

Count 31

15 U.S.C. § 2686 and
40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$2,580

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40 C.F.R. § 745.84(a)(1).....\$11,000

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40 C.F.R. § 745.86(a).....\$260

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40 C.F.R. § 745.86(a).....\$260

Count 542

15 U.S.C. § 2686 and
40 C.F.R. § 745.86(a).....\$6,580

Total Proposed Civil Penalty.....\$784,380

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 *Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education, Repair and Painting, and Lead-Based Paint Activities Rules* dated April 11, 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 42, above, by letter dated June 4, 2010, 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

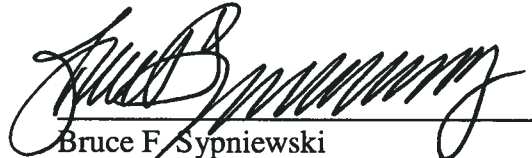
to comply with TSCA and any other applicable federal, state, or local law.

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.

6/9/10

Date



Bruce F. Sypniewski
Acting Director
Land and Chemicals Division

RECEIVED
JUN - 9 2010

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2010, a copy of the foregoing Civil Administrative Complaint was served by United Parcel Service express mail, by placement in the U.S. Environmental Protection Agency mail room at 77 W. Jackson Blvd., Chicago, Illinois to the following individual:

Mr. Brian B. Elias
Registered Agent for:
Hanson's Window and Construction, Inc.
1000 Tech Row
Madison Heights, MI 48071

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
M. McAuliffe/M. Palermo, Reg. Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA-05-2010-0013

RECEIVED

JUN - 9 2010

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY