



U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 1 – NEW ENGLAND

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

OFFICE OF
ENVIRONMENTAL STEWARDSHIP

RECEIVED

SEP 26 2018

EPA ORC
Office of Regional Hearing Clerk

BY HAND

September 26, 2018

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (ORC 04-6)
Boston, MA 02109-3912

Re: In the Matter of Imagineers LLC, Docket No. TSCA-01-2018-0061⁶⁷

Dear Ms. Santiago:

Enclosed for filing in the above-referenced action, please find the original and one copy of a Complaint and Notice of Opportunity for Hearing, which seeks penalties for alleged violations of Sections 15 and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2614 and 2689, and regulations promulgated under TSCA known as the Renovation, Repair and Painting Rule.

Thank you for your attention to this matter.

Sincerely,

Hugh W. Martinez, Senior Enforcement Counsel
Counsel for Complainant

Enclosures

cc: Kenneth G. Schultz, Imagineers LLC
Jordan Alves, EPA Region 1

CERTIFICATE OF SERVICE

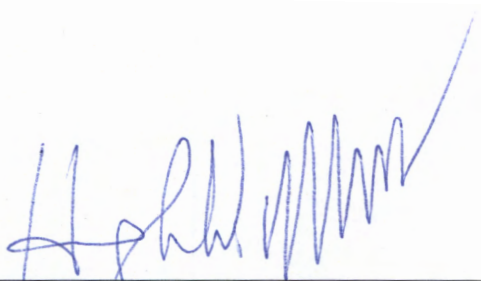
I hereby certify that the foregoing administrative Complaint and Notice of Opportunity for Hearing has been provided to the following persons on the date noted below:

Original and one copy,
hand-delivered to:

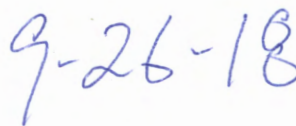
Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA – Region 1
5 Post Office Square, Suite 100 (ORC 04-6)
Boston, Massachusetts 02109-3912

One copy (with the Part 22 Rules
and RRP Penalty Policy enclosed),
by First Class Mail, Return
Receipt Requested, to:

Kenneth G. Schultz, President
Imagineers LLC
635 Farmington Avenue
Hartford, Connecticut 06105



Hugh W. Martinez, Sr. Enforcement Counsel
U.S. EPA Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912



Phone (dir.): (617) 918-1867

Fax: (617) 918-0867

E-mail: Martinez.hugh@epa.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND**

RECEIVED

SEP 26 2018

EPA ORC
Office of Regional Hearing Clerk

In the Matter of:)
)
IMAGINEERS LLC)
635 Farmington Avenue)
Hartford, Connecticut 06105,)
)
Respondent.)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
42 U.S.C. § 2615(a).)
)

Docket No. 69
TSCA-01-2018-0061

**COMPLAINT
AND
NOTICE OF OPPORTUNITY
FOR HEARING**

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued by Complainant, the U. S. Environmental Protection Agency (“EPA”), pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), regulations implementing TSCA at 40 C.F.R. § 745.87, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, United States Environmental Protection Agency (“EPA”), Region 1 – New England.

2. The Respondent in this action, Imagineers, LLC, of Hartford, Connecticut, is hereby notified of Complainant’s determination that it has violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and federal regulations promulgated under TSCA and the Act, including 40 C.F.R. Part 745, Subpart E, and 40 C.F.R. Part 745, Subpart L, as amended (collectively referred to herein as the “Renovation, Repair and Painting Rule” or “RRP Rule”). Respondent is also hereby notified that Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of TSCA Sections 15 or 409 are

subject to the assessment by Complainant of civil and/or criminal penalties.

I. STATUTORY AND REGULATORY AUTHORITY

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. Among the stated purposes of the Act is ensuring that the existence of lead-based paint hazards be taken into account in the rental and renovation of homes and apartments. To carry out these purposes, the Act added a new section to TSCA, entitled *Subchapter IV – Lead Exposure Reduction*, which includes TSCA Sections 401-412, 15 U.S.C. §§ 2681-2692.

