



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I – New England  
5 Post Office Square - Suite 100  
Boston, Massachusetts 02109-3912

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REGIONAL HEARING CLERK

**BY HAND**

September 27, 2013

Wanda I. Santiago, Regional Hearing Clerk  
U.S. Environment Protection Agency, Region I  
5 Post Office Square, Suite 100 (ORA18-1)  
Boston, MA 02109-3912

Re: In the Matter of A.W. Chesterton Company., Docket No. FIFRA-01-2013-0059

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter are the original and one copy of a Complaint and Notice of Opportunity for Hearing.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads "David M. Peterson".

David M. Peterson  
Senior Enforcement Counsel

Enclosures

cc: Brian O'Donnell, President & CEO, A.W. Chesterton Company

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

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\_\_\_\_\_  
In the Matter of: )  
 )  
A.W. Chesterton Company )  
500 Unicorn Park Drive )  
Woburn, MA )  
Respondent. )  
Proceedings under Section )  
14(a) of the Federal Insecticide, )  
Fungicide, and Rodenticide Act, )  
as amended, 7 U.S.C. § 136l(a). )  
\_\_\_\_\_

Docket No. FIFRA-01-2013-0059

**COMPLAINT and NOTICE OF  
OPPORTUNITY FOR HEARING**

**COMPLAINT**

1. This Complaint and Notice of Opportunity for Hearing (the "Complaint") is being issued under Section 14(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. §136l(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Part 22" or the "Consolidated Rules"). This Complaint alleges that the Respondent, A.W. Chesterton Company. ("Chesterton" or the "Respondent"), has violated Sections 12(a)(2)(L) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136j(a)(2)(L) and 136j(a)(1)(A), and regulations promulgated pursuant to FIFRA at 40 C.F.R. Parts 150 – 180. This Complaint provides written notice of the United States Environmental Protection Agency's ("EPA") proposal to assess administrative penalties for the violations alleged herein. This Complaint also provides notice of Respondent's opportunity to request a hearing on the proposed

penalties. The Complainant is, by lawful delegation, the Legal Enforcement Manager in the Office of Environmental Stewardship, EPA Region 1.

### **GENERAL ALLEGATIONS**

2. The Respondent, A.W. Chesterton Company, is a company that formulates, packages, distributes and sells industrial lubricants and fluid sealing systems, high performance protective coatings, and specialty industrial maintenance products. Respondent is a business incorporated under the laws of the Commonwealth of Massachusetts ("Massachusetts"), doing business in Massachusetts. Respondent's headquarters is at 500 Unicorn Park Drive in Woburn, Massachusetts. Respondent also operates a facility located at 860 Salem Street in Groveland, Massachusetts 01834 (the "Groveland Facility").

3. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and is subject to FIFRA and the regulations promulgated thereunder. Respondent is also a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and a "distributor" within the meaning of Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

4. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term "pest" to mean, in pertinent part, "any insect, rodent, nematode, fungus, weed" or "any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms" declared by EPA to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

5. Section 2(u)(1) of FIFRA, 7 U.S.C. § 136(u)(1), defines the term "pesticide" to mean, in pertinent part, "any substance or mixture of substances intended for preventing, destroying,

repelling, or mitigating any pest.”

6. Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), defines the term “establishment” as “any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.”

7. Pursuant to Section 7 of FIFRA, 7 U.S.C. § 136e, on or about April 26, 1978, Respondent sought to register a pesticide-producing establishment in Massachusetts to which, subsequently, EPA assigned the EPA Establishment Number 038442-MA-001.

8. At all times relevant to the violations alleged in this Complaint, the Groveland Facility has been the situs of Chesterton’s pesticide-producing establishment (EPA Estab. No. 038442-MA-001). Based on Respondent’s production at the Groveland Facility within the meaning of the term “produce” in Section 2(w) of FIFRA, 7 U.S.C. § 136(w), the Groveland Facility is an “establishment” under Section 2(dd) of FIFRA.

9. Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the implementing regulations codified at 40 C.F.R. Part 167, Subpart E, require any producer operating a registered establishment to report to EPA the types and amounts of each pesticide product that it is currently producing, that it produced during the past year, and that it sold or distributed during the past year. A producer is also responsible, under 40 C.F.R. § 167.85(d), for obtaining, completing, and submitting this information annually to EPA, even if the establishment did not produce any pesticide products.

10. On December 5, 2008, EPA issued a Notice of Warning (“NOW”) [FIFRA-2009-

001] to Respondent for failing to file an annual pesticide production report for reporting year 2007 on or before the March 1, 2008 deadline applicable to Respondent's registered pesticide-producing establishment (EPA Establishment Number 038442-MA-001), as required by Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and 40 C.F.R. Part 167, Subpart E. Respondent received the NOW on or about December 10, 2008.

