

or “AHERA”), 15 U.S.C. §§ 2641 to 2656; and the Consolidated Rules 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 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 Facilities are 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 four million seven hundred twenty thousand dollars (\$4,720,000) since MDE’s June 2009 - September 2010 inspections for purposes of complying with Subchapter II of TSCA and the regulations promulgated thereunder, in accordance with Section 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, Prince Georges County School District, 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 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, and as such, is responsible for ensuring that the Facilities are in compliance with the requirements of AHERA.

15. The Facilities, Laurel High School, located at 8000 Cherry Lane, Laurel, Maryland; Oaklands Elementary School located at 13710 Laurel-Bowie Road, Laurel, Maryland; William Wirt Middle School, located at 62nd Place and Tuckerman Street, Riverdale, Maryland; Bradbury Heights Elementary School, located at 1401 Glacier Avenue, Capitol Heights, Maryland; Greenbelt Middle School, located at 8950 Edmonston Road, Greenbelt, Maryland; Dwight D. Eisenhower Middle School, located at 13725 Briarwood Drive, Laurel, Maryland; Bowie High School, located at 15200 Annapolis Road, Bowie, Maryland; Patuxent Elementary School, located at 4410 Bishopmill Drive, Upper Marlboro, Maryland; Greenbelt Elementary School, located at 66 Ridge Road, Greenbelt, Maryland; James Harrison Elementary School, located at 13200 Larchdale Road, Laurel, Maryland; Whitehall Elementary School, located at 3901 Woodhaven Lane, Bowie,

Maryland; Samuel Ogle Middle School, located at 4111 Chelmont Lane, Bowie, Maryland; Isaac Gourdine Middle School, located at 8700 Allentown Road, Fort Washington, Maryland; Indian Queen Elementary School, located at 9551 Fort Foote Road, Fort Washington, Maryland; Carole Highlands Elementary School, located at 1610 Hannon Street, Tacoma Park, Maryland; Martin L. King Middle School, located at 4545 Ammendale Road, Beltsville, Maryland; Springhill Lake Elementary School, located at 6060 Springhill Drive, Greenbelt, Maryland; and Friendly High School, located at 10000 Allentown Road, Fort Washington, Maryland; are each 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 Facilities are each 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)(2) provides, *inter alia*, that any building leased or acquired on or after October 12, 1988 to be used as a school building shall be inspected to identify all locations of friable and non-friable asbestos-containing building material (“ACBM”). 40 C.F.R. § 763.99(a)(7) provides that a LEA shall not be required to perform an inspection under § 763.85(a)...where an architect or project engineer responsible for construction or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building or to the best of his or her knowledge, no ACBM was used as a building material in the building. The LEA shall

submit a copy of the signed statement to the EPA Regional Office and shall include the statement in the management plan for that school.

19. The inspections conducted by the Maryland Department of the Environment (“MDE”) between June 2009 and September 2010 found that Prince Georges County Public Schools had not inspected or obtained an exclusion for multiple modular school buildings at the following schools: Laurel High, Oaklands Elementary, William Wirt Middle, Greenbelt Middle, Bowie High, James Harrison Elementary, Whitehall Elementary, Carole Highlands Elementary, Martin L. King Middle, Springhill Lake Elementary and Friendly High.
20. By failing to inspect or obtain an exclusion, 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. § 763.85(b), provides, *inter alia*, that at least once every three years after a management plan is in effect, each LEA shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building.
23. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools had not performed reinspections every three years at the following school: Samuel Ogle Middle.
24. By failing to perform reinspections every three years Respondent violated the requirements of 40 C.F.R. § 763.85(b).

