

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2015 JUN 29 PM 3:05

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE REGIONAL HEARING OFFICER

IN THE MATTER OF:

Jill E. Nagel
d/b/a North-O Properties
1795 Kent Circle
Papillion, Nebraska 68046

Respondent.

Docket No.: TSCA-07-2015-0004

**MEMORANDUM REGARDING
COMPLAINANT'S COMPLAINT AND
1ST AMENDED COMPLAINT**

In Reference to the Complaint and the first Amended Complaint filed by the United States Environmental Protection Agency, Region 7 (EPA), Complainant states as follows:

I. INTRODUCTION

1. Complaint was filed on April 22, 2015.
2. First Amended Complaint was filed on May 22, 2015.
3. Information that may be considered Personally Identifiable Information (PII) was included in Paragraph 7 of the Complaint and the First Amended Complaint.
4. Complainant requests that the attached versions of the Complaint and the First Amended Complaint with potential PII redacted be utilized as the online versions of these Pleadings.

Respectfully submitted,

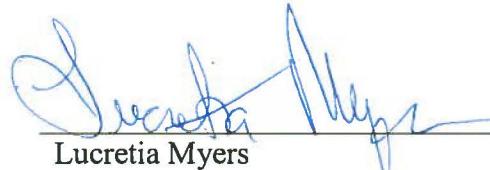


Lucretia A. Myers
Assistant Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct copy of the foregoing Memorandum Regarding Complainant's Complaint and First Amended Complaint were hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, on June 29, 2015. A true and correct copy of the foregoing Memorandum Regarding Complainant's Complaint and First Amended Complaint was sent via regular mail on June 29, 2015 to:

Mr. John Heil
Baird Holm
1700 Farnam Street
Suite 1500
Omaha, NE 68102
ATTORNEY for RESPONDENT



Lucretia Myers
Assistant Regional Counsel
Office of Regional Counsel

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KS 66219

2015 MAY 22 AM 8:56

BEFORE THE ADMINISTRATOR

In the Matter of

Jill E. Nagel
d/b/a North-O Properties
1795 Kent Circle
Papillion, Nebraska 68046

Respondent.

Docket No. TSCA-07-2015-0004

**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

FIRST AMENDED COMPLAINT

Jurisdiction

1. This Complaint and Notice of Opportunity for Hearing (Complaint) serves as notice that the United States Environmental Protection Agency (EPA), Region 7 has reason to believe that Respondent has violated Section 409 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of the 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, promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d.

2. This administrative action for the assessment of civil penalties is instituted pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or

Suspension of Permits, 40 C.F.R. Part 22, (Consolidated Rules) a copy of which is enclosed along with this Complaint.

Parties

3. The Complainant, by delegation from the Administrator of the EPA, is the Chief of the Toxics and Pesticides Branch at EPA, Region 7.

4. The Respondent is an individual, Jill E. Nagel, d/b/a North-O Properties, currently residing at 1795 Kent Circle, Papillion, Nebraska.

Statutory and Regulatory Background

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692. Section 1018 of the Act required EPA and the Department of Housing and Urban Development to jointly issue regulations requiring the disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phaseout of residential lead-based paint use in 1978. The regulations, issued March 6, 1996, and codified at 40 C.F.R. Part 745, Subpart F, require that sellers and lessors of most residential housing built before 1978: a) disclose the presence of known lead-based paint and/or lead-based paint hazards in the target housing; b) provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; c) provide purchasers and lessees with an EPA-approved lead hazard information pamphlet; d) provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards before the purchaser is obligated under any purchase contract; and e) include certain disclosure and acknowledgment language in the sales or

leasing contract. The failure or refusal to comply with the regulations is a violation of Section 1018 of the Act and Section 409 of TSCA.

General Factual Allegations

6. Respondent at all times referred to herein, was a “person” within the meaning of TSCA.

7. Respondent is the “lessor” as defined by 40 C.F.R. § 745.103, of the following target housing. The location, year each residence was built, with the age(s) of child(ren) living at the residence under said lease is listed below:

Address in Omaha, NE	Year Built	Age(s) of Child(ren)	PII redacted
5335 North 26th Street	1893		
2415 Camden Avenue	1910		
2432 Emmet	1895		
4224 Patrick Avenue	1900		
2909 Parker	1886		
4106 Binney	1905		
2615 Parker	1889		
3167 Sprague	1944		
1464 Emmet	1907		

(the “target housing”)

8. Each residence listed in Paragraph 6 above was built prior to 1978 and is “Target Housing” as that term defined under 40 C.F.R. § 745.103.

