



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

APR 20 2010

Judith Kranz, Executive Director  
Kehilat Shalom Early Childhood Center  
10001 Apple Ridge Road  
Gaithersburg, MD 20886

**Re: Kehilat Shalom Congregation, Docket No. TSCA-03-2010-0240**

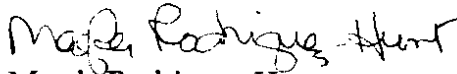
Dear Ms. Kranz:

Enclosed please find the final Consent Agreement ("CA") and Final Order (collectively "CAFO") identified by Docket No. TSCA-03-2010-0240.

The CAFO was signed by the Regional Judicial Officer on April 15, 2009 and filed with the Regional Hearing Clerk on April 20, 2010. There is no further action required. This case is now considered closed.

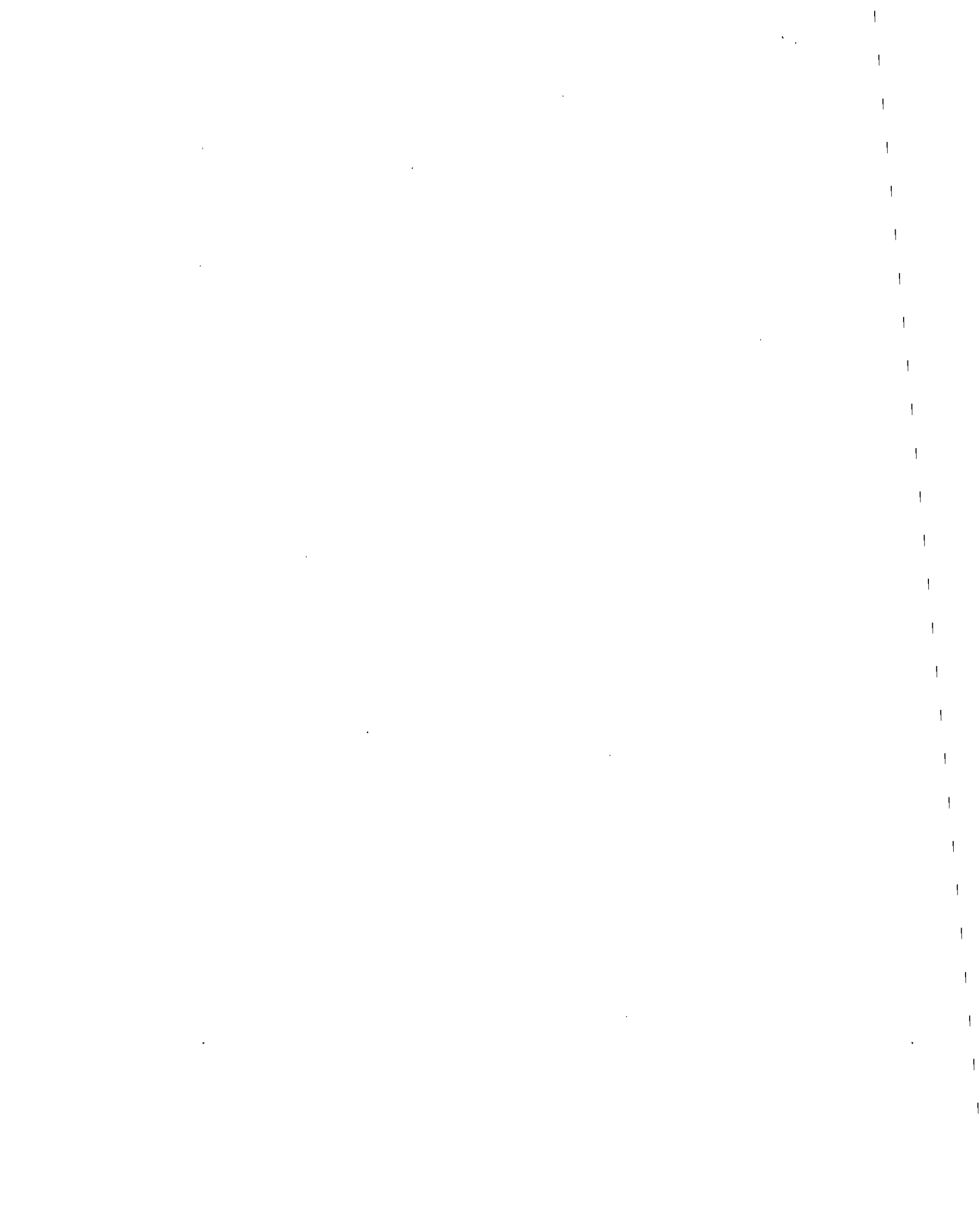
Thank you for your cooperation in this matter. If you have any questions, I can be reached at (215)814-2128.

Sincerely,

  
Magda Rodriguez-Hunt  
Enforcement Officer

Enclosure

cc: Larry Froelich, President  
Kehilat Shalom Congregation  
9915 Apple Ridge Road  
Gaithersburg, MD 20886



BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

IN RE:

Kehilat Shalom Congregation  
9915 Apple Ridge Road  
Gaithersburg, MD 20886

**Respondent**

Kehilat Shalom Early Childhood Center  
10001 Apple Ridge Road  
Gaithersburg, MD 20886

**Facility**

DOCKET NO: TSCA-03-2010-0240

CONSENT AGREEMENT

**CONSENT AGREEMENT**

**I. Preliminary Statement**

This Consent Agreement ("CA"), issued under the authority set forth in Sections 16 and 207 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2615 and 2647, is entered into, through delegation, by the Director, Land and Chemicals Management Division, U.S. Environmental Protection Agency - Region III ("EPA" or "Complainant") and Kehilat Shalom Congregation. This CA includes the assessment of a civil penalty against Kehilat Shalom Congregation ("Respondent"), because it is a local education agency liable for violations which occurred at Kehilat Shalom Early Childhood Center, 10001 Apple Ridge Road, Gaithersburg, MD, 20886 (the "Facility"), pursuant to TSCA Subchapter II, known as the Asbestos Hazard Emergency Response Act ("AHERA"), 15 U.S.C. §§ 2641 to 2656 ("TSCA AHERA"). This action is brought in accordance with TSCA AHERA 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, with specific reference to the provisions set forth at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

This Consent Agreement and the accompanying Final Order (collectively referred to herein as the "CAFO") address violations by Respondent of TSCA AHERA and the federal regulations implementing TSCA AHERA as set forth at 40 C.F.R. Part 763 Subpart E, and resolve Complainant's civil claims against Respondent arising from the violations of TSCA AHERA alleged herein.

## **II. General Provisions**

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the accompanying Final Order, or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying Final Order.
5. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.
6. Section 22.13(b) of the Consolidated Rules of Practice provides that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order.

7. By signing this CA, Respondent certifies to EPA that, upon investigation and to the best of its knowledge, the Facility is in compliance with the provisions of TSCA AHERA and regulations promulgated thereunder at 40 C.F.R. Part 763 Subpart E.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
9. Respondent shall bear its own costs and attorney's fees.
10. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.
11. By signing and executing this CA, Respondent certifies that it has already spent at least ONE THOUSAND FIVE HUNDRED DOLLARS (\$ 1,500.00) since MDE'S January 30, 2008 inspection for purposes of complying with TSCA AHERA and the regulations promulgated thereunder, in accordance with Section 207(a) of TSCA AHERA, 15 U.S.C. § 2647(a), and that Respondent has provided Complainant with all supporting cost documentation and information.
12. This CAFO shall apply to and be binding upon the EPA, Respondent, and the officers, directors, successors, and assigns of Respondent.

### **III. EPA's Findings of Fact and Conclusions of Law**

13. Complainant has determined that Respondent has violated requirements of TSCA AHERA and the federal regulations implementing TSCA AHERA set forth at 40 C.F.R. Part 763 Subpart E. In accordance with the Consolidated Rules of Practice as set forth at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law.

14. Respondent, Kehilat Shalom Congregation, is the "Local Education Agency" ("LEA") as that term is defined under Section 202(7) of TSCA AHERA, 15 U.S.C. § 2642(7) and 40 C.F.R. § 763.83, because it is the owner of a nonpublic, non-profit elementary, or secondary school building, including the Facility, and as such, is responsible for ensuring that the Facility is in compliance with the requirements of TSCA AHERA.
15. The Facility, Kehilat Shalom Early Childhood Center, located at 10001 Apple Ridge Road, Gaithersburg, MD 20886 is a "school" as that term is defined at Section 202(12) of TSCA AHERA, 15 U.S.C. § 2642(12) and 40 C.F.R. § 763.83.
16. The Facility is a "school building" as that term is defined at Section 202(13) of TSCA AHERA, 15 U.S.C. § 2642(13) and 40 C.F.R. § 763.83.

#### COUNT I

17. The allegations contained in Paragraphs 1 through 16 are incorporated herein by reference.
18. 40 C.F.R. § 763.85(a) requires that any building leased or acquired on or after October 12, 1988, that is to be used as a school building shall be inspected...prior to use as a school building.
19. During a January 30, 2008 inspection of Kehilat Shalom Early Childhood Center, a Maryland Department of the Environment ("MDE") duly authorized inspector observed that Kehilat Shalom Congregation had not performed an initial inspection of the school building.
20. By failing to conduct an initial inspection at the school, Respondent violated the

requirements of 40 C.F.R. § 763.85(a).