COUNT III

25. The allegations contained in Paragraphs 1 through 24 are incorporated herein by reference.
26. 40 C.F.R. § 763.86, provides, *inter alia*, that an accredited inspector collect bulk samples from each homogenous area material, that is not assumed to be ACM, in accordance with the requirements outlined in 40 C.F.R. § 763.86(a) through (d).
27. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools had not collected bulk samples in accordance with 40 C.F.R. § 763.86 during the inspection for suspected material not assumed to be ACBM, with exceptions not relevant to these proceedings, at the following schools: Laurel High, Oaklands Elementary, William Wirt Middle, Greenbelt Middle, Dwight D. Eisenhower Middle, Bowie High, Patuxent Elementary, James Harrison Elementary, Samuel Ogle Middle, Isaac Gourdine Middle, Indian Queen Elementary, Carole Highlands Elementary, Martin L. King Middle, Springhill Lake Elementary and Friendly High.
28. By failing to collect bulk samples or assume materials to be ACBM, Respondent violated the requirements of 40 C.F.R. § 763.86.

COUNT IV

29. The allegations contained in Paragraphs 1 through 28 are incorporated herein by reference.
30. 40 C.F.R. § 763.90(a), provides, *inter alia*, that the LEA shall select and implement in a timely manner the appropriate response actions consistent with the assessment conducted in accordance with 40 C.F.R. § 763.88.

31. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools failed to conduct response actions in a timely manner at the following school: Isaac Gourdine Middle.
32. By failing to conduct response actions in a timely manner Respondent violated the requirements of 40 C.F.R. § 763.90.

COUNT V

33. The allegations contained in Paragraphs 1 through 32 are incorporated herein by reference.
34. 40 C.F.R. § 763.92(a)(1), provides, *inter alia*, that all members of the LEA's maintenance and custodial staff who may work in a building that contains ACBM receive awareness training of at least two hours, whether or not they are required to work with ACBM.
35. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools had not provided two-hour awareness training to all maintenance and custodial staff at the following school: Springhill Lake Elementary.
36. By failing to provide two-hour awareness training to all maintenance and custodial staff who may work in a building that contains ACBM, Respondent violated the requirements of 40 C.F.R. § 763.92(a)(1).

COUNT VI

37. The allegations contained in Paragraphs 1 through 36 are incorporated herein by reference.
38. 40 C.F.R. § 763.93(g)(4), requires, *inter alia*, that at least once each school year, the LEA notify in writing parent, teacher, and employee organizations of the availability of

management plans and include in the management plans a description of the steps taken to notify such organization, and a dated copy of the notification.

39. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools did not have copies of annual notifications, and therefore no record of ever notifying in writing parents, teachers, and employee organizations of the availability of the management plans, for the following schools: Bradbury Heights Elementary, Greenbelt Middle, Bowie High, Patuxent Elementary and Greenbelt Elementary.
40. By failing to send annual notifications to parents, teachers, and employee organizations about the availability of the schools' management plans, Respondent violated the requirements of 40 C.F.R. § 763.93(g)(4).

COUNT VII

41. The allegations contained in Paragraphs 1 through 40 are incorporated herein by reference.
42. 40 C.F.R. § 763.93(e)(1), provides, *inter alia*, that the management plan, developed by an accredited management planner, shall list the name and address of each school building.
43. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools did not include in the management plan the address of each school building for the following school: Indian Queen Elementary.
44. By failing to include in the management plan the address of each school building, Respondent violated the requirements of 40 C.F.R. § 763.93(e).

COUNT VIII

45. The allegations contained in Paragraphs 1 through 44 are incorporated herein by reference.
46. 40 C.F.R. § 763.94(a), provides, *inter alia*, that records required under 40 C.F.R. § 763.94 be maintained in a centralized location in the administrative office of both the school and the LEA as a part of the management plan.
47. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools maintained inspection and removal records, required by 40 C.F.R. § 763.94, in the administrative office of the LEA but failed to maintain duplicate records at the following schools: Oaklands Elementary, William Wirt Middle, Greenbelt Middle, Dwight D. Eisenhower Middle, Bowie High, Samuel Ogle Middle, Isaac Gourdine Middle, Martin L. King Middle and Friendly High.
48. By failing to maintain all records required by 40 C.F.R. § 763.94 in a centralized location in the administrative office of both the school and the LEA as a part of the management plan, Respondent violated the requirements of 40 C.F.R. § 763.94(a).