11. On information and belief, Respondent failed to file any annual pesticide production report for reporting year 2008 on or before the March 1, 2009 deadline applicable to Respondent's registered pesticide-producing establishment (Estab. No. 038442-MA-001), as required by Section 7(c) of FIFRA and 40 C.F.R. Part 167, Subpart E. As of the date of this complaint, Respondent has not filed such annual report for reporting year 2008.

12. On information and belief, Respondent failed to file any annual pesticide production report for reporting year 2009 on or before the March 1, 2010 deadline applicable to Respondent's registered pesticide-producing establishment (Estab. No. 038442-MA-001), as required by Section 7(c) of FIFRA and 40 C.F.R. Part 167, Subpart E. As of the date of this complaint, Respondent has not filed such annual report for reporting year 2009.

13. On information and belief, Respondent failed to file an annual pesticide production report for the reporting year 2010 on or before the March 1, 2011 deadline applicable to Respondent's registered pesticide-producing establishment (Estab. No. 038442-MA-001), as required by Section 7(c) of FIFRA and 40 C.F.R. Part 167, Subpart E. Respondent submitted an annual report for reporting year 2010 to EPA, on or about May 23, 2011.

14. On or about September 23, 2011, a duly-authorized EPA inspector (the "EPA Inspector") conducted a FIFRA inspection at the Groveland Facility (the "Inspection") pursuant to Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, to investigate Respondent's potential noncompliance with FIFRA and its implementing regulations. Among other things, during the Inspection, the EPA Inspector reiterated to Respondent the annual FIFRA reporting requirements applicable to registered pesticide-producing establishments and the need to submit such reports to EPA by the March 1 deadline, as specified by FIFRA Section 7(c) and 40 C.F.R. Part 167, Subpart E.

15. On information and belief, Respondent failed to file an annual pesticide production report for the reporting year 2011 on or before the March 1, 2012 deadline applicable to Respondent's registered pesticide-producing establishment (Estab. No. 038442-MA-001), as required by Section 7(c) of FIFRA and 40 C.F.R. Part 167, Subpart E. Respondent submitted an annual report for reporting year 2011 to EPA, on or about May 25, 2012.

16. On information and belief, Respondent failed to file any annual pesticide production report for reporting year 2012 on or before the March 1, 2013 deadline applicable to Respondent's registered pesticide-producing establishment (Estab. No. 038442-MA-001), as required by Section 7(c) of FIFRA and 40 C.F.R. Part 167, Subpart E. As of the date of this complaint, Respondent has not filed such annual report for reporting year 2012.

17. During or as a result of the Inspection, the EPA Inspector collected documentary samples (e.g., photographs and/or photocopies) of the products listed in Paragraph 18, below, as

well as product sales and distribution records, information on product labels or labeling, and inventory documents relating to raw materials and end-use products. Each of the products sampled and/or documented during the Inspection were packaged, labeled, and released for shipment.

18. Among Respondent's products identified and observed during the Inspection to be packaged, labeled, and released for shipment were the following metal working fluids and coolants offered by Respondent for distribution or sale:

- i. Opticool 570;
- ii. Opticool 970;
- iii. 380 DF Machinery Coolant; and
- iv. 380 Machinery Coolant.

19. At the time of the Inspection, the product labels or labeling (including without limitation, internet advertising by Respondent) for each of the "Opticool 570" and "Opticool 970" products contained one or more of the following claims: (i) "Dilutions in excess of 40:1 are not recommended since....resistance to bacterial attack will be reduced." and (ii) "Resists microbial attack."

20. At the time of the Inspection, the product labels or labeling (including without limitation, internet advertising by Respondent) for each of the "380 Machinery Coolant" and "380 DF Machinery Coolant" products contained one or more of the following claims: (i) "Contains bactericide to protect against rancidity." and (ii) "Dilutions in excess of 1/40 are not recommended since.....,resistance to bacterial attack will be reduced."

21. The claims made on the labeling for each of the products identified in Paragraphs 18-20 indicate that each product is intended for preventing, destroying, repelling, or mitigating a pest and, thus, each was a pesticide as defined in Section 2(u)(1) of FIFRA, 7 U.S.C. § 136(u)(1), not otherwise exempt from regulation under FIFRA.

22. On or about October 3, 2011, at EPA's request, Respondent mailed EPA a copy of sales record for the period between June 2009 and September 2011 for the pesticide products listed in Paragraph 18, above.

