

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 alleged herein.

II. General Provisions

1. For the 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 six thousand four hundred seventeen dollars (\$6,417) since the Maryland Department of the Environment's ("MDE") July 11, 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 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 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 AHERA.

15. The Facility 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. According to 40 C.F.R. § 763.85(a), LEAs are required to inspect school buildings to identify all locations of asbestos-containing building materials ("ACBM") prior to their use as school buildings.
19. During MDE's July 11, 2007 inspection, the inspector interviewed the school's Administrator, Ms. Bridgette Matthews, and discovered that no initial inspection for the presence of ACBM had been conducted at the Facility.
20. By failing to conduct an initial inspection, Respondent violated the requirements of 40 C.F.R. § 763.85(a) and Section 207(a)(1) of TSCA, 15 U.S.C. § 2647(a)(1).

COUNT II

21. The allegations contained in Paragraphs 1 through 20 are incorporated herein by reference.
22. 40 C.F.R. § 763.93(a) requires LEAs to develop an asbestos management plan for each school and to submit the plan to the Agency designated by the Governor.
23. During MDE's July 11, 2007 inspection, the inspector found that an asbestos management plan for the Facility had not been developed and submitted to the Agency designated by the Governor as required by 40 C.F.R. § 763.93(a).
24. By failing to develop and submit an asbestos management plan, Respondent violated the requirements of 40 C.F.R. § 763.93(a) and Section 207(a)(3) of TSCA, 15 U.S.C. § 2647(a)(3).

COUNT III

25. The allegations contained in Paragraph 1 through 24 are incorporated herein by reference.
26. 40 C.F.R. § 763.93(g)(4) requires the LEA to notify in writing, the parent, teacher, and employee organizations, or groups, of the availability of management plans and shall include in the management plan a description of the steps taken to notify such organizations or groups, and a dated copy of the notification.
27. During MDE's July 11, 2007 inspection, the inspector found that the Respondent failed to provide, at least once each school year, written notification of the availability of the Facility's management plan, to parent, teacher, and employee organizations or groups, and to include in the management plan a description of the steps taken to notify each such

organization or groups, and dated copy of each such notification.

28. By failing to provide the annual written notification, the Respondent violated the requirements of 40 C.F.R. § 763.93(g)(4) and Section 207(a)(3) of TSCA, 15 U.S.C. § 2647(a)(3).

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 five thousand two hundred dollars (\$5,200) 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. 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 six thousand four hundred seventeen dollars (\$6,417) since MDE's July 11, 2007 inspection to comply with Subchapter II of TSCA. Therefore, pursuant to sections 16(a)(2)(C) and 207(a) of TSCA, 15 U.S.C. §§ 2615(a)(2)(C) and 2647(a), EPA agrees to the remittance of five thousand two hundred (\$5,200) of the civil penalty assessed against the Respondent. Respondent consents to the assessment of a five thousand two hundred (\$5,200) dollar civil penalty with a cash component of zero (\$0) dollars.

V. Reservation of Rights

32. 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 Subchapter II of TSCA, 15 U.S.C. §§ 2641 to 2656, 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

33. The effective date of this CAFO is the date on which the Final Order is filed with the

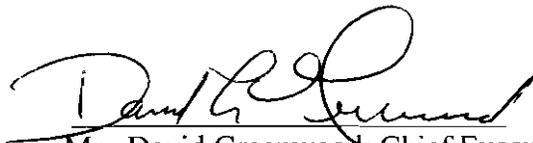
Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

VII. Execution

34. 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.

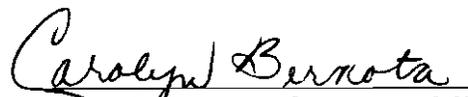
Respondent:

7/8/09
Date


Mr. David Greenwood, Chief Executive
Hamilton Presbyterian Church

For Complainant:

7/20/09
Date


Carolyn Bernota, Enforcement Officer
U.S. EPA, Region 3

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

7/31/09
Date


Abraham Ferdas, Director
Land and Chemicals Division

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

IN RE:

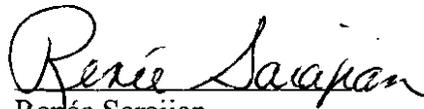
Hamilton Presbyterian Church	:	Docket No: TSCA-03-2009-0159
5532 Harford Road	:	
Baltimore, MD 21214	:	
	:	
Respondent	:	

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 five thousand two hundred dollars (\$5,200) with a cash component of zero dollars (\$0). In accordance with Section 207(a) of TSCA, 15 U.S.C. § 2647(a), five thousand two hundred dollars (\$5,200) 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.

8/4/09
Date



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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

2009-04 PM 2:27

Subject: Toxic Substances Control Act

Hamilton Presbyterian Church/Docket No. TSCA-03-2009-0159

Consent Agreement and Final Order

From:  Judith Katz, Acting Regional Counsel
Office of Regional Counsel (3RC00)

Abraham Ferdas, Director
Land and Chemicals Division (3LC62)



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 Hamilton Presbyterian Church. A civil penalty of five thousand two hundred dollars (\$5,200) with a cash component of zero (\$0) dollars 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 that it has spent in excess of five thousand two hundred dollars (\$5,200) in costs following MDE's July 11, 2007, inspection to comply with AHERA and, therefore, the cash component of the five thousand two hundred dollars (\$5,200) civil penalty is zero (\$0) dollars. 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: David Greenwood, Hamilton Presbyterian Church