### COUNT II

21. The allegations contained in Paragraphs 1 through 20 are incorporated herein by reference.
22. 40 C.F.R. § 763.93(a)(3) requires that if a local education agency begins to use a building as a school after October 12, 1988, the local education agency shall submit a management plan for the school to the Agency designated by the Governor prior to its use as a school.
23. During a January 30, 2008 inspection of Kehilat Shalom Early Childhood Center, an MDE duly authorized inspector found that Kehilat Shalom Congregation had not submitted a management plan to the state designated agency.
24. By failing to submit a management plan to the state designated agency, Respondent violated the requirements of 40 C.F.R. § 763.93(a)(3).

### COUNT III

25. The allegations contained in Paragraphs 1 through 24 are incorporated herein by reference.
26. 40 C.F.R. § 763.93(g)(4) requires that at least once each school year, the local education agency shall notify in writing parent, teacher, and employee organizations of the availability of the management plan for their review.
27. During a January 30, 2008 inspection of Kehilat Shalom Early Childhood Center, an MDE duly authorized inspector found that Kehilat Shalom Congregation had not been providing annual notification to parent, teacher, and employee organizations since the

Facility had been operating as a school building.

28. By failing to provide annual notification, Respondent violated the requirements of 40 C.F.R. § 763.93(g)(4).

#### **IV. Settlement Recitation**

29. Based on the above Findings of Fact and Conclusions of Law, EPA concludes that Respondent is liable for a civil penalty pursuant to Section 207(a) of TSCA AHERA, 15 U.S.C. § 2647(a), for Respondent's TSCA AHERA violations. In full settlement of the violations alleged in this Consent Agreement, in consideration of each provision of this Consent Agreement and the accompanying Final Order, and pursuant to Sections 207(a) and (c) of TSCA AHERA, 15 U.S.C. §§ 2647(a) and (c), and other relevant factors, Complainant and Respondent have determined that a civil penalty of TWO HUNDRED THIRTY ONE DOLLARS (\$231.00) is appropriate.
30. The aforesaid assessed penalty is based upon EPA's consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 207(c) of TSCA AHERA, 15 U.S.C. § 2647(c), *i.e.*, the significance of the violation, the culpability of the violator, and the ability of the violator to continue to provide educational services to the community. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Interim Final Enforcement Response Policy for the Asbestos Hazard Emergency Response Act ("ERP")*, dated January 31, 1989, adjusted for inflation pursuant to 40 C.F.R. Part 19.



31. Respondent certifies that it has spent ONE THOUSAND FIVE HUNDRED DOLLARS (\$ 1,500.00) since MDE's January 30, 2008 inspection to comply with TSCA AHERA. Therefore, pursuant to Section 16(a)(2)(C) of TSCA and Section 207(a) of TSCA AHERA, 15 U.S.C. §§ 2615(a)(2)(C) and 2647(a), EPA agrees to the remittance of TWO HUNDRED THIRTY ONE DOLLARS ( \$ 231.00) of the civil penalty assessed against the Respondent.
32. Respondent consents to the assessment of a TWO HUNDRED THIRTY ONE DOLLAR (\$ 231.00) civil penalty with a cash component of ZERO DOLLARS (\$ 0).

**V. Reservation of Rights**

33. This CAFO resolves only the civil claims for the specific violations alleged in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under TSCA AHERA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**VI. Effective Date**

34. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

The undersigned representative for Respondent certifies that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to this Consent Agreement.

**For Respondent:**

3/24/10  
Date

Judith Kranz  
Judith Kranz, Executive Director  
Kehilat Shalom Early Childhood Center

**For Complainant:**

3/25/10  
Date

Magda Rodriguez-Hunt  
Magda Rodriguez-Hunt  
Enforcement Officer

Accordingly I hereby recommend that the Regional Administrator or his designee issue the Final Order attached hereto.

4/6/10  
Date

Abraham Ferdas  
Abraham Ferdas, Director  
Land and Chemicals Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Subject: Toxic Substances Control Act  
Kehilat Shalom Congregation  
Docket No. TSCA-03-2010-0240  
Consent Agreement and Final Order

APR 20 2010

From: *RM* Marcia E. Mulkey, Regional Counsel  
Office of Regional Counsel (3RC00)

*for* Abe Ferdas, Director *AF*  
Land and Chemicals Division (3LC00)

To: Renée Sarajian, Regional Judicial Officer  
Office of Regional Counsel (3RC00)

