



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAY 10 2010

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0189 9323

Mr. Wade Taatjes  
3700 Dutchess Avenue, SE  
Grand Rapids, Michigan 49526

Re: In the Matter of Wade Taatjes, Docket No: **TSCA-05-2010-0011**

Dear Mr. Taatjes:

Enclosed is a complaint filed by the U.S. Environmental Protection Agency, Region 5 against Wade Taatjes, a/k/a Dennis Wade Taatjes (you), under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a). The complaint alleges violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 *et seq.*

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. To request a conference, or if you have any questions about this matter, you may contact John Matson, Associate Regional Counsel at (312) 886-2243.

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret M. Guerriero".

Margaret M. Guerriero  
Director  
Land and Chemicals Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:** )  
 )  
**Wade Taatjes, a/k/a** )  
**Dennis Wade Taatjes,** )  
 )  
**Grand Rapids, Michigan,** )  
 )  
**Respondent.** )

**Docket No. TSCA-05-2010-0011**

**Proceeding to Assess a Civil Penalty  
Under Section 16(a) of the Toxic  
Substance Control Act, 15 U.S.C.  
§ 2615(a)**

**RECEIVED**  
MAY 10 2010

**Complaint**

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

1. This is an administrative proceeding to assess a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).
2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.
3. Respondent Wade Taatjes, a/k/a Dennis Wade Taatjes (Respondent), is an individual doing business in the State of Michigan.

**Statutory and Regulatory Background**

4. Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Lead Act), 42 U.S.C. § 4852d, required the Administrator of EPA to promulgate regulations for the disclosure of lead-based paint hazards in target housing that is offered for sale or lease.
5. On March 6, 1996, EPA promulgated regulations codified at 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (Disclosure Rule).
6. 40 C.F.R. § 745.102(a) required owners of more than four residential dwellings to comply with the Disclosure Rule by September 6, 1996.

7. 40 C.F.R. § 745.103 defines “target housing” as any housing constructed prior to 1978, except for: (1) housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing); or (2) any 0-bedroom dwelling.

8. 40 C.F.R. § 745.103 defines “seller” as any entity that transfers legal title to target housing in whole or in part, in return for consideration, including but not limited to individuals.

9. 40 C.F.R. § 745.103 defines “purchaser” as any entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

10. 40 C.F.R. § 745.103 defines “lessor” as any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

11. 40 C.F.R. § 745.103 defines “lessee” as any entity that enters into an agreement to lease, rent or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

12. 40 C.F.R. § 745.107 requires, among other things, that the seller or lessor of target housing complete the required disclosure activities before a purchaser or lessee is obligated under any contract to purchase or lease target housing.

13. 40 C.F.R. § 745.110(a) requires that before a purchaser becomes obligated under a contract to purchase target housing, the seller must permit the purchaser a 10-day period (unless the parties mutually agree in writing to a different time period) to conduct a risk assessment or inspection for the presence of lead-based pain or lead-based paint hazards.

14. Pursuant to 40 C.F.R. § 745.110(b), a purchaser may waive in writing the opportunity for him/her to conduct the 40 C.F.R. § 745.110(a) risk assessment or inspection.

15. 40 C.F.R. § 745.113(a)(1) requires that each contract to sell target housing shall include a lead warning statement as an attachment or within the contract.

16. 40 C.F.R. § 745.113(a)(2) requires that each contract to sell target housing shall include as an attachment or within the contract, a statement by the seller disclosing the presence of any known lead-based paint and/or lead-based paint hazards or the lack of knowledge of such presence.

17. 40 C.F.R. § 745.113(a)(3) requires that each contract to sell target housing shall include as an attachment or within the contract, a list of any records or reports available to the seller regarding lead-based paints and/or lead-based paint hazards in the target housing or a statement that no such records exist.

18. 40 C.F.R. § 745.113(a)(4) requires that each contract to sell target housing shall include as an attachment or within the contract, a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. §§ 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet.

19. 40 C.F.R. § 745.113(a)(5) requires that each contract to sell target housing shall include as an attachment or within the contract, a statement by the purchaser that he/she either received the opportunity to conduct a lead-based paint risk assessment or inspection, or waived the opportunity to conduct the risk assessment or inspection.

20. 40 C.F.R. § 745.113(a)(7) requires that each contract to sell target housing shall include as an attachment or within the contract, the signatures and the dates of the signatures of the seller and purchaser certifying the accuracy of their statements.

21. 40 C.F.R. § 745.100 requires, among other things, that the lessor of target housing complete the required disclosure activities before a lessee is obligated under any contract to purchase or lease target housing.

22. 40 C.F.R. Part § 745.113(b)(3) requires a lessor to include within each contract or as an attachment to each contract to lease target housing, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing, or a statement that no such records are available.

23. 40 C.F.R. § 745.113(b)(4) requires the lessor to include, either within each contract or as an attachment to each contract, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. §§ 745.113(b)(2) and (b)(3), and the lead hazard information pamphlet required under 15 U.S.C. § 2696.

24. 40 C.F.R. § 745.113(b)(6) requires the lessor to include, either within each contract or as an attachment to each contract, the signatures of the lessor, the agent, and the lessee certifying to the accuracy of their statements to the best of their knowledge along with the dates of signature.

25. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failing to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f).

26. The Administrator of EPA may assess a civil penalty of up to \$11,000 for each violation of Section 409 of TSCA that occurred after July 28, 1997 through January 12, 2009, pursuant to 42 U.S.C. § 4852d(b)(5), 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19.

### **General Allegations**

27. Complainant incorporates paragraphs 1 through 26 of this Complaint as if set forth in this paragraph.

28. Between at least April 7, 2005, and June 13, 2005, Respondent owned the residential property in Grand Rapids, Michigan, located at 437 Milwaukee Avenue, NW.

29. Between at least July 7, 2005, and June 21, 2006, Respondent owned the residential property in Grand Rapids, Michigan located at 620 Emerald Avenue NE.

30. The residential properties in Grand Rapids, Michigan located at 437 Milwaukee Avenue NW and 620 Emerald Avenue NE were constructed prior to 1978.

31. The residential properties in Grand Rapids, Michigan located at 437 Milwaukee Avenue NW and 620 Emerald Avenue NE are “target housing” as defined in 40 C.F.R. § 745.103.

32. On June 13, 2005, Respondent entered into a contract to sell the target housing located at 437 Milwaukee Avenue NE, Grand Rapids Michigan.

33. On May 26, 2006, Respondent entered into a contract to sell the target housing located at 620 Emerald Avenue NE, Grand Rapids Michigan.

34. Respondent is a “seller,” as defined by 40 C.F.R. § 745.103.

35. Each individual who entered into an agreement to purchase an interest in the target housing referenced in paragraphs 32 and 33 is a “purchaser,” as defined by 40 C.F.R. § 745.103.

36. Between August 28, 2005 and May 16, 2006, Respondent was the owner of residential rental properties in Grand Rapids, Michigan, located at 546 Michigan Avenue NE, and 216 Fairbanks Avenue, NE (the Residential Rental Properties).

37. The Residential Rental Properties were constructed prior to 1978.

38. The Residential Rental Properties and each apartment unit within the Residential Rental Properties are “target housing” as defined in 40 C.F.R. § 745.103.

39. On the following dates, Respondent entered into the following two written lease agreements (Contracts) with individuals for the lease of the Residential Rental Properties:

<b>Address</b>	<b>Date of Lease</b>
216 Fairbanks Avenue NE	08/28/2005
546 Michigan Avenue NE	05/16/2006

40. Each of the two rental contracts referenced in paragraph 39 covered a term of occupancy greater than 100 days.

41. Between August 28, 2005 and May 16, 2006, Respondent offered for lease the Residential Rental Properties, and individuals entered into contracts to lease those properties on the dates listed in paragraph 39.