9. On April 10, 2014, EPA conducted a records inspection of Respondent’s compliance with the lead-based paint disclosure requirements of TSCA and 40 C.F.R. Part 745, Subpart F and collected records and information from Respondent. Based upon this inspection and the resultant evaluation, the Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder as set forth below:

Alleged Violations

Count 1

10. The facts stated in Paragraphs 6 through 9 above are herein referenced and incorporated as if fully stated herein.

11. On or about January 3, 2012, Respondent entered into a contract to lease target housing located at 4224 Patrick Avenue in Omaha, Nebraska. Pursuant to 40 C.F.R. § 745.107(a)(1), Respondent was required to provide to lessees an EPA-approved lead hazard information pamphlet before the lessees became obligated under contract to lease the target housing

12. Respondent's failure to timely provide an EPA-approved lead hazard information pamphlet prior to leasing the target housing at 4224 Patrick Avenue in Omaha, Nebraska is a violation of 40 C.F.R. § 745.107(a)(1), and in accordance with 40 C.F.R. § 745.118(e), is a violation of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

13. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that a civil administrative penalty in the amount of \$8,500 be assessed against Respondent.

Counts 2 through 10

14. The facts stated in Paragraphs 6 through 9 above are realleged and incorporated as if fully stated herein.

15. Pursuant to 40 C.F.R. § 745.113(b)(1), the lessor shall include with or within the lease the Lead Warning Statement language as stated within this regulation.

16. Respondent failed to provide such language with or within the lease when leasing the following target housing units in Omaha, Nebraska:

Count:	Address:	Date of Lease:
2	5335 North 26th Street	11/23/2012
3	2415 Camden Avenue	3/17/2014
4	2432 Emmet	2/19/2014
5	4224 Patrick Avenue	1/3/2012
6	2909 Parker	7/12/2013
7	4106 Binney	4/23/2013
8	2615 Parker	6/8/2012
9	3167 Sprague	11/20/2013
10	1464 Emmet	6/1/2012

17. Respondent's failures to perform this act for the leases of target housing listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.113(b)(1), and in accordance with 40 C.F.R § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

18. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
2	5335 North 26th Street	\$7,090.00
3	2415 Camden Avenue	11,340.00
4	2432 Emmet	11,340.00
5	4224 Patrick Avenue	7,090.00
6	2909 Parker	11,340.00
7	4106 Binney	11,340.00
8	2615 Parker	7,090.00
9	3167 Sprague	11,340.00
10	1464 Emmet	11,340.00

for a total penalty of \$89,310.00 for Counts 2 through 10.

Counts 11 through 19

19. The facts stated in Paragraphs 6 through 9 above are realleged and incorporated as if fully stated herein.

20. Pursuant to 40 C.F.R. § 745.113(b)(2), the lessor shall, within the lease contract or as an attachment thereto, provide a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

21. Respondent failed to make such disclosures when leasing the following target housing in Omaha, Nebraska:

<u>Count:</u>	<u>Address:</u>	<u>Date of Lease:</u>
11	5335 North 26th Street	11/23/2012
12	2415 Camden Avenue	3/17/2014
13	2432 Emmet	2/19/2014
14	4224 Patrick Avenue	1/3/2012
15	2909 Parker	7/12/2013
16	4106 Binney	4/23/2013
17	2615 Parker	6/8/2012
18	3167 Sprague	11/20/2013
19	1464 Emmet	6/1/2012

22. Respondent's failures to provide statements disclosing the presence or lack of knowledge of lead-based paint hazards in the leases for the target housing units listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.113(b)(2), and in accordance with 40 C.F.R § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

23. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
11	5335 North 26th Street	\$5,670.00
12	2415 Camden Avenue	8,500.00
13	2432 Emmet	8,500.00
14	4224 Patrick Avenue	5,670.00
15	2909 Parker	8,500.00
16	4106 Binney	8,500.00
17	2615 Parker	5,670.00
18	3167 Sprague	8,500.00
19	1464 Emmet	8,500.00

for a total penalty of \$68,010.00 for Counts 11 through 19.

Counts 20 through 28

24. The facts stated in Paragraphs 6 through 9 above are realleged and incorporated as if fully stated herein.

25. Pursuant to 40 C.F.R. § 745.113(b)(3), the lessor shall list within the lease contract or as an attachment thereto any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or indicate that no such records or reports exist.

