

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 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 at least eight hundred dollars (\$800.00) since the Maryland Department of the Environment's ("MDE") April 23, 2008 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, Walkersville United Methodist Church, 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, Weekday Nursery School, located at 22 Main Street in Walkersville, Maryland 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. 40 C.F.R. § 763.93(a)(3) provides if a local education agency begins to use a building as a school after October 12, 1988, the local education agency shall submit an asbestos management plan for the school to an Agency designated by the Governor prior to its use as a school.
19. On April 23, 2008, Lawrence B. Vermont, an authorized representative of the MDE, conducted an inspection at the Facility pursuant to TSCA.
20. During the inspection, the MDE representative observed that Respondent failed to submit an asbestos management plan for the Facility to an Agency designated by the Governor

prior to its use as a school, as required pursuant to 40 C.F.R. § 763.93(a)(3).

21. By failing to submit an asbestos management plan for the school to an Agency designated by the Governor prior to its use as a school, Respondent violated the requirements of 40 C.F.R. § 763.93(a)(3) and Section 207(a)(3) of TSCA, 15 U.S.C. § 2647(a)(3).

IV. Settlement Recitation

22. 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 eight hundred dollars (\$800.00) is appropriate.
23. 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.
24. Respondent certifies that it has spent eight hundred dollars (\$800.00) since MDE's April

23, 2008 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 eight hundred dollars (\$800.00) of the civil penalty assessed against the Respondent.

25. Respondent consents to the assessment of a eight hundred dollar (\$800.00) civil penalty with a cash component of zero (\$0) dollars.

V. Reservation of Rights

26. 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

27. 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:

8-25-09
Date

Stephen W. Humphrey, Jr.
Rev. Steve Humphrey, Jr., Pastor
Walkersville United Methodist Church

For Complainant:

09-01-2009
Date

Kyla Townsend-McIntyre
Kyla Townsend-McIntyre,
Enforcement Official
Land and Chemicals Division

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

9/23/09
Date

Abraham Ferdas
Abraham Ferdas, Director
Land and Chemicals Division



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

IN RE:	:	
	:	
Walkersville United Methodist Church	:	Docket No. TSCA-03-2009-0255
22 Main Street	:	
Walkersville, MD 21739	:	
	:	Final Order
	:	
Respondent	:	
	:	
Weekday Nursery School	:	
22 Main Street	:	
Walkersville, MD 21739	:	
	:	
Facility	:	

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, 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, 15 U.S.C. § 2647(c), Respondent is assessed a civil penalty of eight hundred dollars (\$800.00), but that the cash component of that civil penalty will be zero (\$0).

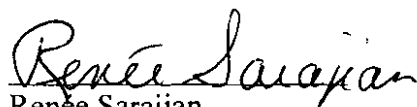
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In accordance with Section 207(a) of TSCA, 15 U.S.C. § 2647(a), eight hundred dollars (\$800.00) of the civil penalty assessed against the Respondent is hereby remitted.

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

9/28/09
Date



Renee 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 19103-2029

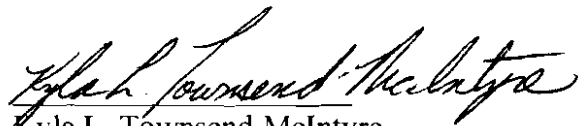
IN RE: :
 :
Walkersville United Methodist Church : Docket No. TSCA-03-2009-0255
22 Main Street :
Walkersville, MD 21739 :
 :
RESPONDENT. :
 :

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Consent Agreement and Final Order for the above-referenced matter were hand-delivered to the Regional Hearing Clerk, EPA Region III, and that true and correct copies were mailed via certified mail to the following persons:

Rev. Steve Humphrey, Jr., Pastor
Walkersville United Methodist Church
22 Main Street
Walkersville, MD 21739

09/28/2009
Date


Kyla L. Townsend-McIntyre
Enforcement Officer
U.S. Environmental Protection Agency, Region III