



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**MAR 25 2011**

REPLY TO THE ATTENTION OF:

**L-8J**

**CERTIFIED MAIL**

**Receipt No. 7009 1680 000 7666 4929**

D.S. Berenson, Esquire  
Kevin M. Tierney, Esquire  
Johanson Berenson, LLP  
1146 Walker Road, Suite C  
Great Falls, Virginia 22066

Re: Hanson's Window and Construction, Inc., Docket No: **TSCA-05-2011-0006**

Dear Sirs:

I have enclosed a complaint filed by the U.S. Environmental Protection Agency, Region 5 against Hanson's Window and Construction, Inc. under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a). The complaint alleges violations of the Residential Property Renovation Rule codified at 40 Code of Federal Regulations(C.F.R.) Part 745, Subpart E, implementing Section 406(b) of Title IV of the Toxic Substances Control Act (TSCA), promulgated under 15 United States Code § 2686.

Appendix A to the enclosed complaint sets forth 51 addresses you have claimed as confidential business information. The unredacted version of Appendix A is included with this mailing.

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), 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 Ms. Mary McAuliffe, Associate Regional Counsel, at (312) 886-6237 or Mark Palermo, Associate Regional Counsel, at (312) 886-6082.

Sincerely,

A handwritten signature in black ink that reads "Richard C. Karl". The signature is written in a cursive style with a large, prominent 'R' and 'K'.

Richard C. Karl  
Acting Director  
Land and Chemicals Division

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )

Hanson's Window and Construction, Inc. )  
Madison Heights, Michigan )

Respondent, )  
\_\_\_\_\_ )

Docket No. TSCA-05-2011-0006

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

RECEIVED  
MAR 28 2011

Complaint

REGIONAL HEARING CLERK  
USEPA  
REGION 5

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, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Hanson's Window and Construction, Inc., d/b/a under numerous trade names, including but not limited to, 800-Hansons and 1-800-Hansons, and numerous assumed names including, but not limited to, Hanson's Window & Siding World, Window & Siding, and Hanson's Window Company (Respondent), a corporation with a place of business located at 1000 Tech Row, Madison Heights, Michigan 48071.

Statutory and Regulatory Background

4. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, at 42 U.S.C. § 4851 *et seq.*, 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.

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

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

7. On June 1, 1998, EPA promulgated regulations codified at 40 C.F.R. Part 745, Subpart E, Requirements for Hazard Education Before Renovation of Target Housing (Pre-Renovation Education Rule or PRE Rule) pursuant to 15 U.S.C. § 2686 and § 2687, which was subsequently amended and recodified on April 22, 2008 at 40 C.F.R. Part 745, Subpart E, Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet (RRP Rule).

8. The PRE Rule, at 40 C.F.R. § 745.85, implements the provisions of 15 U.S.C. § 2686 and § 2687, which imposes certain requirements prior to renovation of target housing.

Each person who performs for compensation a renovation of target housing must provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation and must comply with the PRE Rule by June 1, 1999, and with the amended information distribution requirements of the RRP Rule by April 22, 2008.

9. 40 C.F.R. § 745.223 defines *common area* to mean a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

10. 40 C.F.R. § 745.82(a)(1) makes 40 C.F.R. Subpart E applicable to all renovations of target housing performed for compensation, with 3 exceptions. The first exception is for *minor repair and maintenance activities* defined to mean activities, including minor electrical work and plumbing, that disrupt 2 square feet or less of painted surface per component.

11. Before December 22, 2008, 40 C.F.R. § 745.83 defines *pamphlet* to mean any pamphlet developed by EPA under section 406(a) of TSCA or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326.

12. 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 (e.g., modification of painted doors, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of

large structures (e.g., walls, ceilings, large surface replastering, major re-plumbing); and window replacement.

13. 40 C.F.R. § 745.83 defines *renovator* to mean any person who performs for compensation a renovation.

14. 40 C.F.R. § 745.103 defines residential dwelling to mean a single family dwelling, including attached structures such as porches and stoops; or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

15. 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.

16. 40 C.F.R. § 745.85(a)(1) requires that the renovator performing renovation in dwelling units must provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner, a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation.

17. 40 C.F.R. § 745.86(a) requires that the renovator performing the renovation must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with this subpart for a period of 3 years following completion of the renovation.

18. 40 C.F.R. § 745.86(b)(2) requires signed and dated acknowledgments of receipt be retained as required by 40 C.F.R. § 745.86(a) for a period of 3 years and as described in

40 C.F.R. § 745.85(a)(1)(i), (a)(2)(i), and (b)(1)(i).

19. 40 C.F.R. § 745.86(b)(3) requires certificates of attempted delivery be retained as required by 40 C.F.R. § 745.86(a) for a period of 3 years and as described in 40 C.F.R. § 745.85(a)(2)(i).

20. 40 C.F.R. § 745.86(b)(4) requires certificates of mailing be retained as required by 40 C.F.R. § 745.86(a) for a period of 3 years and as described in 40 C.F.R. § 745.85 (a)(1)(ii), (a)(2)(ii), and (b)(1)(ii).

21. 40 C.F.R. § 745.86(b)(5) requires records of notification activities performed regarding common areas be retained as required by 40 C.F.R. § 745.86(a) for a period of 3 years and as described in 40 C.F.R. § 745.85(b)(3) and (b)(4).

22. Under 15 U.S.C. § 2689, failing to comply with Section 406(b) of TSCA 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) and 40 C.F.R. § 745.87(d).

23. Section 16(a) of TSCA, 42 U.S.C. § 2615, and 40 C.F.R. § 745.87(d), authorize the EPA Administrator to assess a civil penalty of up to \$25,000 for each violation of Section 409 of TSCA. Each day that such a violation continues constitutes a separate violation of Section 15 of TSCA, 15 U.S.C. § 2614. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$27,500 per day of violation that occurred from January 31, 1997, through March 15, 2004, and to \$32,500 per day of violation for violations that occurred from March 16, 2004 through January 12, 2009.

### **General Allegations**

24. Complainant incorporates paragraphs 1 through 23 of this Complaint as if set forth in this paragraph.

25. On October 24, 2005, the Pesticides and Toxics Enforcement Section received information from the Michigan Department of Community Health (MDCH) concerning possible violations of the PRE Rule, 40 C.F.R. § 745.85, by Respondent in separate window replacement renovations at 5614 Underwood and 19578 Hamburg, Detroit, Michigan.

26. In November of 2004, Respondent replaced windows at 19578 Hamburg, Detroit, Michigan.

27. In June of 2005, Respondent replaced windows at 5614 Underwood, Detroit, Michigan.

28. The MDCH visited the two homes referenced in paragraph 25, above, where Respondent had replaced windows, and was told by the home owners that Respondent had not provided them with a pamphlet before conducting window replacement work in their homes.

29. According to the MDCH both home owners had young children under 2 years old residing with them that tested positive for blood lead at 16 ug/dL, in February of 2005, and at 24.7 ug/dL, on July 5, 2005, following the window replacements conducted by Respondent.

30. On December 23, 2005, Complainant issued an administrative subpoena to Respondent, under authority of Section 11 of TSCA, 15 U.S.C. § 2610, seeking, among other things, copies of all contracts and/or agreements for renovation (contracts) and copies of all acknowledgement of receipt of a pamphlet by the owners and occupants of residential housing, copies of all certificates of attempted delivery of a pamphlet, and all certificates of mailing of a



pamphlet since January 1, 2002.

31. On January 13, 2006, EPA agreed, by letter, to modify part of the December 23, 2005 Subpoena, referenced in paragraph 30, above, to provide an extension of time and to limit the scope of documents at that time to allow Respondent to provide documents pertaining to renovation for calendar year 2005 within the State of Michigan.

32. On January 19, 2006 letter, EPA agreed, by letter, to a second modification to part of the December 23, 2005 Subpoena, referenced in paragraph 30, above, so that at that time, Respondent needed to provide only the names and addresses of persons who entered into agreements with Respondent pertaining to renovations of target housing for compensation performed in calendar year 2005 within the State of Michigan.

33. On February 8, 2006, Respondent's legal representative provided EPA with documents responsive to the TSCA administrative subpoena referenced in paragraph 30, including an Excel spreadsheet described as containing a complete listing of all jobs performed by Respondent in 2005 within the State of Michigan.

34. On January 12, 2010, Complainant issued a second administrative Subpoena to Respondent, under authority of Section 11 of TSCA, 15 U.S.C. § 2610, seeking, among other things, copies of all contracts and/or agreements for renovation (contracts) and copies of all acknowledgement of receipt of a pamphlet by the owners and occupants of residential housing, copies of all certificates of attempted delivery of a pamphlet, and all certificates of mailing of a pamphlet since January 12, 2005.

35. By letter dated March 19, 2010, EPA provided Respondent with an additional two week extension until April 2, 2010, for Respondent to submit its response.

36. Beginning in June 2010, Respondent provided documents partially responding Complainant's January 12, 2010 Subpoena.

37. Based on information provided by Respondent in partial response to Complainant's January 12, 2010 Subpoena, on various dates from March 31, 2006 through August 29, 2007, Respondent, entered into 51 written work agreements (contracts) with individuals for window replacement at residential housing units located at addresses claimed by Respondent to be Confidential Business Information. The 51 specific addresses are set forth in Appendix A to this Complaint, and are referred to in this Complaint as Address 1 through Address 51.

38. Each of the residential housing units identified in paragraph 37, above, is target housing as defined in 40 C.F.R. § 745.103.

39. Respondent is a renovator as defined in 40 C.F.R. § 745.103.

40. On June 3, 2010, EPA obtained a Dun and Bradstreet report indicating that Respondent had sales of over \$27 million and a net worth of over \$1.4 million.

41. By letter dated September 20, 2010 and a follow-up letter dated December 20, 2010, EPA requested specific financial information from Respondent to evaluate Respondent's ability to pay a penalty.

42. To date, Respondent has not provided EPA with the information requested in EPA's September 20, 2010 and December 20, 2010 letters.

43. On March 7, 2011, EPA advised Respondent by letter that EPA was planning to file a civil administrative complaint against Respondent for specific alleged violations of the PRE Rule 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.

44. On March 10, 2011, Respondent received the pre-filing notice letter referred to in paragraph 43, above.

45. Respondent did not reply to EPA's March 7, 2011 letter.

46. Respondent has an ability to pay the proposed penalty of \$144,840.

#### **Counts 1 through 51**

47. Complainant incorporates paragraphs 1 through 46 of this Complaint as if set forth in this paragraph.

48. 40 C.F.R. § 745.85(a)(1) requires that no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the renovator shall provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation.

49. Count 1: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 1.

50. Count 2: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 2.

51. Count 3: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 3.

52. Count 4: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 4.

53. Count 5: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 5.

54. Count 6: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 6.

55. Count 7: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 7.

56. Count 8: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the

owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 8.

57. Count 9: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 9.

58. Count 10: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 10.

59. Count 11: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 11.

60. Count 12: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 12.

61. Count 13: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 13.

62. Count 14: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 14.

63. Count 15: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 15.

64. Count 16: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 16.

65. Count 17: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 17.

66. Count 18: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 18.

67. Count 19: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the

owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 19.

68. Count 20: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 20.

69. Count 21: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 21.

70. Count 22: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 22.

71. Count 23: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 23.

72. Count 24: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 24.

73. Count 25: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 25.

74. Count 26: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 26.

75. Count 27: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 27.

76. Count 28: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 28.

77. Count 29: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 29.

78. Count 30: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the



owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 30.

79. Count 31: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 31.

80. Count 32: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 32.

81. Count 33: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 33.

82. Count 34: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 34.

83. Count 35: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 35.

84. Count 36: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 36.

85. Count 37: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 37.

86. Count 38: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 38.

87. Count 39: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 39.

88. Count 40: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 40.

89. Count 41: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the

owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 41.

90. Count 42: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 42.

91. Count 43: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 43.

92. Count 44: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 44.

93. Count 45: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 45.

94. Count 46: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 46.

95. Count 47: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 47.

96. Count 48: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 48.

97. Count 49: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 49.

98. Count 50: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 50.

99. Count 51: Respondent failed to provide the owner of the residential dwelling unit of target housing with the pamphlet and obtain from the owner a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovation before conducting the renovation at Address 51.

100. Respondent's failure to provide the owners of the residential dwelling units of target housing with the pamphlet and obtain from the owners a written acknowledgement that the

owners have received the pamphlet or obtain a certificate of mailing at least 7 days prior to the renovations referred to in paragraphs 49 through 99, above, constitutes 51 violations of 40 C.F.R. § 745.85(a)(1), promulgated under 15 U.S.C. § 2686.

**Counts 52 through 102**

101. Complainant incorporates paragraphs 1 through 46 of this Complaint as if set forth in this paragraph.

102. 40 C.F.R. § 745.86(a) requires that the renovator must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with this 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation including signed and dated acknowledgments of receipt required by 40 C.F.R. § 745.86(b)(2); certificates of attempted delivery required by 40 C.F.R. § 745.86(b)(3); certificates of mailing required by 40 C.F.R. § 745.86(b)(4); and records of notification activities performed regarding common areas required by 40 C.F.R. § 745.86(b)(5).

103. Count 52: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 1.

104. Count 53: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 2.

105. Count 54: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 3.

106. Count 55: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 4.

107. Count 56: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 5.

108. Count 57: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 6.

109. Count 58: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 7.

110. Count 59: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 8.

111. Count 60: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 9.

112. Count 61: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 10.

113. Count 62: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 11.

114. Count 63: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 12.

115. Count 64: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 13.

116. Count 65: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 14.

117. Count 66: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 15.

118. Count 67: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 16.

119. Count 68: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 17.

120. Count 69: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 18.

121. Count 70: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 19.

122. Count 71: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 20.

123. Count 72: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 21.

124. Count 73: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 22.

125. Count 74: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 23.

126. Count 75: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 24.



127. Count 76: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 25.

128. Count 77: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 26.

129. Count 78: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 27.

130. Count 79: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 28.

131. Count 80: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 29.

132. Count 81: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 30.

133. Count 82: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 31.

134. Count 83: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 32.

135. Count 84: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 33.

136. Count 85: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 34.

137. Count 86: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 35.

138. Count 87: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 36.

139. Count 88: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 37.

140. Count 89: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 38.

141. Count 90: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 39.

142. Count 91: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 40.

143. Count 92: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 41.

144. Count 93: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 42.

145. Count 94: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 43.

146. Count 95: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 44.

147. Count 96: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 45.

148. Count 97: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 46.

149. Count 98: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 47.

150. Count 99: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 48.

151. Count 100: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 49.

152. Count 101: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 50.

153. Count 102: Respondent failed to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovation at Address 51.

154. Respondent's failure to retain records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of 3 years following completion of the renovations referred to in paragraphs 103 through 153, above, constitutes 51 violations of 40 C.F.R. § 745.86(a), promulgated under 15 U.S.C. § 2686 and § 2687.

**Proposed Civil Penalty**

155. 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. § 745.85(a)(1).....		\$2,580
	<b><u>Count 2</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 3</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 4</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 5</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 6</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 7</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 8</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 9</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 10</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 11</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 12</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580

	<b><u>Count 13</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 14</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 15</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 16</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 17</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 18</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 19</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 20</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 21</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 22</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 23</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 24</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 25</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 26</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580

	<b><u>Count 27</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 28</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 29</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 30</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 31</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 32</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 33</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 34</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 35</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 36</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 37</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 38</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 39</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 40</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580

	<b><u>Count 41</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 42</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 43</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 44</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 45</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 46</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 47</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 48</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 49</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 50</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 51</u></b>	
40 C.F.R. § 745.85(a)(1).....		\$2,580
	<b><u>Count 52</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 53</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 54</u></b>	
40 C.F.R. § 745.86(a).....		\$260



	<b><u>Count 55</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 56</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 57</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 58</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 59</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 60</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 61</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 62</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 63</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 64</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 65</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 66</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 67</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 68</u></b>	
40 C.F.R. § 745.86(a).....		\$260

	<b><u>Count 69</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 70</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 71</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 72</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 73</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 74</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 75</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 76</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 77</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 78</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 79</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 80</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 81</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 82</u></b>	
40 C.F.R. § 745.86(a).....		\$260

	<b><u>Count 83</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 84</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 85</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 86</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 87</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 88</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 89</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 90</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 91</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 92</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 93</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 94</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 95</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 96</u></b>	
40 C.F.R. § 745.86(a).....		\$260

	<b><u>Count 97</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 98</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 99</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 100</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 101</u></b>	
40 C.F.R. § 745.86(a).....		\$260
	<b><u>Count 102</u></b>	
40 C.F.R. § 745.86(a).....		\$260
<b>Total Proposed Civil Penalty.....</b>		<b>\$144,840</b>

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, 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.

EPA calculated the penalties by applying its *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule, Renovation, Repair and Painting Rule, and Lead-Based Paint Activities Rules, Interim Final Policy*, dated August, 2010 (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 the complaint is based on the extent to which each violation impairs the ability of owners and occupants of target housing, and owners and

proprietors of child occupied facilities, and parents and/or guardians of young children to weigh and assess the risks presented by renovations, and to take proper precautions to avoid the hazards. Factors relevant to assessing an appropriate penalty include information pertaining to a Respondent's ability to pay a penalty, the age of children or whether a pregnant woman resided in the renovated property, and any evidence showing that no lead-based paint exists in the cited housing.

As stated in paragraph 43, above, by letter dated March 7, 2011, EPA advised Respondent that EPA was planning to file a civil administrative complaint against Respondent for alleged violations of Section 406(b) of TSCA and that Section 16 of TSCA 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.

#### **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 Mary McAuliffe and Mark Palermo to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. McAuliffe at (312) 886-6237 or Mr. Palermo at (312) 886-6082. Their address is:

Mary T. McAuliffe/  
Mark Palermo  
Associate Regional Counsels (C-14J)  
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 Ms. McAuliffe and to:

Scott Cooper (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 it 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 it 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 constitute grounds of defense;

- b. The facts that Respondent disputes;
- 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. McAuliffe or Mr. Palermo 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 Respondent 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 Final Order and it is filed with the Regional Hearing Clerk.

3-25-11  
Date

Richard C. Karl  
Richard C. Karl  
Acting Director  
Land and Chemicals Division

RECEIVED  
MAR 28 2011  
REGIONAL HEARING CLERK  
USEPA  
REGION 5

APPENDIX A

**51 ADDRESSES CLAIMED AS CONFIDENTIAL BUSINESS INFORMATION HAVE  
BEEN REDACTED**


**CERTIFICATE OF SERVICE**

I hereby certify that on March 28, 2011, I filed the original and one copy of the Complaint and Notice of Opportunity for Hearing (Complaint), including a redacted version of Appendix A, which includes information claimed as Confidential Business Information, in the matter of Hanson's Window and Construction, Inc., with LaDawn Whitehead, Regional Hearing Clerk, EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. I served a copy of the Complaint, including a redacted version of Appendix A, by U.S. Postal Service, certified mail, by placement in the U.S. Environmental Protection Agency mail room at 77 W. Jackson Blvd., Chicago, Illinois, addressed to the following individuals:

D.S. Berenson, Esq.  
Kevin M. Tierney, Esq.  
Johanson Berenson, LLP  
1146 Walker Road, Suite C  
Great Falls, VA 22066  
Certified Mail No: \_\_\_\_\_

and I forwarded copies of the Complaint, including redacted versions of Appendix A, via intra-Agency mail, to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Mary McAuliffe/Mark Palermo, Associate Regional Counsels, ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD

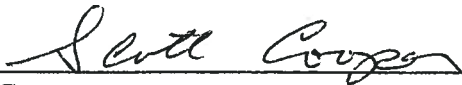
  
\_\_\_\_\_  
Scott Cooper  
Pesticides and Toxics Compliance Section  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. TSCA-05-2011-0006

**RECEIVED**  
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REGION 5

**CERTIFICATE OF SERVICE**

I hereby certify that on March 28, 2011, I filed the original and one copy of the unredacted version of Appendix A to the Complaint and Notice of Opportunity for Hearing (Complaint), which includes information claimed as Confidential Business Information, in the matter of Hanson's Window and Construction, Inc., with LaDawn Whitehead, Regional Hearing Clerk, EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604.



\_\_\_\_\_  
Scott Cooper  
Pesticides and Toxics Compliance Section (LC-8J)  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

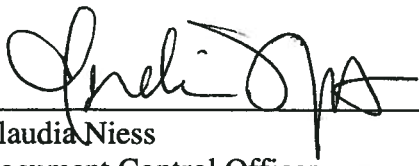
RECEIVED

MAR 28 2011

REGIONAL HEARING CLERK  
USEPA  
REGION 5

I hereby certify that on March 28, 2011, I served a copy of the Complaint and unredacted version of Appendix A, by U.S. Postal Service, certified mail, by placement in the U.S. Environmental Protection Agency mail room at 77 W. Jackson Blvd., Chicago, Illinois, addressed to the following individuals:

D.S. Berenson, Esq.  
Kevin M. Tierney, Esq.  
Johanson Berenson, LLP  
1146 Walker Road, Suite C  
Great Falls, VA 22066  
Certified Mail No.: 7009 1680 0000 7666 4929



\_\_\_\_\_  
Claudia Niess  
Document Control Officer  
Pesticides and Toxics Compliance Section (LC-8J)  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

**TSCA-05-2011-0006**

Docket No. \_\_\_\_\_