42. Respondent was a “lessor,” as defined by 40 C.F.R. § 745.103, because he offered for lease the target housing referenced in paragraph 39.

43. Each individual who signed a lease to pay rent in exchange for occupancy of a unit in the Residential Rental Properties referenced in paragraph 39 became a “lessee” as defined in 40 C.F.R. § 745.103.

44. On July 19, 2006, representatives of EPA conducted an inspection at the Respondent's business office located at 3700 Duchess Ave. SE, Grand Rapids, Michigan, to monitor compliance with the Disclosure Rule found at 40 C.F.R. Part 745, Subpart F.

45. On February 19, 2010, EPA advised Respondent by letter that EPA was planning to file a civil administrative complaint against Respondent for specific alleged violations of the Lead Act and that the complaint would seek a civil penalty. EPA asked Respondent to identify any factors Respondent thought EPA should consider before issuing the complaint. If Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty, EPA asked Respondent to submit specific financial documents.

46. On approximately February 28, 2010, Respondent received the pre-filing letter referenced in paragraph 45. Respondent has not claimed an inability to pay a penalty and did not provide facts or other information concerning an ability to pay a penalty.

#### **Counts 1 through 2**

47. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

48. Before the purchasers of the following target housing properties became obligated under their respective sales contracts, Respondent failed to include a lead warning statement within the sales contract, or as an attachment to such contracts:

- Count 1: June 13, 2005 sales contract for 437 Milwaukee Avenue NE, Grand Rapids, Michigan; and
- Count 2: May 16, 2006 sales contract for 620 Emerald Avenue NE, Grand Rapids, Michigan.

49. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(a)(1), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.



**Counts 3 through 4**

50. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

51. Before the purchasers of the following target housing properties became obligated under their respective sales contracts, Respondent failed to include within the sales contracts, or as an attachment to such contracts, a statement disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing, or a lack of knowledge of such presence:

- Count 3: June 13, 2005 sales contract for 437 Milwaukee Avenue NE, Grand Rapids, Michigan; and
- Count 4: May 16, 2006 sales contract for 620 Emerald Avenue NE, Grand Rapids, Michigan.

52. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(a)(2), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

**Counts 5 through 6**

53. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

54. Before the purchasers of the following target housing properties became obligated under their respective sales contracts, Respondent failed to include within the sales contracts, or as an attachment to such contracts, a list of any records or reports available to Respondent regarding lead-based paint and/or lead-based paint hazards in the target housing that had been provided to the lessee or a statement that no such records are available:

- Count 5: June 13, 2005 sales contract for 437 Milwaukee Avenue NE, Grand Rapids, Michigan; and
- Count 6: May 16, 2006 sales contract for 620 Emerald Avenue NE, Grand Rapids, Michigan.

55. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(a)(3), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

### **Counts 7 through 8**

56. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

57. Before the purchasers of the following target housing properties became obligated under their respective sales contracts, Respondent failed to include within the sales contracts or as an attachment to such contracts, a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. §§ 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet:

- Count 7: June 13, 2005 sales contract for 437 Milwaukee Avenue NE, Grand Rapids, Michigan; and
- Count 8: May 16, 2006 sales contract for 620 Emerald Avenue NE, Grand Rapids, Michigan.

58. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(a)(4), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

### **Counts 9 through 10**

59. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

60. Before the purchasers of the following target housing properties became obligated under their respective sales contracts, Respondent failed to include within the sales contracts, or as an attachment to such contracts, a statement by the purchaser that he/she either received the opportunity to conduct a lead-based paint risk assessment or inspection, or waived the opportunity to conduct the risk assessment or inspection:

- Count 9: June 13, 2005 sales contract for 437 Milwaukee Avenue NE, Grand Rapids, Michigan; and
- Count 10: May 16, 2006 sales contract for 620 Emerald Avenue NE, Grand Rapids, Michigan.

61. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(a)(5), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

### **Counts 11 through 12**

62. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

63. Before the purchasers of the following target housing properties became obligated under their sales contracts, Respondent failed to include within the sales contracts, or as an attachment to such contracts, the signatures and the dates of the signatures of the seller and purchaser certifying the accuracy of their statements:

- Count 11: June 13, 2005 sales contract for 437 Milwaukee Avenue NE, Grand Rapids, Michigan; and
- Count 12: May 16, 2006 sales contract for 620 Emerald Avenue NE, Grand Rapids, Michigan.

64. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(a)(7), 42 U.S.C. § 4852d(b)(7), and Section 409 of TSCA, 15 U.S.C. § 2689.

### **Count 13**

65. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

66. Respondent failed to include within the contract or as an attachment to the contract dated May 16, 2006 for the target housing at 546 Michigan Avenue NE, Grand Rapids, Michigan, a list of any records or reports available to Respondent regarding lead-based paint and/or lead-based paint hazards in the target housing that had been provided to the lessee or a statement that no such records were available.

67. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(b)(3), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

### **Count 14**

68. Paragraphs 1 through 46 are realleged and incorporated here by reference.

69. Respondent failed to include within the contract or as an attachment to the contract dated May 16, 2006 for the target housing at 546 Michigan Avenue NE, Grand Rapids,

Michigan, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. §§ 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

70. Based on the foregoing Respondent violated 40 C.F.R. § 745.113(b)(4), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

**Counts 15 through 16**

71. Paragraphs 1 through 46, above, are realleged and incorporated here by reference.

72. Respondent failed to include within the following leasing contracts for target housing, or as an attachment to such contracts, the signatures of the lessor, the agent, and the lessee certifying to the accuracy of their statements and the dates of such signatures:

- Count 31: August 28, 2005 lease for 216 Fairbanks Avenue NE, Grand Rapids, Michigan; and
- Count 32: May 16, 2006 lease for 546 Michigan Avenue NE, Grand Rapids, Michigan.

73. Based on the foregoing, Respondent violated 40 C.F.R. § 745.113(b)(6), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

**Proposed Civil Penalty**

74. Complainant proposes that the Administrator assess a civil penalty against Respondent for the violations alleged in this Complaint as follows:

<b><u>Count 1:</u></b>	40 C.F.R. § 745.113(a)(1)	\$1,550
<b><u>Count 2:</u></b>	40 C.F.R. § 745.113(a)(1)	\$1,550
<b><u>Count 3:</u></b>	40 C.F.R. § 745.113(a)(2)	\$770
<b><u>Count 4:</u></b>	40 C.F.R. § 745.113(a)(2)	\$770
<b><u>Count 5:</u></b>	40 C.F.R. § 745.113(a)(3)	\$260
<b><u>Count 6:</u></b>	40 C.F.R. § 745.113(a)(3)	\$260

<b><u>Count 7:</u></b>	40 C.F.R. § 745.113(a)(4)	\$520
<b><u>Count 8:</u></b>	40 C.F.R. § 745.113(a)(4)	\$520
<b><u>Count 9:</u></b>	40 C.F.R. § 745.113(a)(5)	\$520
<b><u>Count 10:</u></b>	40 C.F.R. § 745.113(a)(5)	\$520
<b><u>Count 11:</u></b>	40 C.F.R. § 745.113(a)(7)	\$130
<b><u>Count 12:</u></b>	40 C.F.R. § 745.113(a)(7)	\$130
<b><u>Count 13:</u></b>	40 C.F.R. § 745.113(b)(3)	\$325
<b><u>Count 14:</u></b>	40 C.F.R. § 745.113(b)(4)	\$650
<b><u>Count 15:</u></b>	40 C.F.R. § 745.113(b)(6)	\$163
<b><u>Count 16:</u></b>	40 C.F.R. § 745.113(b)(6)	\$130
<b>Total Proposed Civil Penalty</b>		<b>\$8,768</b>

75. In determining the amount of any civil penalty, Section 16 of TSCA requires EPA to take into account the nature, circumstances, extent and gravity of the violation or violations alleged and, with respect to the violator, ability to pay, affect 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.