26. Respondent failed to list any such records or reports that were available to the lessor or indicate that no such records exist when leasing the following target housing in Omaha, Nebraska:

Count:	Address:	Date of Lease:
20	5335 North 26th Street	11/23/2012
21	2415 Camden Avenue	3/17/2014
22	2432 Emmet	2/19/2014
23	4224 Patrick Avenue	1/3/2012
24	2909 Parker	7/12/2013

Count:	Address:	Date of Lease:
25	4106 Binney	4/23/2013
26	2615 Parker	6/8/2012
27	3167 Sprague	11/20/2013
28	1464 Emmet	6/1/2012

27. Respondent's failures to list records or reports or to indicate that no such records exist in the leases for the target housing units at listed in the preceding Paragraph, are violations of 40 C.F.R. §§ 745.113(b)(3), and in accordance with 40 C.F.R § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

28. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
20	5335 North 26th Street	\$1,850.00
21	2415 Camden Avenue	2,840.00
22	2432 Emmet	2,840.00
23	4224 Patrick Avenue	1,850.00
24	2909 Parker	2,840.00
25	4106 Binney	2,840.00
26	2615 Parker	1,850.00
27	3167 Sprague	2,840.00
28	1464 Emmet	2,840.00

Which is a total penalty of \$22,590.00 for Counts 20 through 28.

Counts 29 through 30

29. The facts stated in Paragraphs 6 through 9 above are realleged and incorporated as if fully stated herein.

30. Pursuant to 40 C.F.R. § 745.107(a)(2), the lessor shall disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased.

31. Respondent failed to disclose this information to the lessee when leasing the following target housing in Omaha, Nebraska:

Count:	Address:	Date of Lease:
29	2909 Parker	7/12/2013
30	1464 Emmet	6/1/2012

32. Respondent's failures to disclose this information to the lessees prior to leasing the target housing units listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.107(a)(2), and in accordance with 40 C.F.R § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

33. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
29	2909 Parker	\$16,000.00
30	1464 Emmet	16,000.00

for a total penalty of \$32,000.00 for Counts 29 and 30.

Counts 31 and 32

34. The facts stated in Paragraphs 6 through 9 above are realleged and incorporated as if fully stated herein.

35. Pursuant to 40 C.F.R. § 745.107(a)(4), the lessor shall, prior to a lessee's entering into a lease, provide the lessee with any records or reports available to the lessor pertaining to lead-based paint or lead-based paint hazards in the target housing being leased.

36. Respondent failed to provide these records or reports to the lessee when leasing the following target housing in Omaha, Nebraska:

Count:	Address:	Date of Lease:
31	2909 Parker	7/12/2013
32	1464 Emmet	6/1/2012

37. Respondent's failures to timely provide these records or reports to the lessees for the target housing units listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.107(a)(4), and in accordance with 40 C.F.R § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

38. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that a civil administrative penalty in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
31	2909 Parker	\$16,000.00
32	1464 Emmet	16,000.00

for a total penalty of \$32,000.00 for Counts 31 through 32.

Relief

39. Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615 for violations of Section 409 of TSCA, 15 U.S.C. § 2689. Pursuant to Section 16 of TSCA, 15 U.S.C. 2615 and based upon the facts set forth above, it is proposed that a civil administrative penalty be assessed against Respondent.

40. 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 \$10,000 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 \$16,000 for violations that occurred after January 12, 2009.

41. The proposed penalty is based upon the facts alleged in this Complaint and upon the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. 2615(a)(2)(B), including the nature, circumstances, extent and gravity of the violations, and with respect to the Respondents: a) their ability to pay, b) the effect on their ability to continue to do business, c) any history of prior violations, d) the degree of culpability, and e) such other matters as justice may require.

42. The proposed penalty is based on the best information available to EPA at the time the complaint is issued. EPA has taken into account the particular facts and circumstances of this case, so far as they are known to us at this time, with specific reference to EPA's December 2007 Policy entitled, "Section 1018 – Disclosure Rule, Enforcement Response and Penalty Policy" ("1018 – ERPP"), a copy of which is enclosed with this Complaint. Complainant proposes that Respondent be assessed a civil penalty in the amount of Two Hundred Fifty-two Thousand, Four Hundred and Ten Dollars (\$252,410.00) for the TSCA violations alleged in this Complaint (See Attachment 1 to this Complaint which explains the reasoning for this penalty).

43. The proposed penalty is based on the best information available to EPA at the time the Complaint is issued. The penalty may be adjusted if the Respondent establishes bona

vide issues of ability to pay or other defenses relevant to the appropriate amount of the proposed penalty.

Payment of Proposed Penalty in Full

44. A Respondent may resolve this proceeding at any time by paying the full penalty proposed in the Complaint and filing documentation of the check or other instrument of payment with the Regional Hearing Clerk. Payment of the total penalty of Two Hundred Fifty-Two Thousand, Four Hundred and Ten Dollars (\$252,410.00) shall identify Respondent by name and docket number and shall be by online payment, certified or cashier's check, or wire transfer, as directed below.

45. Payment of the penalty may be submitted on-line at www.pay.gov by entering "SFO 1.1" in the "Search Public Forms" field. Open the on-line form and complete required fields to complete payment. Respondent shall print a copy of the payment receipt and mail a copy of the receipt to the contacts listed below.

