



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

In Reply Refer To Mail Code: 3WC32

JUN 2 8 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James Ransom
Trinity Episcopal Church, Towson
120 Allegheny Avenue
Baltimore, MD 21204

Re: Consent Agreement and Final Order
EPA Docket No. TSCA-03-2008-0186

Dear Mr. Ransom:

In Carolyn Bernota's absence, I am enclosing a copy of the CONSENT AGREEMENT AND FINAL ORDER filed today with the Regional Hearing Clerk settling the matter referenced above. For your file, I am also enclosing a copy of the supporting memorandum from Environmental Protection Agency management to the Regional Judicial Officer. Should you have any questions or concerns, please feel free to contact me at (215) 814-2066, or Carolyn Bernota at (215) 814-2169.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer M. Abramson".

Jennifer M. Abramson
Assistant Regional Counsel

Enclosures

cc: Carolyn Bernota

6540 11 92

0110

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 spent six thousand four hundred and thirty six dollars (\$6,436) since the Maryland Department of the Environment ("MDE") May 22, 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, Trinity Episcopal Childcare Center, located at 120 Allegheny Avenue, in Towson, MD, 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. § 763.85(a) requires that each LEA inspect each school building prior to use as a school for the presence of asbestos-containing building materials (ACBM), sample suspected ACBM as needed, and note the location of any ACBM or suspected ACBM in the management plan.
19. On May 22, 2007, MDE's duly authorized inspector conducted an inspection at the Facility.
20. During the inspection, MDE's inspector discovered that there had not been an initial inspection conducted at the Facility, to determine whether there was any ACBM located at the Facility prior to use as a school.



21. By failing to conduct an inspection, Respondent violated 40 C.F.R. § 763.85(a) and Section 207(a)(1) of TSCA, 15 U.S.C. § 2647(a)(1).

COUNT II

22. The allegations contained in Paragraphs 1 through 21 are incorporated herein by reference.
23. 40 C.F.R. § 763.93(a)(3) states that “if a [LEA] begins to use a building as a school after October 12, 1988, the [LEA] shall submit a management plan for the school to the Agency designated by the Governor prior to its use as a school.”
24. During the May 22, 2007 inspection, MDE’s inspector found that the Respondent began using the building housing the Facility as a school after October 12, 1988, and that the Respondent did not submit a management plan for the Facility to the Agency designated by the Governor of the Commonwealth of Maryland prior to its use as a school.
25. By failing to submit a management plan for the Facility, the Respondent violated 40 C.F.R. § 763.93(a)(3) and Section 207(a)(3) of TSCA, 15 U.S.C. § 2647(a)(3).

COUNT III

26. The allegations contained in Paragraphs 1 through 25 are incorporated herein by reference.
27. 40 C.F.R. § 763.93(g)(4) states, in pertinent part, that: “...at least once each school year, the [LEA] shall 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.”
28. During the May 22, 2007 inspection, the MDE 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 and to include in the management plan a description of the steps taken to notify each such organization, and a dated copy of each such notification.

29. By failing to provide the annual written notification, the Respondent violated 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

30. 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 five hundred dollars (\$ 5,500) is appropriate.
31. 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.

32. Respondent certifies that it has spent six thousand four hundred and thirty six dollars (\$6,436) since MDE's May 22, 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 five hundred dollars (\$5,500.00) of the civil penalty assessed against the Respondent.
33. Respondent consents to the assessment of a five hundred dollar (\$5,500) civil penalty with a cash component of zero (\$0) dollars.

V. Reservation of Rights

34. 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

35. 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

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:

May 30, 2008
Date

James Ransom
Mr. James Ransom, Chief Executive
Trinity Episcopal Church, Towson

For Complainant:

June 6, 2008
Date

Carolyn Bernota
Carolyn Bernota, Enforcement Officer

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

6/19/08
Date

Abraham Ferdas
Abraham Ferdas, Director
Waste and Chemicals Management Division



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

IN RE:

Trinity Episcopal Church, Towson
120 Allegheny Avenue
Baltimore, MD 21204

Docket No: TSCA-03-2008-0186

Final Order

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 five hundred dollars (\$5,500), but that the cash component of that civil penalty is zero (\$0) dollars.

In accordance with Section 207(a) of TSCA, 15 U.S.C. § 2647(a), the five thousand five hundred dollar (\$5,500) 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.

6/26/08
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 19103-2029

IN RE:

Trinity Episcopal Church, Towson
120 Allegheny Avenue
Baltimore, MD 21204

Respondent.

DOCKET NO: TSCA-03-2008-0186

00:19:33 PM 6/26/08

CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

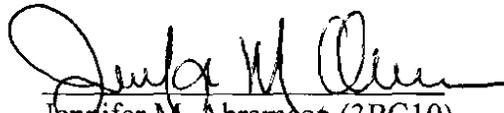
Original and one copy by hand-delivery:

Lydia Guy, Regional Hearing Clerk

Copy by Certified Mail

Mr. James Ransom
Trinity Episcopal Church, Towson
120 Allegheny Avenue
Baltimore, MD 21204

6/26/2008
Date


Jennifer M. Abramson (3RC10)
Assistant Regional Counsel
U.S. EPA, Region III

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

Subject: Toxic Substances Control Act
Trinity Episcopal Church, Towson
Docket No. TSCA-03-2008-0186
Consent Agreement and Final Order

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

Abraham Ferdas, Director
Waste & Chemicals Management Division (3WC30)

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 Trinity Episcopal Church, Towson. A five thousand five hundred dollar (\$5,500) penalty with a cash component of zero 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. TSCA Section 207(a) authorizes a local education agency ("LEA") to reduce any civil penalty collected under AHERA by the LEA's costs spent complying with AHERA requirements. The LEA in this case documented that it has spent six thousand four hundred and thirty six dollars (\$6,436) in costs following MDE's May 22, 2007 inspection to comply with AHERA and, therefore, the cash component of the five thousand five hundred dollars (\$5,500) 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: Mr. James Ransom, Chief Executive
Trinity Episcopal Church

NOV 26 PM 1:00
11/26/08