

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

FILED

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U.S. EPA REGION 5
HEARING CLERK

In the Matter of:)	Docket No. TSCA-05-2025-0023
)	
Phillip Kruger Construction, LLC)	Proceeding to Assess a Civil
Lakefield, Minnesota)	Penalty Under Section 16(a) of the
)	Toxic Substances Control Act,
Respondent.)	15 U.S.C. § 2615(a)
_____)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 5.
3. Respondent is Phillip Kruger Construction, LLC, a limited liability company doing business in the State of Minnesota.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided in 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

Statutory and Regulatory Background

9. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, Pub. L. No. 102-550, Oct. 28, 1998 (Title X), Congress found, among other things, that low-level lead poisoning was widespread among American children, afflicting as many as 3,000,000 children under age six; at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems; and the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children. A key component of the national strategy to reduce and eliminate the threat of childhood lead poisoning is to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

10. Section 1021 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 amended TSCA, 15 U.S.C. § 2601 *et seq.*, by adding Subchapter IV – Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692.

11. Section 402(a) of TSCA, 15 U.S.C. § 2682, requires the Administrator of EPA to promulgate regulations to ensure that individuals engaged in lead-based paint activities are properly trained; that training programs are accredited; that contractors engaged in such activities are certified; and that such regulations contain standards for performing lead-based paint activities, taking into

account reliability, effectiveness, and safety.

12. Section 402(c) of TSCA, 15 U.S.C. § 2682, requires the Administrator of EPA to promulgate guidelines for the conduct of renovation and remodeling activities to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing and public buildings built before 1978, and commercial buildings, and to revise the regulations under Section 402(a) of TSCA to apply those regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards.

13. Section 407 of TSCA, 15 U.S.C. § 2687, requires the regulations promulgated by the Administrator of EPA under Subchapter IV to include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of the TSCA Lead Exposure Reduction requirements, 15 U.S.C. §§ 2681 through 2692.

14. Under Section 409 of TSCA, 15 U.S.C. § 2689, it shall be unlawful for any person to fail or refuse to comply with any rule or order issued under Subchapter IV – Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692. *See also* 40 C.F.R. § 745.87.

15. Under Section 15 of TSCA, 15 U.S.C. § 2614, it shall be unlawful for any person to fail or refuse to establish and maintain records, submit reports, notices, or other information, or permit access to or copying of records, as required by TSCA or a rule thereunder. *See also* 40 C.F.R. § 745.87.

16. Pursuant to Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, EPA promulgated the residential property renovation regulations at 40 C.F.R. Part 745, Subpart E, prescribing procedures and requirements for: the accreditation of renovator training programs; certification of individuals and firms; work practice standards for renovation, repair and painting activities in target housing and child-occupied facilities; and recordkeeping to demonstrate compliance with work practice standards. 73 *Fed. Reg.* 21691 (April 22, 2008).

17. 40 C.F.R. § 745.82(a) provides that Subpart E applies to all renovations performed in target housing and child-occupied facilities, with certain exceptions not relevant here.

18. 40 C.F.R. § 745.83 defines *firm* to mean 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.

19. 40 C.F.R. § 745.83 defines *renovation* to mean the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by this part (40 C.F.R. § 745.223). The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface 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.

20. 40 C.F.R. § 745.83 defines *renovator* to mean 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 an EPA authorized State or Tribal Program.

21. 40 C.F.R. § 745.83 defines *pamphlet* to mean the EPA pamphlet titled Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information).

22. 40 C.F.R. § 745.103 defines *target housing* to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

23. Section 16(a) of TSCA, 42 U.S.C. § 2615(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19,

authorize the Administrator of EPA to assess a civil penalty of up to \$48,512 per violation for each day of violation of Sections 15 and 409 of TSCA that occurred after November 2, 2015, where penalties are assessed on or after December 27, 2023.

Factual Allegations and Alleged Violations

24. At all times relevant to this CAFO, Respondent was a limited liability company with a place of business located in Lakefield, Minnesota, and was therefore a *firm* as defined by 40 C.F.R. § 745.83.

25. On August 24, 2023, EPA received a complaint regarding Respondent's compliance with the residential property renovation requirements at 40 C.F.R. Part 745, Subpart E.

26. On August 29, 2023, EPA sent an information request letter (IRL) via email to Respondent's email address at [REDACTED] regarding Respondent's compliance with the residential property renovation requirements at 40 C.F.R. Part 745, Subpart E.

27. On November 6, 2023, Respondent replied to the IRL via email and began providing records. Based on information and records provided by Respondent, EPA found that Respondent had performed or directed workers who performed renovations to the properties described in the table below:

Table 1
Renovation Work Performed at Target Housing

Line No.	Housing Address	Year Built	Contracted Work	Work Start Date
1	129 Bush Street Lakefield, Minnesota 56150	1915	Window and siding replacement	June 30, 2023
2	610 North Griffin Street Lakefield, Minnesota 56150	1915	Door and window replacement	November 1, 2022
3	604 Park Street Jackson, Minnesota 56143	1936	Door and window replacement	August 25, 2020
4	813 Park Street Jackson, Minnesota 56143	1950	Window and siding replacement	July 16, 2020
5	718 North Griffin Street Lakefield, Minnesota 56150	1904	Door and window replacement	March 21, 2023
6	411 Park Street Jackson, Minnesota 56143	1895	Window replacement	September 20, 2020
7	620 Cherry Street Lakefield, Minnesota 56150	1919	Door and window replacement	August 30, 2022

28. The door, window, and/or siding work that Respondent performed at the properties listed in

Paragraph 27, above, were modifications of the buildings' existing structure that resulted in disturbance of painted surfaces and were therefore *renovations* as defined in 40 C.F.R. § 745.83.