46. Payments by certified or cashier's check shall be made payable to the "United States Treasury" and sent to:

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

47. Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

48. A copy of the check or other information confirming payment shall
simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219;

and

Cassandra Mance
U.S. Environmental Protection Agency
Region 7, WWPD/TOPE
11201 Renner Boulevard
Lenexa, Kansas 66219.

Payment of Proposed Penalty in Lieu of an Answer

49. A Respondent who wishes to resolve a proceeding by paying the proposed penalty in full instead of filing an answer to the Complaint may do so within thirty (30) days of receipt of the Complaint, in accordance with the procedures set forth above. A Respondent who wishes to resolve a proceeding by paying the proposed penalty in full instead of filing an answer but who needs additional time to pay the penalty, may file a written statement with the Regional Hearing Clerk within thirty (30) days of receipt of the Complaint, in accordance with Rule 22.18(a)(1) of the Consolidated Rules. The written statement shall state that Respondent agrees to pay the proposed penalty in full within sixty (60) days of receipt of the Complaint. The written statement need not contain any response to, or admission of, the allegations in the Complaint. A Respondent must then pay the full amount of the proposed penalty within sixty (60) days of

receipt of the Complaint. Failure to pay the full penalty within sixty (60) days of receipt of the Complaint may subject a Respondent to default, as set forth below.

NOTICE OF OPPORTUNITY FOR HEARING

Answer and Request for Hearing

50. A Respondent must file a written answer within thirty (30) days of receipt of this Complaint if Respondent: a) contests any material fact upon which this Complaint is based; b) contends that the penalty proposed in this Complaint is inappropriate; or c) contends that it is entitled to judgment as a matter of law. The answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which a Respondent has any knowledge. Where a Respondent has no knowledge of a particular factual allegation, the answer shall so state. Failure to admit, deny or explain any of the factual allegations in the Complaint constitutes an admission of the allegation. The answer shall also state: d) the circumstances or arguments which are alleged to constitute the grounds of any defense; e) the facts that a Respondent disputes; f) the basis for opposing the proposed penalty; and g) whether a hearing is requested.

51. The original and one copy of the answer shall be filed with the following, in accordance with Section 22.15 of the Consolidated Rules:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, KS 66219

A copy of the answer shall be sent to:

Lucretia Myers, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, KS 66219.

52. After the filing of Respondent's Answer to the Complaint, the Hearing Clerk at EPA Headquarters will serve as the Regional Hearing Clerk, and all further filings in this matter (except for the filing of a Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.18(b)(3)) must be filed with the Hearing Clerk at the following addresses, as appropriate:

If using the U.S. Postal Service:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900R
1200 Pennsylvania Avenue NW
Washington, DC 20460

If using UPS/FedEx/DHL:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue NW
Washington, DC 20460

Default

53. If, within thirty (30) days of receipt of a Complaint, a Respondent fails to: a) submit full payment of the proposed penalty; b) submit a written statement to the Regional Hearing Clerk that Respondent agrees to pay the penalty within sixty (60) days of receipt of the Complaint; or c) file a written answer to the Complaint; a Respondent may be found in default.

Default by a Respondent constitutes, for the purposes of this proceeding, an admission of all facts alleged in the Complaint and a waiver of a Respondents' right to contest such factual allegations. A Default Order may thereafter be issued by the Presiding Officer and the civil penalty proposed in the Complaint shall be assessed unless the Presiding Officer finds that the proposed penalty is clearly inconsistent with the record of the proceeding or TSCA.

Informal Settlement Conference

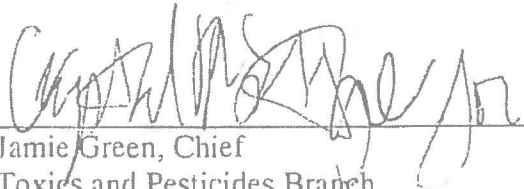
54. The EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of TSCA and the regulations upon which this action is based. Regardless of whether a Respondent requests a hearing, a Respondent may request an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settlement. To request an informal settlement conference, please contact:

Lucretia Myers, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Telephone (913) 551-7917

55. Any settlement which may be reached as a result of such a conference shall be recorded in a written consent agreement signed by all parties or their representatives and shall conform with the provisions of Section 22.18(b)(2) of the Consolidated Rules. No settlement or consent agreement shall dispose of this proceeding without a final order from the Regional Judicial Officer or the Regional Administrator.

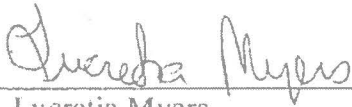
56. Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer must be filed.

