(2)(ii) require firms that perform, offer, or claim to perform renovations for compensation to obtain firm certification under EPA.

42. Respondent was not registered as a certified firm under EPA at the time of the four renovations described in paragraph 37, and did not qualify for an exemption under 40 C.F.R. § 745.82(b).

43. Respondent's failure to be registered as a certified firm before performing the four renovations described in paragraph 37, constitutes a violation under 40 C.F.R. § 745.89(a) and 40 C.F.R. § 745.81(a)(2)(ii), and 15 U.S.C. § 2689.

**Count 2 – Failure to Obtain Written Acknowledgement of Receipt of Required Pamphlet from Adult Occupant**

44. Complainant incorporates paragraphs 1 through 39 of this CAFO as if set forth in this paragraph.

45. Respondent performed a renovation in one location of rental target housing, described in paragraph 37 in the Table at Line No. 1 (Marietta), and, failed to obtain from each adult occupant the written acknowledgment that each occupant had received the pamphlet, or obtain for this location a certificate of mailing at least seven days prior to each renovation.

46. Respondent's failure to obtain from each adult occupant of the rental target housing, as described in paragraph 37 in the Table at Line No. 1, the written acknowledgement that each occupant had received the pamphlet, or obtain a certificate of mailing at least seven days prior to the renovation, constitutes one violation of 40 C.F.R. § 745.84(a)(2)(i), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.

**Count 3 – Failure to Record Date of Written Acknowledgement of Receipt of Required Pamphlet from Owner**

47. Complainant incorporates paragraphs 1 through 39 of this CAFO as if set forth in this paragraph.

48. Respondent performed a renovation in one location of target housing, described in paragraph 37 in the Table at Line No. 3 (Collingwood), and, failed to obtain written acknowledgement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of the renovation, the address of the target housing undergoing renovation, the signature of the owner or occupant as applicable, and the date of the signature.

49. Respondent's failure to obtain written acknowledgement from the owner of the target housing as described in paragraph 37 in the Table at Line No. 3, the written acknowledgement that the owner had received the pamphlet, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of the signature, constitutes a violation of 40 C.F.R. § 745.84(d)(1), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.

**Counts 4 to 7 – Failure to Retain All Records Necessary to Demonstrate Compliance with 40 C.F.R. Part 745, Subpart E**

50. Complainant incorporates paragraphs 1 through 39 of this CAFO as if set forth in this paragraph.

51. In the four contracted renovations described in paragraph 37, Respondent failed to retain documentation that the certified renovator performed the post-renovation cleaning verification described in 40 C.F.R. § 745.85(b)(6).

52. Respondent's failure to retain all records necessary to demonstrate compliance with 40 C.F.R. § 745.85(b)(6) for a period of three years following the completion of the four contracted renovations referenced in paragraph 37, constitutes four violations of 40 C.F.R. § 745.86(b)(6), 40 C.F.R. § 745.87(a), and 15 U.S.C. § 2689.

**Civil Penalty**

53. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$470. In determining the penalty amount,

Complainant considered the nature, circumstances, extent, and gravity of the violations alleged and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require, including Respondent's status as a dissolved corporation as of July 2021.

54. Within 30 days after the effective date of this CAFO, Respondent must pay a \$470 civil penalty for the TSCA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

The check must state Respondent's name and the docket number of this CAFO.

55. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk  
U.S. EPA, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Christina Saldivar  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
[saldivar.christina@epa.gov](mailto:saldivar.christina@epa.gov)

Mary McAuliffe  
Sophie Grueterich  
Office of Regional Counsel  
U.S. EPA, Region 5  
[mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov)  
[grueterich.sophie@epa.gov](mailto:grueterich.sophie@epa.gov)

56. This civil penalty is not deductible for federal tax purposes.

57. If Respondent does not pay timely the civil penalty, EPA may refer this matter to

the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

58. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

59. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov) and [grueterich.sophie@epa.gov](mailto:grueterich.sophie@epa.gov) (for Complainant), and [jlangenbahn@lindhorstlaw.com](mailto:jlangenbahn@lindhorstlaw.com) (for Respondent).

60. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

61. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

62. This CAFO does not affect Respondent's responsibility to comply with TSCA, 15 U.S.C. § 2601 *et seq.*, its implementing regulations, and other applicable federal, state, and local laws.

63. Respondent certifies that it dissolved in July 2021, and is no longer performing residential property renovations.

64. This CAFO constitutes a "prior such violation" as that term is used in EPA's Interim

Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule to determine Respondent's "history of prior such violations" under Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B).

65. The terms of this CAFO bind Respondent, and its successors and assigns.

66. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

67. Each party agrees to bear its own costs and attorneys' fees in this action.

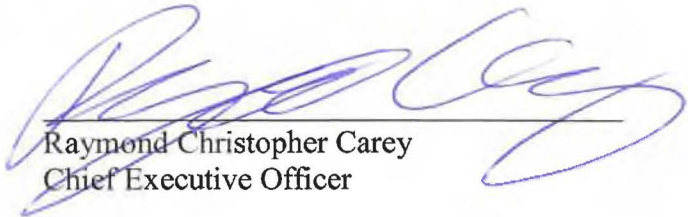
68. This CAFO constitutes the entire agreement between the parties.

**Consent Agreement and Final Order**  
**In the Matter of: Windows Direct USA of Columbus, Inc**

**Windows Direct USA of Columbus, Inc., Respondent**

3-16-22

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Raymond Christopher Carey  
Chief Executive Officer

**Consent Agreement and Final Order  
In the Matter of: Windows Direct USA of Columbus, Inc.**

**United States Environmental Protection Agency, Complainant**

**MICHAEL  
HARRIS**

Digitally signed by MICHAEL  
HARRIS  
Date: 2022.03.25 09:53:59  
-05'00'

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Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 5



**Consent Agreement and Final Order**  
**In the Matter of: Windows Direct USA of Columbus, Inc.**  
**Docket No. TSCA-05-2022-0003**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

**ANN COYLE** Digitally signed by ANN COYLE  
Date: 2022.03.25 12:06:34  
-05'00'

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Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Windows Direct USA of Columbus, Inc**  
**Docket Number: TSCA-05-2022-0003**

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on March 31, 2022, this day in the following manner to the addressees:

Copy by e-mail to

Attorneys of Respondent:

Mr. Jay Langenbahn  
Lindhorst & Dreidame Co., L.P.A.  
[jlangenbahn@lindhorstlaw.com](mailto:jlangenbahn@lindhorstlaw.com)

Copy by e-mail to

Attorney of Complainant:

Mary McAuliffe  
[mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov)

Sophie Grueterich  
[grueterich.sophie@epa.gov](mailto:grueterich.sophie@epa.gov)

Copy by e-mail to

Regional Judicial Officer:

Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Isidra Martinez  
Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)