



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

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UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7

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

BEFORE THE ADMINISTRATOR

In the Matter of:

Mike Bergesch

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Docket No.: TSCA-07-2019-0263

Respondent

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency alleges that Mike Bergesch failed to comply with the regulations governing certification, in violation of Section 409 of the Toxic Substances Control Act, 15 U.S.C. § 2689.
2. TSCA § 402 requires the Administrator of the EPA to promulgate regulations governing lead-based paint activities to ensure, among other things, that contractors engaged in such activities are certified. These regulations are codified at Part 745 of Title 40 of the Code of Federal Regulations.
3. 40 C.F.R. § 745.81(a)(2)(ii) prohibits firms from performing, offering, or claiming to perform renovations without certification from the EPA under § 745.89 in target housing or child-occupied facilities on or after April 22, 2010, unless the renovation qualifies for an exception. 40 C.F.R. § 745.89 covers firm certifications, including the requirement under § 745.89(a)(1) that firms that perform renovations for compensation must apply to the EPA for certification to perform renovations or dust sampling.
4. Respondent, as a firm which performs, offers, or claims to perform residential renovations and repairs for compensation on housing constructed prior to 1978, was required to obtain an initial firm certification from the EPA, under 40 C.F.R. §§ 745.89(a)(1) and 745.81(a)(2)(ii). Respondent failed to obtain an initial firm certification from the EPA.



5. The EPA and Respondent agree that settlement of this matter for a civil penalty of \$1,000.00 is in the public interest.

6. Not more than 30 calendar days after the effective date of the Final Order, Respondent shall deposit the civil penalty amount listed in Paragraph 5 by one of the following methods:

A. Dispatch a cashier's or certified check or money order with a notation for Docket No.: TSCA-07-2019-0263 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No.: TSCA-07-2019-0263
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

B. Dispatch a cashier's or certified check or money order by an overnight/common carrier (*e.g.*, FedEx® or United Parcel Service of America, Inc.) with a notation for Docket No.: TSCA-07-2019-0263 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101.

C. Make electronic payment (Vendor Express, Fedwire, Pay.gov) at <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer.

7. Concurrently with Paragraph 6, Respondent shall forward a copy of the cashier's or certified check or money order or documentation of a wire transfer to the following address with a certification that, regarding the violations alleged herein, Respondent is following TSCA.

Mary Woodruff
Compliance Officer
ECAD/CB
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

and

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

By written notice to Respondent, the EPA may change the address and/or person listed above.

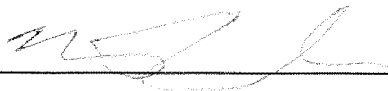
8. The EPA is authorized to enter into this Expedited Settlement Agreement, and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).
9. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirement in Paragraph 2 (above); (b) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto.
10. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violation, and has submitted true and accurate documentation of such correction along with this Agreement; (b) agrees to provide payment of the civil penalty set forth in Paragraph 5; (c) agrees to submit a true and accurate proof of payment of said civil penalty as set forth in Paragraph 6; and (d) agrees to release said payment to the EPA upon entry of the Final Order attached hereto.
11. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in Paragraph 5, Respondent shall be resolved of liability for Federal civil penalties for the violations and facts only alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
13. The EPA reserves all its rights to take enforcement action for any other past, present, or future violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.
14. By signing and returning this Agreement to the EPA, Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal this Agreement.
15. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.
16. Each party shall bear its own costs and fees, if any.
17. The Agreement authorized by the EPA's execution of the Final Order attached hereto constitutes a final order under 40 CFR Part 22.
18. This Agreement is binding on the parties signing below, and in accordance with 40 CFR § 22.31(b), is effective upon filing.

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FOR THE RESPONDENT:

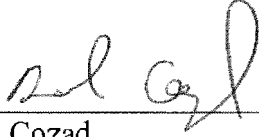
Name (print): Mike Bergesch

Title (print): owner/operator

Signature: 


Date: 10/31/19

FOR THE COMPLAINANT:



Date: 11.12.19

David Cozad
Division Director
Enforcement and Compliance Assurance Division



Date: 11.12.19

Christopher Muehlberger, Attorney
Office of Regional Counsel


FINAL ORDER

Pursuant to the authority of Section 16 of Toxic Substances Control Act, 15 U.S.C. § 2615, and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall comply with all terms of the Expedited Settlement Agreement;
2. Respondent is assessed a civil penalty of \$1,000.00; and
3. Respondent shall, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, make payment via a certified or cashier's check or money order or through a wire transfer as described in the Expedited Settlement Agreement.

This Agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO ORDERED.



KARINA BORRROMEO
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

Date: 11-18-2019

IN THE MATTER OF Mike Bergesch, Respondent
Docket No. TSCA-07-2019-0263

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

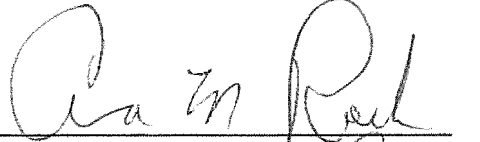
muehlberger.christopher@epa.gov

Copy via certified mail, return receipt requested to Respondent:

Mike Bergesch
17824 South State 291
Pleasant Hill, Missouri 64080

Dated: _____

11/18/2019



Lisa Haugen
Hearing Clerk, Region 7