Date: 5/26/15



Jamie Green, Chief
Toxics and Pesticides Branch
Water, Wetlands & Pesticides Division

Date: 5/22/15

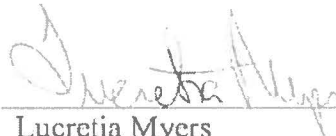


Lucretia Myers
Assistant Regional Counsel
Office of Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing were hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, on May 22nd, 2015. A true and correct copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing together with a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits were sent by certified mail, return receipt requested, on May 22nd, 2015 to:

John P. Heil
Baird Holm, LLP
1700 Farnam Street
Suite 1500
Omaha, Nebraska 68102
Attorney for Respondent



Lucretia Myers
Assistant Regional Counsel
Office of Regional Counsel

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2015 APR 22 PM 3:18

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KS 66219

BEFORE THE ADMINISTRATOR

In the Matter of

Jill E. Nagel
d/b/a North-O Properties
1795 Kent Circle
Papillion, Nebraska 68046

Respondent.

Docket No. TSCA-07-2015-0004

**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

COMPLAINT

Jurisdiction

1. This Complaint and Notice of Opportunity for Hearing (Complaint) serves as notice that the United States Environmental Protection Agency (EPA), Region 7 has reason to believe that Respondent has violated Section 409 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of the 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, promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d.

2. This administrative action for the assessment of civil penalties is instituted pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or

Suspension of Permits, 40 C.F.R. Part 22, (Consolidated Rules) a copy of which is enclosed along with this Complaint.

Parties

3. The Complainant, by delegation from the Administrator of the EPA, is the Chief of the Toxics and Pesticides Branch at EPA, Region 7.

4. The Respondent is an individual, Jill E. Nagel, d/b/a North-O Properties, currently residing at 1795 Kent Circle, Papillion, Nebraska.

Statutory and Regulatory Background

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692. Section 1018 of the Act required EPA and the Department of Housing and Urban Development to jointly issue regulations requiring the disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phaseout of residential lead-based paint use in 1978. The regulations, issued March 6, 1996, and codified at 40 C.F.R. Part 745, Subpart F, require that sellers and lessors of most residential housing built before 1978: a) disclose the presence of known lead-based paint and/or lead-based paint hazards in the target housing; b) provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; c) provide purchasers and lessees with an EPA-approved lead hazard information pamphlet; d) provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards before the purchaser is obligated under any purchase contract; and e) include certain disclosure and acknowledgment language in the sales or

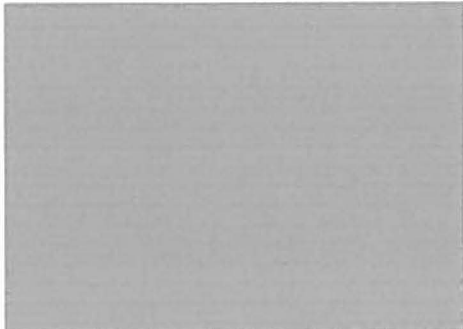
leasing contract. The failure or refusal to comply with the regulations is a violation of Section 1018 of the Act and Section 409 of TSCA.

General Factual Allegations

6. Respondent at all times referred to herein, was a “person” within the meaning of TSCA.

7. Respondent is the “lessor” as defined by 40 C.F.R. § 745.103, of the following target housing. The location, year each residence was built, with the age(s) of child(ren) living at the residence under said lease is listed below:

Redaction: PII

Address in Omaha, NE	Year Built	Age(s) of Child(ren)
5335 North 26th Street	1893	
2415 Camden Avenue	1910	
2432 Emmet	1895	
4224 Patrick Avenue	1900	
2909 Parker	1886	
4106 Binney	1905	
2615 Parker	1889	
3167 Sprague	1944	
1464 Emmet	1907	

(the “target housing”)

8. Each residence listed in Paragraph 6above was built prior to 1978 and is “Target Housing” as that term defined under 40 C.F.R. § 745.103.

9. On April 10, 2014, EPA conducted a records inspection of Respondent’s compliance with the lead-based paint disclosure requirements of TSCA and 40 C.F.R. Part 745, Subpart F and collected records and information from Respondent. Based upon this inspection and the resultant evaluation, the Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder as set forth below:

Alleged Violations

Count 1

10. The facts stated in Paragraphs 5 through 8 above are herein referenced and incorporated as if fully stated herein.

11. On or about January 3, 2012, Respondent entered into a contract to lease target housing located at 4224 Patrick Avenue in Omaha, Nebraska.