4. In 1996, EPA promulgated regulations to implement Section 1018 of the Act [*Disclosure of Information Concerning Lead upon Transfer of Residential Property*], 42 U.S.C. § 4852d, and Section 402(a) of TSCA [*Lead-Based Paint Activities Training and Certification – Regulations*], 15 U.S.C. § 2682(a). The regulations under Section 1018 of the Act are set forth at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”), and the regulations under TSCA Section 402(a) are set forth at 40 C.F.R. Part 745, Subpart L [*Lead-Based Paint Activities*, 40 C.F.R. §§ 745.220-745.239], commonly referred to as the “Lead-Based Paint Activities, Certification, and Training Rule” or the “LBP Activities Rule.” In 1998, EPA promulgated regulations to implement Section 406(b) of TSCA [*Lead Hazard Information Pamphlet – Renovation of Target*

Housing], 15 U.S.C. § 2686(b), and those regulations are set forth at 40 C.F.R. Part 745, Subpart E [*Residential Property Renovation*, 40 C.F.R. §§ 745.80-745.92], commonly referred to as the “Pre-Renovation Education Rule” or “PRE Rule.”

5. In 2008, EPA promulgated regulations to implement Section 402(c)(3) of TSCA [*Lead-Based Paint Activities Training and Certification – Renovation and Remodeling – Certification Determination*], 15 U.S.C. § 2682(c)(3), by amending both the PRE Rule at 40 C.F.R. Part 745, Subpart E, as well as the LBP Activities Rule at 40 C.F.R. Part 745, Subpart L, now commonly referred to as the “RRP Rule.”

6. The RRP Rule sets forth procedures and requirements for, among other things, the accreditation of training programs, certification of renovation firms and individual renovators, work practice standards for renovation, repair, and painting activities in target housing and child-occupied facilities, and the establishment and retention of records to document compliance.

7. Pursuant to Section 401(17) of TSCA, as amended, 15 U.S.C. § 2681(17), the housing stock addressed by the Act, the Disclosure Rule, and the RRP Rule is “target housing,” defined as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing). *See* 40 C.F.R. § 745.103.

8. Pursuant to 40 C.F.R. § 745.82, the requirements of the RRP Rule apply to all renovations performed for compensation in target housing, as defined in TSCA Section 401(17) and 40 C.F.R. § 745.103, and in “child-occupied facilities,” as defined in 40 C.F.R. § 745.83.

9. Pursuant to Section 401(14) of TSCA, 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term “residential dwelling” means either 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.

10. Pursuant to 40 C.F.R. § 745.83, the term “firm” means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

11. Pursuant to 40 C.F.R. § 745.83, the term “renovation” means 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 40 C.F.R. § 745.223. The term renovation includes, but is not limited to: the removal or modification of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceiling, plumbing, windows); weatherization projects (e.g. cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather-stripping), and interim controls that disturb painted surfaces. The term renovation does not include minor repair and maintenance activities.

12. Pursuant to 40 C.F.R. § 745.83, the term “minor repair and maintenance activities” means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by 40 C.F.R. § 745.85(a)(3) are used and where the work does not involve window replacement or demolition of painted surface areas.

13. Pursuant to 40 C.F.R. § 745.83, the term “renovator” means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or by an EPA-authorized State or Tribal program.

14. Under the RRP Rule, except in circumstances specified by the regulations that are not relevant to Respondent or the violations alleged in this Complaint, firms performing renovations in target housing and child-occupied facilities are, among other things, required to:

- i. Obtain an EPA certification for the firm prior to performing renovations;
- ii. Provide the EPA-approved pamphlet to a lessee or adult occupant before renovation activities begin and obtain written verification that the pamphlet was provided;
- iii. Ensure that a certified renovator either performs the renovation or directs a properly trained worker to perform the renovation;
- iv. Perform renovations in compliance with applicable work practice standards for any renovation, repair, and painting activities conducted; and,
- v. Retain all records necessary to demonstrate compliance with the same.

Complaint and Notice of Opportunity for Hearing
Imagineers LLC, TSCA-01-2018-0061

See 40 C.F.R. §§ 745.81(a)(2), 745.84(a), 745.89(d), 745.85, and 745.86(a) and (b).

15. Pursuant to Section 409 of TSCA, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA (such as the RRP Rule). Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with a requirement of the RRP Rule is a violation of Section 409 of TSCA. Pursuant to 40 C.F.R. § 745.87(b), the failure to establish and maintain the records required by the RRP Rule is a violation of Sections 15 and 409 of TSCA.

16. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of Section 15 or 409 of TSCA shall be liable to the United States for a civil penalty.