The attached Consent Agreement has been negotiated pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, with specific reference to 40 C.F.R. § 22.13(b) and .18(b)(2), in settlement of alleged violations of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 201 *et seq.*, by the Kehilat Shalom Congregation. A civil penalty of TWO HUNDRED THIRTY ONE DOLLARS (\$ 231.00) with a cash component of ZERO DOLLARS (\$ 0) has been calculated in accordance with the statutory factors of TSCA Section 207(c) and EPA's "Interim Final Enforcement Response Policy for AHERA", dated January 31, 1989, as supplemented by the "Gravity Based Penalty Matrices for Violations, which occur after January 30, 1997, for AHERA Interim Final ERP" effective January 30, 1997, and EPA's September 21, 2004 "Modifications to EPA Penalty Policies to Implement the Civil Monetary Inflation Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective Date: October 1, 2004)". TSCA Section 207(a) provides that any civil penalty under TSCA AHERA from a local education agency ("LEA") be reduced by the LEA's costs spent complying with AHERA requirements. The LEA in this case documented FIFTEEN HUNDRED DOLLARS (\$ 1,500.00) in costs following the Maryland Department of the Environment's January 30, 2008 inspection to comply with TSCA AHERA and, therefore, the cash component of the TWO HUNDRED THIRTY ONE DOLLARS (\$ 231.00) assessed civil penalty is ZERO DOLLARS (\$ 0). This is consistent with the "Assessing Administrative Civil Penalties Against an LEA" section of the 1989 Interim Final Enforcement Response Policy for AHERA.

We concur with the terms of the attached Consent Agreement and we recommend that you sign the Final Order, in accordance with the Consolidated Rules at 40 C.F.R. § 22.18(b)(3).

cc: Judith Kranz, Executive Director  
Kehilat Shalom Early Childhood Center  
10001 Apple Ridge Road  
Gaithersburg, MD 20886

Larry Froelich, President  
Kehilat Shalom Congregation  
9915 Apple Ridge Road  
Gaithersburg, MD 20886

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

IN RE:

Kehilat Shalom Congregation  
9915 Apple Ridge Road  
Gaithersburg, MD 20886

**Respondent**

Kehilat Shalom Early Childhood Center  
10001 Apple Ridge Road  
Gaithersburg, MD 20886

**Facility**

DOCKET NO: TSCA-03-2010-0240

FINAL ORDER

**FINAL ORDER**

The undersigned accepts and incorporates into this Final Order by reference all provisions set forth in the foregoing Consent Agreement.

NOW, **THEREFORE, IT IS HEREBY ORDERED THAT**, pursuant to Section 16 of TSCA and Section 207 of TSCA AHERA, 15 U.S.C. §§ 2615 and 2647, and 40 C.F.R. § 22.18(b)(3) of the Consolidated Rules of Practice, and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 207(c) of TSCA AHERA, 15 U.S.C. § 2647(c), Respondent is assessed a civil penalty of TWO HUNDRED THIRTY ONE DOLLARS (\$ 231.00), but that the cash component of that civil penalty will be ZERO DOLLARS (\$ 0).

In accordance with Section 207(a) of TSCA AHERA, 15 U.S.C. § 2647(a), the TWO HUNDRED THIRTY ONE DOLLAR (\$ 231.00) civil penalty assessed against the Respondent is



hereby remitted. The effective date of this Final Order is the date that it is filed with the  
Regional Hearing Clerk.

4/15/10  
Date

*Renée Sarajian*

Renée Sarajian  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III



**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103**

In the Matter of:

**Kehilat Shalom Congregation  
9915 Apple Ridge Road  
Gaithersburg, MD 20886**

**Respondent**

**Kehilat Shalom Early Childhood Center  
10001 Apple Ridge Road  
Gaithersburg, MD 20886**

**Facility**

**CONSENT AGREEMENT  
AND FINAL ORDER**

**Docket No. TSCA-3-2010-0240**

APR 20 2010  
PHILADELPHIA, PA  
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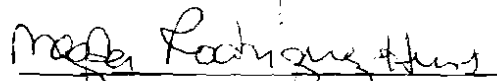
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on April 20, 2010, the original and one true and correct copy of this Consent Agreement/Final Order and enclosures (Docket No. TSCA-03-2010-0240) was hand-delivered to and filed with the Regional Hearing Clerk (3RC30), U.S.EPA - Region III, 1650 Arch Street, Philadelphia, PA, 19103-2029. On April 20, 2010, a true and correct copy of the Consent Agreement/Final Order and enclosures (Docket No. TSCA-03-2010-0240) was sent by Certified Mail, Return Receipt Requested, to the addressees listed below.

**Judith Kranz, Executive Director  
Kehilat Shalom Early Childhood Center  
10001 Apple Ridge Road  
Gaithersburg, MD 20886**

**Larry Froelich, President  
Kehilat Shalom Congregation  
9915 Apple Ridge Road  
Gaithersburg, MD 20886**

Date: 4/20/2010

  
**Magda Rodriguez-Hunt  
Enforcement Officer  
U.S. EPA - Region III**





## **NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 551-3115.