11. Pursuant to 40 C.F.R. § 745.107(a)(1), Respondent was required to provide to lessees an EPA-approved lead hazard information pamphlet before the lessees became obligated under contract to lease the target housing

12. Respondent's failure to timely provide an EPA-approved lead hazard information pamphlet prior to leasing the target housing at 4224 Patrick Avenue in Omaha, Nebraska is a violation of 40 C.F.R. § 745.107(a)(1), and in accordance with 40 C.F.R § 745.118(e), is a violation of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

13. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that a civil administrative penalty in the amount of \$8,500 be assessed against Respondent.

Counts 2 through 10

14. The facts stated in Paragraphs 5 through 8 above are realleged and incorporated as if fully stated herein.

15. Pursuant to 40 C.F.R. § 745.113(b)(1), the lessor shall include with or within the lease the Lead Warning Statement language as stated within this regulation.

16. Respondent failed to provide such language with or within the lease when leasing the following target housing units in Omaha, Nebraska:

Count:	Address:	Date of Lease:
2	5335 North 26th Street	11/23/2012
3	2415 Camden Avenue	3/17/2014
4	2432 Emmet	2/19/2014
5	4224 Patrick Avenue	1/3/2012
6	2909 Parker	7/12/2013
7	4106 Binney	4/23/2013
8	2615 Parker	6/8/2012
9	3167 Sprague	11/20/2013
10	1464 Emmet	6/1/2012

17. Respondent's failures to perform this act for the leases of target housing listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.113(b)(1), and in accordance with 40 C.F.R § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

18. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
2	5335 North 26th Street	\$7,090.00
3	2415 Camden Avenue	11,340.00
4	2432 Emmet	11,340.00
5	4224 Patrick Avenue	7,090.00
6	2909 Parker	11,340.00
7	4106 Binney	11,340.00
8	2615 Parker	7,090.00
9	3167 Sprague	11,340.00
10	1464 Emmet	11,340.00

for a total penalty of \$89,310.00 for Counts 2 through 10.

Counts 11 through 19

19. The facts stated in Paragraphs 5 through 8 above are realleged and incorporated as if fully stated herein.

20. Pursuant to 40 C.F.R. § 745.113(b)(2), the lessor shall, within the lease contract or as an attachment thereto, provide a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

21. Respondent failed to make such disclosures when leasing the following target housing in Omaha, Nebraska:

Count:	Address:	Date of Lease:
11	5335 North 26th Street	11/23/2012
12	2415 Camden Avenue	3/17/2014
13	2432 Emmet	2/19/2014
14	4224 Patrick Avenue	1/3/2012
15	2909 Parker	7/12/2013
16	4106 Binney	4/23/2013
17	2615 Parker	6/8/2012
18	3167 Sprague	11/20/2013
19	1464 Emmet	6/1/2012

22. Respondent's failures to provide statements disclosing the presence or lack of knowledge of lead-based paint hazards in the leases for the target housing units listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.113(b)(2), and in accordance with 40 C.F.R. § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

23. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
11	5335 North 26th Street	\$5,670.00
12	2415 Camden Avenue	8,500.00
13	2432 Emmet	8,500.00
14	4224 Patrick Avenue	5,670.00
15	2909 Parker	8,500.00
16	4106 Binney	8,500.00
17	2615 Parker	5,670.00
18	3167 Sprague	8,500.00
19	1464 Emmet	8,500.00

for a total penalty of \$68,010.00 for Counts 11 through 19.

Counts 20 through 28

24. The facts stated in Paragraphs 5 through 8 above are realleged and incorporated as if fully stated herein.

25. Pursuant to 40 C.F.R. § 745.113(b)(3), the lessor shall list within the lease contract or as an attachment thereto any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or indicate that no such records or reports exist.

26. Respondent failed to list any such records or reports that were available to the lessor or indicate that no such records exist when leasing the following target housing in Omaha, Nebraska:

Count:	Address:	Date of Lease:
20	5335 North 26th Street	11/23/2012
21	2415 Camden Avenue	3/17/2014
22	2432 Emmet	2/19/2014
23	4224 Patrick Avenue	1/3/2012
24	2909 Parker	7/12/2013

Count:	Address:	Date of Lease:
25	4106 Binney	4/23/2013
26	2615 Parker	6/8/2012
27	3167 Sprague	11/20/2013
28	1464 Emmet	6/1/2012

27. Respondent's failures to list records or reports or to indicate that no such records exist in the leases for the target housing units at listed in the preceding Paragraph, are violations of 40 C.F.R. §§ 745.113(b)(3), and in accordance with 40 C.F.R § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

28. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
20	5335 North 26th Street	\$1,850.00
21	2415 Camden Avenue	2,840.00
22	2432 Emmet	2,840.00
23	4224 Patrick Avenue	1,850.00
24	2909 Parker	2,840.00
25	4106 Binney	2,840.00
26	2615 Parker	1,850.00
27	3167 Sprague	2,840.00
28	1464 Emmet	2,840.00

Which is a total penalty of \$22,590.00 for Counts 20 through 28.