76. EPA calculates penalties by applying its Section 1018 - Disclosure Rule Enforcement Response Policy dated December 2007 (Response Policy). This Response Policy provides a rational, consistent and equitable calculation methodology for applying the statutory factors to particular cases. As discussed in the Response Policy, the severity of each violation alleged in a Complaint is based on the extent to which each violation impairs the ability of a lessee to assess information regarding hazards associated with lead-based paint, and precludes the lessee from making a fully informed decision whether to lease the housing or take

appropriate measures to protect against lead-based paint hazards. Factors relevant to assessing an appropriate penalty include information pertaining to a Respondent's ability to pay a penalty, any evidence showing that no lead-based paint exists in the cited housing, and any evidence that Respondent has taken steps to discover the presence of and/or has taken steps to abate lead-based paint and its hazards in subject housing

77. As stated in paragraph 45, above, by letter dated February 19, 2010, EPA advised Respondent that EPA was planning to file a civil administrative Complaint against Respondent for alleged violations of Section 1018 and that Section 1018 authorizes the assessment of a civil administrative penalty. EPA asked Respondent to identify any factors Respondent thought EPA should consider before issuing the complaint, and if Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty, EPA asked Respondent to submit specific financial documents.

78. Respondent did not claim an inability to pay a penalty and has provided no facts or information which would indicate that the penalty should be adjusted for financial or other factors related to the alleged violations.

#### **Rules Governing This Proceeding**

The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the Complaint is a copy of the Consolidated Rules.

### **Filing and Service of Documents**

Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends to include as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Associate Regional Counsel John Matson to receive any Answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Mr. Matson at (312) 886-2243. His address is:

John Matson (C-14J)  
Associate Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

### **Penalty Payment**

Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, United States of America" and by delivering the check to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Mr. Matson and to:

Christine Anderson (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

**Answer and Opportunity to Request a Hearing**

If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that Respondent is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted according to the Consolidated Rules.

In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that he has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit,



deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation. Respondent's Answer must also state:

- a. The circumstances or arguments which Respondent alleges constitutes grounds of defense;
- b. The facts that Respondents dispute;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

If Respondent does not file a written answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of EPA under Section 22.27(c) of the Consolidated Rules.

#### **Settlement Conference**

Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Ms. Anderson at the address provided above.

Respondent's request for an informal settlement conference does not extend the 30-calendar-day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. The Complainant encourages all parties facing civil penalties to pursue settlement through an

informal conference. The Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.


**Continuing Obligation to Comply**

Respondent's payment of the civil penalty will not satisfy Respondent's legal obligation to comply with TSCA and any other applicable federal, state, or local law.

**Consent Agreement and Final Order**

EPA has authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with you in an informal conference. The terms of the settlement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties is binding when the Regional Administrator signs the Consent Order.

5/7/10  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

RECEIVED  
MAY 10 2010  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY


**CERTIFICATE OF SERVICE**

This is to certify that the original and one copy of this Complaint involving Wade Taatjes, was filed on May 10, 2010, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7001 0320 0006 0189 9323, to:

Mr. Wade Taatjes  
3700 Dutchess Avenue, SE  
Grand Rapids, Michigan 49526

with intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
John Matson, Counsel for Complainant/C-14J  
Eric Volck, Cincinnati Finance/MWD

  
Frederick Brown, PTCS (LC-8J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. TSCA-05-2010-0011

RECEIVED  
MAY 10 2010

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY