

served upon respondent and simultaneously filed with the Office of Hearings and Appeals, and shall state the following:

(1) The factual basis for the decision to seek a penalty;

(2) The applicable civil money penalty statute;

(3) The amount of penalty sought;

(4) The right to submit a response in writing, within 15 days of receipt of the complaint, requesting a hearing on any material fact in the complaint, or on the appropriateness of the penalty sought;

(5) The address to which a response must be sent;

(6) That the failure to submit a response may result in the imposition of the penalty in the amount sought.

(c) A copy of this part and of 24 CFR part 26, subpart B, shall be included with the complaint.

(d) *Service of the complaint.* The complaint shall be served on the respondent by first class mail, personal delivery, or other means.

(e) Before taking an action under §§30.35 for violation of 12 U.S.C. §1735f-14(b)(1)(D) or (F), 30.36, or 30.50 for violation of 12 U.S.C. 1723i(b)(1)(G) or (I), the Secretary shall inform the Attorney General of the United States, which may be accomplished by providing a copy of the complaint. The Secretary shall include in the body of the complaint a statement confirming that this action was taken.

[61 FR 50215, Sept. 24, 1996, as amended at 74 FR 2752, Jan. 15, 2009]

### **§ 30.90 Response to the complaint.**

(a) *Request for a hearing.* If the respondent desires a hearing before an administrative law judge, the respondent shall submit a request for a hearing to HUD and the Office of Hearings and Appeals no later than 15 days following receipt of the complaint, as required by statute. This mandated period cannot be extended.

(b) *Answer.* In any case in which the respondent has requested a hearing, the respondent shall serve upon HUD and file with the Office of Hearings and Appeals a written answer to the complaint within 30 days of receipt of the complaint, unless such time is extended by the administrative law judge

for good cause. The answer shall include the admission or denial of each allegation of liability made in the complaint; any defense on which the respondent intends to rely; any reasons why the civil money penalty should be less than the amount sought in the complaint, based on the factors listed at §30.80; and the name, address, and telephone number of the person who will act as the respondent's representative, if any.

(c) *Filing with the administrative law judges.* HUD shall file the complaint and response with the Docket Clerk, Office of Hearings and Appeals, in accordance with §26.38 of this chapter. If no response is submitted, then HUD may file a motion for default judgment, together with a copy of the complaint, in accordance with §26.41 of this title.

[61 FR 50215, Sept. 24, 1996, as amended at 74 FR 2752, Jan. 15, 2009; 74 FR 7313, Feb. 17, 2009; 74 FR 4635, Jan. 26, 2009; 78 FR 4060, Jan. 18, 2013]

### **§ 30.95 Hearings.**

Hearings under this part shall be conducted in accordance with the procedures applicable to hearings in accordance with the Administrative Procedure Act, set forth in 24 CFR part 26.

[74 FR 2752, Jan. 15, 2009]

### **§ 30.100 Settlement of a civil money penalty action.**

The officials listed at subpart B of this part, or their designees (or the Mortgagee Review Board, or designee, for violations under §30.35), are authorized to enter into settlement agreements resolving civil money penalty actions that may be brought under part 30.

[74 FR 2752, Jan. 15, 2009]

## **PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES**

### **Subpart A—Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property**

Sec.

35.80 Purpose.

35.82 Scope and applicability.