23. Respondent's sale or distribution, or offering for sale or distribution, of the products described in Paragraph 18 falls within the meaning of the term "to distribute or sell" as that term is defined in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

24. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states, in pertinent part, that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

25. At all times relevant to the violations alleged in this Complaint, Respondent produced at the Groveland Facility and distributed or sold each of the pesticide products described in Paragraph 18, above.

## VIOLATIONS

### COUNT 1

*(Failure to Properly File Annual Pesticide Production Report – Reporting Year 2008)*

26. Paragraphs 1 through 25 are realleged and incorporated by reference.

27. During calendar year 2008, the Groveland Facility was registered with EPA as a



pesticide-producing establishment under Section 7(b) of FIFRA, 7 U.S.C. § 136e(b), and 40 C.F.R. Part 167.

28. For the reporting year 2008, Respondent failed to submit an annual pesticide production report by the March 1, 2009 reporting deadline as required by Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and 40 C.F.R. Part 167, Subpart E.

29. Such failure is unlawful pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), and a violation for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**COUNT 2**

*(Failure to Properly File Annual Pesticide Production Report – Reporting Year 2009)*

30. Paragraphs 1 through 29 are realleged and incorporated by reference.

31. During calendar year 2009, the Groveland Facility was registered with EPA as a pesticide-producing establishment under Section 7(b) of FIFRA, 7 U.S.C. § 136e(b), and 40 C.F.R. Part 167.

32. For the reporting year 2009, Respondent failed to submit an annual pesticide production report by the March 1, 2010 reporting deadline as required by Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and 40 C.F.R. Part 167, Subpart E.

33. Such failure is unlawful pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), and a violation for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**COUNT 3**

*(Failure to Properly File Annual Pesticide Production Report – Reporting Year 2010)*

34. Paragraphs 1 through 33 are realleged and incorporated by reference.
35. During calendar year 2010, the Groveland Facility was registered with EPA as a pesticide-producing establishment under Section 7(b) of FIFRA, 7 U.S.C. § 136e(b), and 40 C.F.R. Part 167.
36. For the reporting year 2010, Respondent failed to submit an annual pesticide production report by the March 1, 2011 reporting deadline as required by Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and 40 C.F.R. Part 167, Subpart E.
37. Respondent submitted its 2010 annual pesticide production report to EPA after the reporting deadline on May 23, 2011 (as postmarked).
38. Failure to file an annual pesticide production report by the required deadline is unlawful pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), and a violation for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**COUNT 4**

*(Failure to Properly File Annual Pesticide Production Report – Reporting Year 2011)*

39. Paragraphs 1 through 38 are realleged and incorporated by reference.
40. During calendar year 2011, the Groveland Facility was registered with EPA as a pesticide-producing establishment under Section 7(b) of FIFRA, 7 U.S.C. § 136e(b), and 40 C.F.R. Part 167.
41. For the reporting year 2011, Respondent failed to submit an annual pesticide

production report by the March 1, 2012 reporting deadline as required by Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and 40 C.F.R. Part 167, Subpart E.

42. Respondent submitted its 2011 annual pesticide production report to EPA after the reporting deadline on May 25, 2012 (as postmarked).

43. Failure to file an annual pesticide production report by the required deadline is unlawful pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), and a violation for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**COUNT 5**

*(Failure to Properly File Annual Pesticide Production Report – Reporting Year 2012)*

44. Paragraphs 1 through 43 are realleged and incorporated by reference.

45. During calendar year 2012, the Groveland Facility was registered with EPA as a pesticide-producing establishment under Section 7(b) of FIFRA, 7 U.S.C. § 136e(b), and 40 C.F.R. Part 167.

46. For the reporting year 2012, Respondent failed to submit an annual pesticide production report by the March 1, 2013 reporting deadline as required by Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and 40 C.F.R. Part 167, Subpart E.

47. Such failure is unlawful pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), and a violation for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**COUNT 6**

*(Distribution and Sale of an Unregistered Pesticide – Opticool 570)*

48. Paragraphs 1 through 47 are realleged and incorporated by reference.

49. Based on the Inspection and subsequent investigation, EPA determined that, from on or about June 16, 2009 until on or about September 22, 2011, Respondent distributed or sold the Opticool 570 product on numerous occasions with labels and/or labeling, including Internet advertising, brochures, product inserts, and/or other materials, making one or more of the statements or claims referenced in Paragraph 19, above.

50. Upon information and belief, at no time has Respondent sought or obtained EPA registration of the Opticool 570 product as a pesticide pursuant to Section 3 of FIFRA.