17. Section 16(a) of TSCA and 40 C.F.R. § 745.87(d) authorize the assessment of a civil penalty of up to \$25,000 per violation per day of the RRP Rule. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (“Debt Collection Improvement Act”), and EPA’s Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19 (“Penalty Inflation Rule”), each such TSCA violation that occurs after December 6, 2013 is subject to penalties of up to \$37,500 per day per violation. *See* 78 Fed. Reg. 66643 (November 6, 2013). Under the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (“2015 Inflation Adjustment Act”), and the Penalty Inflation Rule, the \$37,500 maximum penalty was raised to \$38,892 for each such violation that occurs after November 2, 2015, and for which penalties are assessed on or after January 15, 2018. *See* Pub. L.114-74, Section 701 (Nov. 2, 2015); 83 Fed. Reg. 1190 (Jan. 10, 2018).

II. GENERAL ALLEGATIONS

18. Respondent, Imagineers LLC (“Imagineers”), is a Connecticut limited liability company, organized in or around 1973, with its principal business offices located at 635 Farmington Avenue in Hartford, Connecticut. Imagineers operates as a real estate management company.

19. On May 10, 2017, a duly-authorized EPA inspector conducted a compliance inspection at Respondent’s offices located at 635 Farmington Avenue in Hartford (the “Inspection”).

20. During the Inspection, EPA sought records and other information relative to Respondent’s compliance with RRP Rule requirements.

21. At all times relevant to the allegations in this Complaint, Respondent managed multiple rental properties containing numerous residential housing units including, but not limited to, the following properties (collectively, the “Properties”):

	Property Name, Location, and Total Units (if known)	Year Built
1.	1 Melon Lane, Ridgefield, CT – total units unknown	cir. 1976
2.	Beacon Hill (MT), Middletown, CT – 176 Units	cir. 1976
3.	Dogwood Green, Fairfield, CT – 90 Units	cir. 1973
4.	1177 Stratfield Rd., Fairfield, CT – total units unknown	cir. 1973
5.	Talcott Ridge Condos, Talcott Ridge, Farmington, CT – 101 Units	cir. 1970
6.	185 Fairfield Woods Rd., Fairfield, CT – total units unknown	cir. 1973
7.	1187 Stratfield Rd., Fairfield, CT – total units unknown	cir. 1973
8.	George Beach Condo Association, Hartford, CT – total units unknown	cir. 1969

Complaint and Notice of Opportunity for Hearing
Imagineers LLC, TSCA-01-2018-0061

9.	80 Montauk St., Fairfield, CT – total units unknown	cir. 1973
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22. At all times relevant to the allegations in this Complaint, Respondent’s employees or agents performed renovation activities, each of which constituted a “renovation” within the meaning of 40 C.F.R. § 745.83, at the following residential units located within the Properties and identified by the specific addresses and job identifiers listed, below:

	<u>CT Property/Unit Location</u>	<u>Job Number and Approx. Start Date</u>
1.	1 Melon Lane, Ridgefield	#16-032 (03/04/16)
2.	Beacon Hill - 25L Rising Trail, Middletown	#16-015 (02/29/16)
3.	Dogwood Green, Fairfield	#16-019 (02/24/16)
4.	1177 Stratfield Rd., Fairfield	#16-055 (05/05/16)
5.	Beacon Hill - 214 J Rising Trail, Middletown	#15-004 (01/19/15)
6.	Talcott Ridge Condo Assoc, Talcott Ridge, # 5D, Farmington	#15-080 (04/17/15)
7.	Talcott Ridge Condo Assoc, Talcott Ridge, # 4H, Farmington	#15-058 (09/30/15)
8.	Talcott Ridge Condo Assoc, Talcott Ridge, # 4C, Farmington	#15-082 (05/18/15)
9.	185 Fairfield Woods Rd., Fairfield	#16-024 (02/12/16)
10.	Talcott Ridge Condos (“Various Units”), Farmington	#16-140 (10/14/16)
11.	1187 Stratfield Rd., Fairfield	#16-028 (03/03/16)
12.	George Beach (Assoc), # C7 and # C10, Hartford	#16-146 (10/31/16)
13.	80 Montauk St., Fairfield	#16-018 (02/02/16)

23. Each of the renovations performed by Respondent’s employees or agents at the dwelling units identified in Paragraph 22 above (collectively, the “Renovations”) constituted a renovation for compensation within the meaning of TSCA Section 406(b) and the RRP Rule. None of the Renovations listed in Paragraph 22 above fall within any exemption set forth in 40

C.F.R. § 745.82.