Counts 29 through 30

29. The facts stated in Paragraphs 5 through 8 above are realleged and incorporated as if fully stated herein.

30. Pursuant to 40 C.F.R. § 745.107(a)(2), the lessor shall disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased.

31. Respondent failed to disclose this information to the lessee when leasing the following target housing in Omaha, Nebraska:

Count:	Address:	Date of Lease:
29	2909 Parker	7/12/2013
30	1464 Emmet	6/1/2012

32. Respondent's failures to disclose this information to the lessees prior to leasing the target housing units listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.107(a)(2), and in accordance with 40 C.F.R. § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

33. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that civil administrative penalties in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
29	2909 Parker	\$16,000.00
30	1464 Emmet	16,000.00

for a total penalty of \$32,000.00 for Counts 29 and 30.

Counts 31 and 32

34. The facts stated in Paragraphs 5 through 8 above are realleged and incorporated as if fully stated herein.

35. Pursuant to 40 C.F.R. § 745.107(a)(4), the lessor shall, prior to a lessee's entering into a lease, provide the lessee with any records or reports available to the lessor pertaining to lead-based paint or lead-based paint hazards in the target housing being leased.

36. Respondent failed to provide these records or reports to the lessee when leasing the following target housing in Omaha, Nebraska:

Count:	Address:	Date of Lease:
31	2909 Parker	7/12/2013
32	1464 Emmet	6/1/2012

37. Respondent's failures to timely provide these records or reports to the lessees for the target housing units listed in the preceding Paragraph, are violations of 40 C.F.R. § 745.107(a)(4), and in accordance with 40 C.F.R. § 745.118(e), are violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

38. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that a civil administrative penalty in the amounts indicated below be assessed against Respondent:

Count:	Address:	Proposed Penalty:
31	2909 Parker	\$16,000.00
32	1464 Emmet	16,000.00

for a total penalty of \$32,000.00 for Counts 31 through 32.

Relief

39. Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615 for violations of Section 409 of TSCA, 15 U.S.C. § 2689. Pursuant to Section 16 of TSCA, 15 U.S.C. 2615 and based upon the facts set forth above, it is proposed that a civil administrative penalty be assessed against Respondent.

40. 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 \$10,000 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 \$11,000 for violations that occurred after January 12, 2009 and to \$16,000 for violations that occurred after December 6, 2013.

41. The proposed penalty is based upon the facts alleged in this Complaint and upon the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. 2615(a)(2)(B), including the nature, circumstances, extent and gravity of the violations, and with respect to the Respondents: a) their ability to pay, b) the effect on their ability to continue to do business, c) any history of prior violations, d) the degree of culpability, and e) such other matters as justice may require.

42. The proposed penalty is based on the best information available to EPA at the time the complaint is issued. EPA has taken into account the particular facts and circumstances of this case, so far as they are known to us at this time, with specific reference to EPA's December 2007 Policy entitled, "Section 1018 – Disclosure Rule, Enforcement Response and Penalty Policy" ("1018 – ERPP"), a copy of which is enclosed with this Complaint. Complainant proposes that Respondent be assessed a civil penalty in the amount of Two Hundred Fifty-two Thousand, Four Hundred and Ten Dollars (\$252,410.00) for the TSCA violations alleged in this Complaint (See Attachment 1 to this Complaint which explains the reasoning for this penalty).

43. The proposed penalty is based on the best information available to EPA at the time the Complaint is issued. The penalty may be adjusted if the Respondent establishes bona

vide issues of ability to pay or other defenses relevant to the appropriate amount of the proposed penalty.

Payment of Proposed Penalty in Full

44. A Respondent may resolve this proceeding at any time by paying the full penalty proposed in the Complaint and filing documentation of the check or other instrument of payment with the Regional Hearing Clerk. Payment of the total penalty of Two Hundred Fifty-Two Thousand, Four Hundred and Ten Dollars (\$252,410.00) shall identify Respondent by name and docket number and shall be by online payment, certified or cashier's check, or wire transfer, as directed below.

45. Payment of the penalty may be submitted on-line at www.pay.gov by entering "SFO 1.1" in the "Search Public Forms" field. Open the on-line form and complete required fields to complete payment. Respondent shall print a copy of the payment receipt and mail a copy of the receipt to the contacts listed below.

46. Payments by certified or cashier's check shall be made payable to the "United States Treasury" and sent to:

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

47. Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

48. A copy of the check or other information confirming payment shall
simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219;

and

Cassandra Mance
U.S. Environmental Protection Agency
Region 7, WWPD/TOPE
11201 Renner Boulevard
Lenexa, Kansas 66219.