51. Therefore, Respondent has violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

**COUNT 7**

*(Distribution and Sale of an Unregistered Pesticide – Opticool 970)*

52. Paragraphs 1 through 51 are realleged and incorporated by reference.

53. Based on the Inspection and subsequent investigation, EPA determined that, from on or about June 19, 2009 until on or about September 27, 2011, Respondent distributed or sold the Opticool 970 product on numerous occasions with labels and/or labeling, including Internet advertising, brochures, product inserts, and/or other materials, making one or more of the statements or claims referenced in Paragraph 19, above.

54. Upon information and belief, at no time has Respondent sought or obtained EPA registration of the Opticool 970 product as a pesticide pursuant to Section 3 of FIFRA.

55. Therefore, Respondent has violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

**COUNT 8**

*(Distribution and Sale of an Unregistered Pesticide – 380 DF Machinery Coolant)*

56. Paragraphs 1 through 55 are realleged and incorporated by reference.

57. Based on the Inspection and subsequent investigation, EPA determined that, from on or about July 7, 2009 until on or about August 11, 2011, Respondent distributed or sold the 380 DF Machinery Coolant product on numerous occasions with labels and/or labeling, including Internet advertising, brochures, product inserts, and/or other materials, making one or more of the statements or claims referenced in Paragraph 20, above.

58. Upon information and believe, at no time has Respondent sought or obtained EPA registration of the 380 DF Machinery Coolant product as a pesticide pursuant to Section 3 of FIFRA.

59. Therefore, Respondent has violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

**COUNT 9**

*(Distribution and Sale of an Unregistered Pesticide – 380 Machinery Coolant)*

60. Paragraphs 1 through 59 are realleged and incorporated by reference.

61. Based on the Inspection and subsequent investigation, EPA determined that, from on or about June 5, 2009 until on or about September 30, 2011, Respondent distributed or sold the 380 Machinery Coolant product on numerous occasions with labels and/or labeling, including Internet advertising, brochures, product inserts, and/or other materials, making one or more of the statements or claims referenced in Paragraph 20, above.

62. Upon information and belief, at no time has Respondent sought or obtained EPA registration of the 380 Machinery Coolant product as a pesticide pursuant to Section 3 of FIFRA.

63. Therefore, Respondent has violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

**PROPOSED CIVIL PENALTY**

64. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), authorizes EPA to assess a civil penalty of up to \$5,000 for each violation of FIFRA and the regulations promulgated pursuant thereto. Pursuant the Debt Collection Improvement Act of 1996 (“DCIA”), Pub. L. No. 104-134, 110 Stat. 1321 (1996), and EPA’s Civil Monetary Penalty Inflation Adjustment Rule, promulgated thereunder and codified at 40 C.F.R. Part 19, this amount was increased to \$6,500 for violations occurring after March 15, 2004, and to \$7,500 for violations occurring after

January 12, 2009.

65. Based on the forgoing violations of FIFRA, EPA seeks to assess a civil penalty of up to \$7,500 per violation for each of the violations alleged in Counts 1 through 9, above. The assessment of a penalty for each of the violations is warranted because the violations are serious and involve the failure of a pesticide-producing establishment to properly provide EPA with the annual reports required under Section 7 of FIFRA as well as the sale or distribution of pesticides that were not registered under FIFRA Section 3.

66. The requirement for pesticide-producing establishments to report annual pesticide production, distribution, and sales data is central to FIFRA's purpose of ensuring public and environmental safety by enabling EPA to track such production, distribution, and sales. The reports are used by EPA for compliance, risk assessment, and risk reduction activities to protect human health and the environment and to maintain the integrity of the federal pesticide program. The reports are EPA's only source of such information so that, without proper reporting by pesticide-producing establishments, EPA has no reliable means with which to determine what (and where) pesticides are being produced, distributed, and sold.

67. The FIFRA Section 3 registration requirement is important since it lies at the core of FIFRA's regulatory scheme and serves a fundamental purpose of ensuring that no pesticide is distributed, sold, or used in a manner that may pose an unreasonable risk to human health or the environment. This registration requirement under FIFRA Section 3 is also important because it helps ensure that pesticide end users and members of the public have accurate, up-to-date, and

compliant information about any pesticides in the marketplace.

68. In determining the amount of the penalty to be assessed under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), EPA will take into account the statutory factors listed in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), which include the appropriateness of the penalty to the size of the business of the person charged, the effect of the penalty on the person's ability to continue in business, and the gravity of the violations. EPA will also take into account, for the violations alleged in Counts 1 through 5, EPA's May 2010 "Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements" and, for the violations alleged in Counts 6 through 9, EPA's December 2009 "FIFRA Enforcement Response Policy." Each of these enforcement response policies was issued by the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance at EPA Headquarters and a copy of each is enclosed with this Complaint.

69. Prior to any hearing on this case, EPA will file a document specifying a proposed penalty based on the number of violations and explaining how the proposed penalty was calculated, as required by the Consolidated Rules (enclosed).

70. Neither assessment nor payment of any administrative penalty shall affect Respondent's continuing obligation to comply with FIFRA and its implementing regulations, including registering all pesticide products produced and submitting annual pesticide production reports by the required filing deadline.



**NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

71. As provided in Section 14(a)(3) of FIFRA, 7 U.S.C. § 136l(a)(3), and in accordance with 5 U.S.C. § 554 and 40 C.F.R. § 22.14, Respondent has the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. To avoid being found in default and having a penalty assessed without further proceedings, Respondent must file a written Answer within thirty (30) days of receipt of this Complaint. The Answer should (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint, (2) briefly state all facts and circumstances, if any, which constitute grounds for a defense, and (3) specifically request an administrative hearing (if desired). The denial of any material fact or raising any affirmative defense(s) shall be construed as a request for a hearing. Failure to deny any of the factual allegations in this Complaint will constitute an admission of the undenied allegations. The original and one copy of any motions or other pleadings filed or made before an Answer to the Complaint is filed, the Answer to the Complaint, and any Consent Agreement and Final Order to settle the case filed in this action must be sent to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: ORA 18-1)  
Boston, Massachusetts 02109-3912

After an Answer has been filed, except for a Consent Agreement and Final Order settling the case, a copy of all other documents Respondent files in this action must be sent to the

Headquarters Hearing Clerk, in the following manner:

For U.S. Postal Service mailings -  
Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Mail Code 1900R  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

For UPS, FedEx, DHL or other courier, or personal delivery -  
Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Ronald Reagan Building, Rm. M1200  
1300 Pennsylvania Ave., NW  
Washington, DC 20460

72. Respondent should also send a copy of the Answer, as well as a copy of all other documents that Respondent files in this action to David M. Peterson, the attorney assigned to represent EPA and designated to receive service on behalf of Complainant in this matter at:

David M. Peterson  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
Office of Environmental Stewardship  
5 Post Office Square, Suite 100 (Mail Code: OES 04-4)  
Boston, MA 02109-3912  
(617) 918-1891  
(617) 918-0891 fax

73. The hearing that will be held upon Respondent's request will be conducted in accordance with the Administrative Procedure Act (5 U.S.C. §§ 551 *et seq.*) and the Consolidated Rules.

74. If Respondent fails to file a written Answer within thirty (30) days of the service

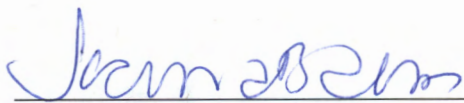
of this Complaint, pursuant to 40 C.F.R § 22.17(a) Respondent may be found in default, which constitutes an admission of all the facts alleged in this Complaint and a waiver of the right to a hearing, and the above-referenced penalties may be assessed without further proceedings.

**INFORMAL SETTLEMENT CONFERENCE**

75. Whether or not Respondent requests a hearing, Respondent may confer informally with EPA to discuss the facts of this case, or the proposed penalties, and/or the possibility of settlement. EPA has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement reached with Respondent in an informal conference. The terms of such an agreement would be embodied in a Consent Agreement and Final Order. A Consent Agreement and Final Order, signed by Complainant and Respondent, would be binding as to all terms and conditions specified therein.

76. A request for an informal settlement conference does not extend any deadline in this proceeding, including the thirty (30) day period for the submission of a written Answer to this Complaint.

77. If Respondent has any questions concerning the settlement process, or wishes to arrange for an informal conference, Respondent should contact David M. Peterson at (617) 918-1891.

  
\_\_\_\_\_  
Joanna B. Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship

Date: 9/27/13

In the Matter of A.W. Chesterton Company, Docket No. FIFRA-01-2013-0059  
*Complaint and Notice of Opportunity for Hearing*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Complaint and Notice of Opportunity for Hearing was delivered in the following manner to the addresses listed below:

Original and One Copy by  
Hand Delivery to:


Wanda I. Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: ORA 18-1)  
Boston, Massachusetts 02109-3912

One Copy by Certified Mail  
Return Receipt Requested to:

Brian O'Donnell, President & CEO  
A.W. Chesterton  
500 Unicorn Park Drive  
Woburn MA  
01801-3345

Date : 9/27/2013

Signed: \_\_\_\_\_

  
David M. Peterson  
Senior Enforcement Counsel  
Office of Environmental Stewardship (OES 04-4)  
U.S. Environmental Protection Agency  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912