24. All the Properties and the residential units within the Properties referenced in Paragraphs 21 and 22 above that are associated with the violations alleged in this Complaint are or were target housing as defined in Section 401(17) of TSCA and 40 C.F.R. § 745.103. Furthermore, none of those residential units satisfies the requirements for an exemption under the provisions of the Act, TSCA (including 15 U.S.C. § 2681(17)), or the RRP Rule (including 40 C.F.R. § 745.82).

25. At all times relevant to the violations alleged in this Complaint, Respondent was a “firm,” as defined in 40 C.F.R. § 746.83.

III. VIOLATIONS

26. EPA has identified the following violations of TSCA and the RRP Rule based on documents and other information obtained from Respondent during, or as a result of, the Inspection and EPA’s investigation of the facts and circumstances underlying the violations.

COUNT ONE

Failure to Retain Compliance Records

27. Paragraphs 1 through 26, above, are incorporated by reference as if fully set forth herein.

28. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations at target housing must retain for a period of at least three years following completion of a renovation all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E. The records to be retained include, in pertinent part, written proof of receipt or delivery of pre-renovation

education information (the pamphlet) pursuant to 40 C.F.R. § 745.86(b)(2)-(4), as well as documentation of compliance with work practice standards and certified renovator requirements pursuant to 40 C.F.R. § 745.86(b)(6).

29. With regard to each of the thirteen (13) Renovations listed in Paragraph 22, Respondent failed to retain all records necessary to demonstrate compliance with the RRP Rule, and each such failure constituted a violation of 40 C.F.R. §§ 745.86(a) and (b).

30. Each of the 13 above-referenced violations alleged in this Count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87, and each is a violation for which penalties may be assessed pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

IV. PROPOSED PENALTY

31. Section 409 of TSCA and 40 C.F.R. § 745.87 provide that, for purposes of enforcing the RRP Rule under TSCA, the penalty for each violation under TSCA Section 16 shall be no more than \$25,000. Pursuant to the Debt Collection Improvement Act, the 2015 Inflation Adjustment Act, and EPA's Penalty Inflation Rule (40 C.F.R. Part 19), the maximum penalty for each such TSCA violation is \$37,500 for violations occurring after December 6, 2013 but before November 3, 2015 and \$38,892 for violations occurring after November 2, 2015, and for which penalty assessment is on or after January 15, 2018.

32. In determining the amount of any penalty to be assessed, Section 16(a) of TSCA requires EPA to consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, ability to pay, the effect of the proposed penalty on the ability of the

violator to continue to do business, any history of prior such violations, the degree of culpability of the violator, and such other matters as justice may require. *See* 15 U.S.C. § 2615(a)(2)(B).

33. To assess a penalty for the violations alleged herein, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's August 2010 policy document, entitled *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* ("RRP Penalty Policy"), a copy of which is enclosed with this Complaint. The RRP Penalty Policy provide a rational, consistent, and equitable calculation methodology for applying the above-listed statutory penalty factors to specific cases. Complainant proposes that Respondent be assessed a civil penalty in the amount of **eight thousand, one hundred and fourteen dollars (\$8,114)** for the TSCA violations alleged in this Complaint. *See* Attachment A (Proposed Penalty Summary) explaining the reasoning for this penalty.

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

34. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14 of the Consolidated Rules of Practice, Respondent has a right to request a hearing on any material fact alleged in this Complaint or on the appropriateness of the proposed penalty. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22. A request for a hearing must be incorporated into a written Answer. **Respondent must file the original and one copy of the written Answer to this Complaint within thirty (30) days of receipt of this Complaint.** Respondent shall send the Answer to the Regional Hearing Clerk at

Complaint and Notice of Opportunity for Hearing
Imagineers LLC, TSCA-01-2018-0061

the following address:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (ORC 04-6)
Boston, Massachusetts 02109-3912

Respondents shall serve copies of the Answer(s), and any other documents submitted in this proceeding, to Complainant’s counsel at the following address:

Hugh W. Martinez, Senior Enforcement Counsel
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912

In its Answer(s), Respondent may contest any material fact contained in the Complaint. The Answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (i) the circumstances or arguments alleged to constitute the grounds of any defense; (ii) the facts Respondent disputes; (iii) the basis for opposing any proposed relief; and, (iv) whether a hearing is requested. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Any failure of Respondent to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation. *See* 40 C.F.R. § 22.15 for the required contents of an Answer.

35. The filing of service of documents other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the “Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional

Judicial Officer,” a copy of which has been provided with this Complaint.

36. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent’s right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the default order becomes final.

