

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE FILLED OUT BY ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Stephen Forostiak October 5, 2009  
*Name of Contact person* *Date*

in the Pesticides and Asbestos Programs Branch (3LC62) at 215-814-2136  
*Office* *Phone number*

\_\_\_\_\_ Non-SF Jud. Order/Consent Decree. DOJ COLLECTS X Administrative Order/  
Consent Agreement.  
FMD COLLECTS PAYMENT

\_\_\_\_\_ SF Jud. Order/Consent Decree. FMD COLLECTS

\_\_\_\_\_ This is an original debt \_\_\_\_\_ This is a modification

Name of Person and/or Company/Municipality making the payment

Shenandoah County School District

The Total Dollar Amount of Receivable \$7,735  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number TSCA-03-2010-0004

The Site-Specific Superfund Acct. Number N/A

The Designated Regional/HQ Program Office Pesticides and Asbestos Programs Branch (3LC62)

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
*Name of Contact* *Date*

in the Financial Management Office, phone number: \_\_\_\_\_

**JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:**

- |   |   |
|---|---|
| 1. Rosemarie Paceco<br>Environmental Enforcement Section<br>Lands Division, Room 130044<br>1425 New York Avenue, N.W.<br>Washington, D.C. 20005 | 2. Originating Office (ORC)<br>3. Designated Program Office |
|---|---|

**ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:**

- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 4. Regional Counsel          |

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

RECEIVED  
2010-03-17 2:12

IN RE: :  
: :  
Shenandoah County School District : Docket No: TSCA 03-2010-0004  
600 North Main Street :  
Woodstock, VA 22664 :  
: Consent Agreement  
: :  
**Respondent** :

**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, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III (“EPA” or “Complainant”) and Shenandoah County School District (“Respondent”). This CA includes the assessment of a civil penalty against the Respondent, because it is a local education agency liable for violations which occurred at the Shenandoah County School District, 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

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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 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 Respondent 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. 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**

12. Complainant has determined that Respondent has violated requirements of TSCA AHERA and the federal regulations implementing TSCA 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.
13. Respondent, Shenandoah County School District, located at 600 North Main Street in Woodstock, Virginia is a "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 Facilities, and is responsible for ensuring that each Facility is in compliance with the requirements of TSCA AHERA.
14. On August 13, 2008, a duly authorized representative of the EPA conducted inspections at the:

Ashby Lee Elementary School, located at 480 Stonewall Lane in Quicksburg, Virginia;  
Peter Muhlenberg Middle School, located at 1251 Susan Avenue in Woodstock, Virginia;  
Robinson Elementary School, located at 1231 in Woodstock, Virginia;  
Sandy Hook Elementary School, located at 162 Stickley Loop in Woodstock, Virginia; and  
Strasburg High School, located at 250 Ram Drive in Strasburg, Virginia  
(collectively, the “Facilities”).

15. Each of the Facilities are 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. Each of the Facilities are 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 1

17. The allegations contained in Paragraphs 1 through 16 are incorporated herein by reference.
18. Pursuant to 40 C.F.R. § 763.93(g)(4), upon submission of its management plan to the Governor and at least once each school year, the local education agency 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. In the absence of any such organizations for parents, teachers, or employees, the local education agency shall provide written notice to that relevant group of the availability of management plans and shall include in the management plan a description of the steps taken to notify such

groups, and a dated copy of the notification.

19. At the time of the TSCA/AHERA inspection conducted on August 13, 2008, the EPA inspector discovered that the Respondent had been failing to annually notify in writing parent, teacher, and employee organizations of the availability of management plans at each of the Facilities since 1995.
20. By failing to annually notify in writing parent, teacher, and employee organizations of the availability of management plans, Respondent violated the requirements of 40 C.F.R. § 763.93(g)(4) at each of these Facilities, also constituting a violation of Section 207(a)(3) of TSCA, 15 U.S.C. § 2647(a)(3).

#### COUNT II

21. The allegations contained in Paragraphs 1 through 20 are incorporated herein by reference.
22. Pursuant to 40 C.F.R. § 763.88, for each inspection and reinspection conducted under 40 C.F.R. § 763.85(a) and (c) and previous inspections specified under 40 C.F.R. § 763.99, the local education agency shall have an accredited inspector provide a written assessment of all friable known or assumed [asbestos-containing building material] in the school building.
23. At the time of the TSCA/AHERA inspection conducted on August 13, 2008, the EPA inspector discovered that an accredited inspector failed provide a written assessment of the thermal system insulation during a 2007 reinspection of the Sandy Hook Elementary School.

24. By failing to have an accredited inspector provide a written assessment, Respondent violated the requirements of 40 C.F.R. 763.88 at the Sandy Hook Elementary School also constituting a violation of Section 207(a)(1) of TSCA, 15 U.S.C. § 2647(a)(1).

#### **IV. Settlement Recitation**

25. 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 seven thousand seven hundred and thirty five dollars (\$7,735) is appropriate.
26. 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.

27. Respondent consents to the assessment of a seven thousand seven hundred and thirty five dollars (\$7,735) civil penalty.
28. Within thirty (30) calendar days after the effective date of this CAFO, Respondent shall pay the civil penalty by cashier's or certified check, electronic wire transfer, Automated Clearinghouse, or online. All checks shall be made payable to "United States Treasury" and shall be mailed to the attention of US Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, PO Box 979077, St. Louis, MO 63197-9000. (Fedex and other non-U.S. Postal Service express mail deliveries shall be sent to U.S. Bank, 1005 Convention Plaza, Mail Station SL-MO-C2GL, St. Louis, MO 63101.) All payments made by check shall reference the above case caption and docket number, TSCA 03-2010-0004. