

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

IN RE:

Maritime Academy Charter School  
2275 Bridge Street  
Philadelphia, PA 19137

**Respondent**

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Docket No: TSCA-03-2008-0178

Consent Agreement

**CONSENT AGREEMENT**

**I. Preliminary Statement**

This Consent Agreement ("CA"), issued under the authority set forth in sections 16 and 207 of TSCA, 15 U.S.C. §§ 2615 and 2647, is entered into, through delegation, by the Director, Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III ("EPA" or "Complainant") and Maritime Academy Charter School. This CA includes the assessment of a civil penalty against Maritime Academy Charter School, ("Respondent"), because it is a local education agency liable for violations which occurred at Maritime Academy Charter School, 2275 Bridge Street, Philadelphia, PA, (the "Facility"), pursuant to the Toxic Substances Control Act ("TSCA"), Subchapter II (the Asbestos Hazard Emergency Response Act or "AHERA") 15 U.S.C. §§ 2641 to 2656; 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 AHERA and the federal regulations implementing 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 alleged herein.

## **II. General Provisions**

1. For purpose 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 the Asbestos Hazard

Emergency Response Act ("AHERA"), Subchapter II of TSCA, 42 U.S.C. §§ 2641-2656, and regulations promulgated thereunder.

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 Six Thousand Five Hundred Dollars (\$ 6,500.00) since EPA's February 26, 2007 inspection for purposes of complying with Subchapter II of TSCA and the regulations promulgated thereunder, in accordance with § 207(a) of TSCA, 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 and the federal regulations implementing 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, Maritime Academy Charter School, is the "Local Education Agency" ("LEA") as that term is defined under Section 202(7) of TSCA, 15 U.S.C. § 2642(7) and 40 C.F.R. § 763.83, because it is a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools, including the Facility, in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools, including the Facility, and as such, is responsible for ensuring that the Facility is in compliance with the requirements of AHERA.
15. The Facility, Maritime Academy Charter School, located at 2275 Bridge Street, Philadelphia, PA, is a "school" as that term is defined at Section 202(12) of TSCA, 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, 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. Section 40 C.F.R. § 763.85(a)(2) 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 as described under paragraphs (a)(3) and (4) of 40 C.F.R. § 763.85 prior to use as school building.

19. During a February 26, 2007 inspection of Maritime Academy Charter School, the EPA determined that Maritime Academy Charter School had not completed an initial inspection of the school building.
20. By failing to conduct an initial inspection of the school building, Respondent violated the requirements of 40 C.F.R. § 763.85(a)(2).

### COUNT II

21. The allegations contained in Paragraphs 1 through 20 are incorporated herein by reference.
22. Section 40 C.F.R. § 763.93(a) requires the local education agency to submit a management plan for the school to the Agency designated by the Governor prior to its use as a school.
23. During a February 26, 2007 inspection of Maritime Academy Charter School, the EPA determined that the school had not submitted a management plan for the school to the Agency designated by the governor prior to its use as a school.
24. By failing to submit a management plan to the Agency designated by the Governor, Respondent violated the requirements of 40 C.F.R. § 763.93(a).

### COUNT III

25. The allegations contained in Paragraphs 1 through 24 are incorporated herein by reference.
26. Section 40 C.F.R. § 763.93(g)(4) requires that the local education agency shall, at least once each school year, notify in writing parent, teacher, and employee organizations of

the availability of management plans and shall include in the management plan a description of the steps taken to notify such organizations and a dated copy of the notification.

27. During a February 26, 2007 inspection of the Maritime Academy Charter School, the EPA determined that the school had not provided parents, teachers and employee organizations with notification of the availability of management plans.
28. By failing to provide annual notification to parents, teachers and employee organizations, 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, 15 U.S.C. § 2647(a), for Respondent's TSCA 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, 15 U.S.C. §§ 2647(a) and (c), and other relevant factors, Complainant and Respondent have determined that a civil penalty of Six Thousand Five Hundred Dollars (\$ 6,500.00) 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, 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.

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

Subject: **Toxic Substances Control Act**  
**Maritime Academy Charter School**  
**Docket No. TSCA-03-2008-0178**  
**Consent Agreement and Final Order**

JUN 16 2008

From: *W* **William C. Early, Regional Counsel** *William C. Early*  
**Office of Regional Counsel (3RC00)**

**Abe Ferdas, Director** *Abe Ferdas*  
**Waste & Chemicals Management Division (3WC00)**

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 Maritime Academy Charter School. A civil penalty of Six Thousand Five Hundred dollars (\$ 6,500.00) 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 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 Six Thousand Five Hundred dollars (\$ 6,500.00) in costs following EPA's February 26, 2007 inspection to comply with AHERA and, therefore, the cash component of the Six Thousand Five Hundred dollars (\$ 6,500.00) 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: Ann G. Waiters, Ph.D., CEO  
Maritime Academy Charter School



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REGION III  
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Philadelphia, Pennsylvania 19103-2029

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**Respondent**

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: Docket No. TSCA-03-2008-0178  
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: **Final Order**

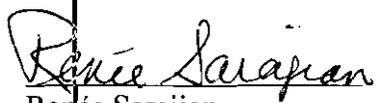
**FINAL ORDER**

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 Sections 16 and 207 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2615 and 2647, and 40 C.F.R. § 22.18(b)(3) of the Consolidated Rules of Practice, Respondent is assessed a civil penalty of Six Thousand Five Hundred Dollars (\$ 6,500.00), but that the cash component of that civil penalty will be zero (\$ 0).

In accordance with Section 207(a) of TSCA, 15 U.S.C. § 2647(a), the Six Thousand Five Hundred Dollars (\$ 6,500.00) of the 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.

10/19/08  
Date

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



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 of 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.

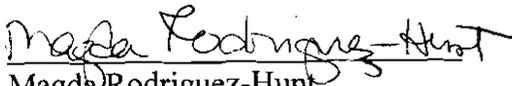
**For Respondent:**

5/20/08  
Date

  
Ann G. Waiters, Ph.D., CEO  
Maritime Academy Charter School

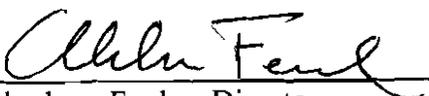
**For Complainant:**

5/23/08  
Date

  
Magda Rodriguez-Hunt,  
Enforcement Officer  
Waste and Chemicals Management Division

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

6/12/08  
Date

  
Abraham Ferdas, Director  
Waste and Chemicals Management Division

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REGION III  
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**Docket No. TSCA-03-2008-0178**

**Respondent**

Consent Agreement  
and Final Order

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on the date provided below, the original and one true and correct copy of the foregoing Consent Agreement and Final Order were hand-delivered to and filed with the Regional Hearing Clerk (3RC30), U.S.EPA - Region III, 1650 Arch Street, Philadelphia, PA, 19103-2029 and that true and correct copies were served via FEDEX upon the following person:

**Ann G. Waiters, Ph.D., CEO  
Maritime Academy Charter School  
2275 Bridge Street  
Philadelphia, PA 19137**

**Jermaine Ithier  
Maritime Academy Charter School  
2275 Bridge Street  
Philadelphia, PA 19137**

Date:

6/20/08

*Magda Rodriguez-Hunt*

Magda Rodriguez-Hunt  
Compliance Officer  
U.S. EPA - Region III