VI. SETTLEMENT CONFERENCE

37. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region 1.

38. Please note that a request for an informal settlement conference does not extend the period within which a written Answer must be submitted to avoid default but that the deadline by which Respondent must file an Answer is only extended on a motion granted by the Regional Judicial Officer in accordance with the Consolidated Rules of Practice. To explore the possibility of settlement in this matter, Respondent should contact Hugh W. Martinez, Senior Enforcement Counsel, at the address provided above, or by calling him at (617) 918-1867

(direct). Mr. Martinez has been designated to represent Complainant in this matter and is authorized, under 40 C.F.R. § 22.5(c)(4), to receive service on behalf of Complainant.

VII. QUICK RESOLUTION

39. Under Section 22.18(a) of the Consolidated Rules of Practice, Respondent has the option of resolving this matter at any time by paying the penalty proposed in the Complaint in full.

40. Payment of the penalty must be made by submitting a bank, cashier's or certified check payable to the "Treasurer, United States of America." The check should reference the name and docket number of this proceeding (*In re Imagineers LLC, TSCA-01-2018-0061*) and shall be forwarded to:

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

41. Copies of the check must also be mailed to the Regional Hearing Clerk and Hugh Martinez at the addresses referenced above. For notice of payment to Mr. Martinez, in lieu of mailing, such notice may be given via e-mail to Martinez.hugh@epa.gov.

42. If Respondent pays the proposed penalty in full within thirty (30) days after receiving this Complaint, then Respondent need not file an Answer to the Complaint. If Respondent wishes to resolve this matter without having to file an Answer but needs additional time in which to do so, Respondent may file a written statement with the Regional Hearing Clerk at the address above within thirty (30) days of receiving the Complaint. The written statement

Complaint and Notice of Opportunity for Hearing
Imagineers LLC, TSCA-01-2018-0061

must specify that Respondent agrees to pay the penalty within sixty (60) days of receipt of the Complaint. Failure to make such payment within sixty (60) days may subject Respondent to a default action.

43. Neither the assessment nor payment of an administrative penalty shall affect Respondent's continuing obligation to comply with all applicable requirements of federal law.



Joanna B. Jerison, Manager
Legal Enforcement Office
Office of Environmental Stewardship
EPA Region 1 – New England

Date: *Sept. 26, 2018*

PROPOSED PENALTY SUMMARY

This Summary provides a justification for the proposed penalty calculation in the administrative penalty action against Imagineers LLC (“Imagineers”) which seeks to assess a civil penalty in the amount of \$8,114 for alleged violations of the Renovation, Repair and Painting (“RRP”) Rule. The penalty was calculated according to EPA’s August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (“RRP Penalty Policy”). A breakdown of the penalty is set forth below.

VIOLATIONS – COUNT 1

Recordkeeping (Failure to Retain Records Demonstrating Compliance with RRP Rule)

Provision Violated: 40 C.F.R. § 745.86(a) and (b) requires firms performing renovations to establish and maintain records, and if requested, make available to EPA, all records necessary to demonstrate compliance with the RRP Rule for three years.

Circumstance Level: The failure to retain records demonstrating compliance with the RRP results in a *lesser probability* of impacting human health and the environment due to exposure to lead-based paint, lead dust, and debris. As a result, under Appendix A of the RRP Penalty Policy, violations of 40 C.F.R § 745.86(a) and (b) have been assigned a *Level 6a* violation.

Extent of Harm: The RRP Penalty Policy takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living there. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. In this case, since there was no one under 18 years old known to be living in the affected units at the time of the violations, each violation warrants a *minor* extent factor under the RRP Penalty Policy.

Respondent failed to establish and retain records demonstrating compliance with the RRP Rule after conducting renovations at the 13 separate renovations described in Paragraph 22 of the complaint.

Total Proposed Penalty

\$600 per violation for each of 13 violations, adjusted for inflation¹..... **\$8,114**

¹ As per applicable EPA inflationary guidance, EPA applied inflation adjustments using a multiplier of 1.0487 for the 4 violations occurring after Dec. 6, 2013 and a multiplier of 1.03711 for the 9 violations occurring after Nov. 2, 2015. Such adjustments yielded per-violation penalties of \$629 for the former and \$622 for the latter. All violations are considered "assessed" after January 15, 2018. See EPA’s January 11, 2018 guidance, entitled Amendments to the EPA’s Civil Penalty Policies to Account for Inflation (effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule, and 83 Fed. Reg. 1190 (January 10, 2018).