Payment of Proposed Penalty in Lieu of an Answer

49. A Respondent who wishes to resolve a proceeding by paying the proposed penalty in full instead of filing an answer to the Complaint may do so within thirty (30) days of receipt of the Complaint, in accordance with the procedures set forth above. A Respondent who wishes to resolve a proceeding by paying the proposed penalty in full instead of filing an answer but who needs additional time to pay the penalty, may file a written statement with the Regional Hearing Clerk within thirty (30) days of receipt of the Complaint, in accordance with Rule 22.18(a)(1) of the Consolidated Rules. The written statement shall state that Respondent agrees to pay the proposed penalty in full within sixty (60) days of receipt of the Complaint. The written statement need not contain any response to, or admission of, the allegations in the Complaint. A Respondent must then pay the full amount of the proposed penalty within sixty (60) days of

receipt of the Complaint. Failure to pay the full penalty within sixty (60) days of receipt of the Complaint may subject a Respondent to default, as set forth below.

NOTICE OF OPPORTUNITY FOR HEARING

Answer and Request for Hearing

50. A Respondent must file a written answer within thirty (30) days of receipt of this Complaint if Respondent: a) contests any material fact upon which this Complaint is based; b) contends that the penalty proposed in this Complaint is inappropriate; or c) contends that it is entitled to judgment as a matter of law. The answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which a Respondent has any knowledge. Where a Respondent has no knowledge of a particular factual allegation, the answer shall so state. Failure to admit, deny or explain any of the factual allegations in the Complaint constitutes an admission of the allegation. The answer shall also state: d) the circumstances or arguments which are alleged to constitute the grounds of any defense; e) the facts that a Respondent disputes; f) the basis for opposing the proposed penalty; and g) whether a hearing is requested.

51. The original and one copy of the answer shall be filed with the following, in accordance with Section 22.15 of the Consolidated Rules:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, KS 66219

A copy of the answer shall be sent to:

Lucretia Myers, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, KS 66219.

52. After the filing of Respondent's Answer to the Complaint, the Hearing Clerk at EPA Headquarters will serve as the Regional Hearing Clerk, and all further filings in this matter (except for the filing of a Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.18(b)(3)) must be filed with the Hearing Clerk at the following addresses, as appropriate:

If using the U.S. Postal Service:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900R
1200 Pennsylvania Avenue NW
Washington, DC 20460

If using UPS/FedEx/DHL:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue NW
Washington, DC 20460

Default

53. If, within thirty (30) days of receipt of a Complaint, a Respondent fails to: a) submit full payment of the proposed penalty; b) submit a written statement to the Regional Hearing Clerk that Respondent agrees to pay the penalty within sixty (60) days of receipt of the Complaint; or c) file a written answer to the Complaint; a Respondent may be found in default.

Default by a Respondent constitutes, for the purposes of this proceeding, an admission of all facts alleged in the Complaint and a waiver of a Respondents' right to contest such factual allegations. A Default Order may thereafter be issued by the Presiding Officer and the civil penalty proposed in the Complaint shall be assessed unless the Presiding Officer finds that the proposed penalty is clearly inconsistent with the record of the proceeding or TSCA.

Informal Settlement Conference

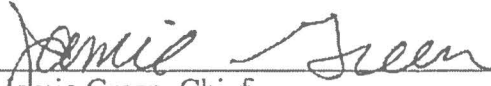
54. The EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of TSCA and the regulations upon which this action is based. Regardless of whether a Respondent requests a hearing, a Respondent may request an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settlement. To request an informal settlement conference, please contact:

Lucretia Myers, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Telephone (913) 551-7917

55. Any settlement which may be reached as a result of such a conference shall be recorded in a written consent agreement signed by all parties or their representatives and shall conform with the provisions of Section 22.18(b)(2) of the Consolidated Rules. No settlement or consent agreement shall dispose of this proceeding without a final order from the Regional Judicial Officer or the Regional Administrator.


56. Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer must be filed.

Date: 4/22/2015



Jamie Green, Chief
Toxics and Pesticides Branch
Water, Wetlands & Pesticides Division

Date: 4/22/15

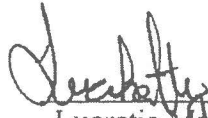


Lucretia Myers
Assistant Regional Counsel
Office of Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing were hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, on April 22, 2015. A true and correct copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing together with a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits were sent by certified mail, return receipt requested, on April 22, 2015 to:

**North-O Properties
c/o Jill E. Nagel
1795 Kent Circle
Papillion, Nebraska 68046**



Lucretia Myers
Assistant Regional Counsel
Office of Regional Counsel