29. In the August 29, 2023, information request letter, EPA requested all records for the renovations that Respondent had performed during the three years prior to the date of the inspection. Respondent provided contracts for the seven (7) renovations identified in Paragraph 27, above, but did not provide any records necessary to demonstrate compliance with work practice standards in 40 C.F.R. § 745.85.

30. The buildings listed at the addresses in Paragraph 27, above, are residential housing built prior to 1978, and therefore are *target housing* as defined in 40 C.F.R. § 745.103.

31. Respondent either performed or directed workers to perform the renovations described in Paragraph 27, above, and is therefore a *renovator* as defined in 40 C.F.R. § 745.83.

COUNTS ONE to FOUR

32. Complainant incorporates paragraphs 1 through 31 of this CAFO as if set forth in this paragraph.

33. 40 C.F.R. § 745.84(a)(1) requires that, no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must:

(1) Provide the owner of the unit with the pamphlet and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

34. For the renovation projects described in Paragraph 27, Table 1, Line Nos. 2 – 3, Respondent failed to obtain from the owner either a written acknowledgment that the owner had received the pamphlet, or a certificate of mailing at least seven (7) days prior to the renovation, in violation of 40 C.F.R. § 745.84(a)(1) and 15 U.S.C. § 2689.

COUNTS FIVE to ELEVEN

35. Complainant incorporates paragraphs 1 through 31 of this CAFO as if set forth in this paragraph.

36. 40 C.F.R. § 745.86(a) requires firms performing renovations to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of three years following completion of the renovation.

37. For each renovation project described in Paragraph 27, Respondent failed to retain and make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E, for a period of 3 years following completion of the renovations, in violation of 40 C.F.R. § 745.86(a) and 15 U.S.C. § 2689. More specifically, the Respondent failed to:

- a. Provide documentation that a certified renovator was assigned to each of the renovation projects described in Paragraph 27;
- b. Provide documentation that the certified renovator performed on-the-job training for workers at each of the renovation projects described in Paragraph 27;
- c. Provide documentation that the certified renovator performed or directed workers to perform the work practice standards at each of the renovation projects described in Paragraph 27;
- d. Provide documentation that the certified renovator performed the post-cleaning verification at the renovation projects described in Paragraph 27, Table 1, Line Nos. 1 – 2;
- e. Provide documentation of the certified renovator's training certificate;
- f. Provide the certification from the certified renovator that the requirements in 40 C.F.R. § 745.86(b)(6)(i) through (viii) were completed at each of the renovation projects described in Paragraph 27.

Civil Penalty

38. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$2,963. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations alleged and, with respect to Respondent, 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. Complainant also considered EPA's *Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, Revised April 5, 2013.

39. Respondent agrees to pay a civil penalty in the amount of \$2,963 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date"). EPA conducted an analysis of Respondent's financial information and determined Respondent has a limited ability to pay. Consequently, in accordance with applicable law, EPA determined that the Assessed Penalty is an appropriate amount to settle this action.

40. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

41. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, **TSCA-05-2025-0023**.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Michael Todd
Pesticides and Toxics Compliance Section
U.S. Environmental Protection Agency, Region 5
todd.michael@epa.gov
and
R5LEECAB@epa.gov

Carlene Dooley
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
dooley.carlene@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

42. Interest, Charges, and Penalties on Late Payments. Pursuant to 15 U.S.C. § 2615, 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard underpayment rate, which currently is 7%; any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed each subsequent thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty, as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, and other charges, that remain delinquent more than ninety (90) days.

43. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions may include, but are not limited to the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

- d. Per 15 U.S.C. § 2615(a), the Attorney General will bring a civil action in the appropriate district court to recover the full remaining balance of the debt plus interest. In such an action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

General Provisions

44. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: dooley.carlene@epa.gov (for Complainant), and [REDACTED] (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

45. Full payment of the penalty and compliance with this CAFO resolves only Respondent's liability under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for federal civil penalties for the violations alleged in the CAFO.

46. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

47. This CAFO does not affect Respondent's responsibility to comply with TSCA, 15 U.S.C. § 2601 *et seq.*, its implementing regulations, and other applicable federal, state, and local laws.

48. Respondent certifies that it is complying with the residential property renovation regulations at 40 C.F.R. Part 745, Subpart E.

49. This CAFO constitutes a "prior such violation" as that term is used in EPA's Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule to determine Respondent's "history of prior such violations" under Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B).

50. The terms of this CAFO bind Respondent, and its successors and assigns.

51. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

52. Each party agrees to bear its own costs and attorneys' fees in this action.

53. This CAFO constitutes the entire agreement between the parties.

In the Matter of Phillip Kruger Construction, LLC
Docket No.: TSCA-05-2025-0023


Phillip Kruger Construction, LLC, Respondent

7-15-25
Date

Phillip Kruger
Phillip Kruger
Owner and Registered Agent
Phillip Kruger Construction, LLC

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

 Digitally signed by MICHAEL
HARRIS
Date: 2025.07.16 10:09:30
-05'00'

Michael D. Harris
Division Director
U.S. EPA, Region 5
Enforcement and Compliance Assurance Division

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN COYLE Digitally signed by ANN COYLE
Date: 2025.07.16 11:59:52
-05'00'

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5