COUNT IX

49. The allegations contained in Paragraphs 1 through 48 are incorporated herein by reference.
50. 40 C.F.R. § 763.95(a), provides, *inter alia*, that the LEA shall attach a warning label immediately adjacent to any friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas at each school building.
51. The inspections conducted by MDE between June 2009 and September 2010 found that Prince Georges County Public Schools did not attach warning labels immediately

adjacent to ACBM located in routine maintenance areas in the following schools:

Greenbelt Middle, James Harrison Elementary and Samuel Ogle Middle.

52. By failing to attach warning labels immediately adjacent to any friable and nonfriable ACBM located in routine maintenance areas, Respondent violated the requirements of 40 C.F.R. § 763.95.

X. Settlement Recitation

53. Based on the above Findings of Fact and Conclusions of Law, EPA concludes that the Respondent is liable for a civil penalty pursuant to Section 207(a) of TSCA, 15 U.S.C. § 2647(a), for violations of TSCA. 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 hundred sixty three thousand five hundred dollars (\$563,500) is appropriate.
54. The aforesaid 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.

55. Respondent certifies that it has spent four million seven hundred twenty thousand dollars (\$4,720,000) since MDE's June 2009 - September 2010 inspections to comply with Subchapter II of TSCA. Therefore, pursuant to Section 16(a)(2)(C) of TSCA, 15 U.S.C. §§ 2615(a)(2)(C) and 2647(a), EPA agrees to the remittance of five hundred sixty three thousand five hundred dollars (\$563,500) of the civil penalty assessed against Respondent.
56. Respondent consents to the assessment of five hundred sixty three thousand five hundred dollars (\$563,500) civil penalty with a cash component of zero dollars (\$0).

XI. Reservation of Rights

57. 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.

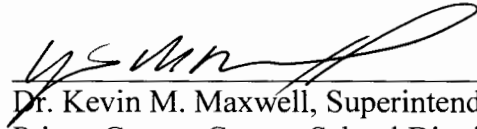
XII. Effective Date

58. 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.

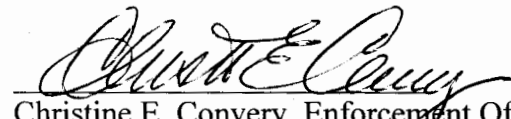
For Respondent:

3/20/14
Date


Dr. Kevin M. Maxwell, Superintendent
Prince George County School District

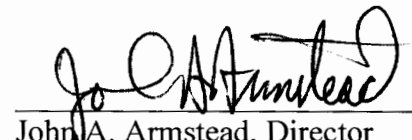
For Complainant:

5/30/14
Date


Christine E. Convery, Enforcement Officer
Pesticides and Asbestos Programs Branch

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

6.4.14
Date


John A. Armstead, Director
Land and Chemicals Division

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

In The Matter of: :
: :
Prince Georges County School District : Docket No: TSCA-03-2014-0075
14201 School Lane :
Upper Marlboro, MD 20772 :
: CONSENT AGREEMENT
: :
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 hundred sixty three thousand five hundred dollars (\$563,500) but that the cash component of that civil penalty will be zero (\$0.00) dollars. In accordance with Section 207(a) of TSCA, 15 U.S.C. § 2647(a), five hundred sixty three thousand five hundred dollars (\$563,500) 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.

6-16-14
Date

Heather Gray
Heather Gray, 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 RE:

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Docket No. TSCA-03-2014-0075

Prince Georges County School District
14201 School Lane
Upper Marlboro, MD 20772

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Consent Agreement and
Final Order

Respondent

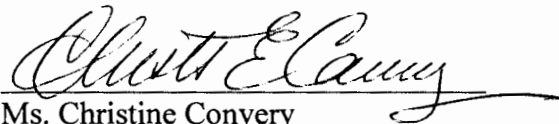
CERTIFICATE OF SERVICE

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 Certified U.S. Mail upon the following person:

Shauna Garlington Battle, Esquire
General Counsel
Prince George's County School District
14201 School Lane
Upper Marlboro, MD 20772

Date:

10/14/14



Ms. Christine Convery
Pesticides/ Asbestos Enforcement Officer
U.S. EPA - Region III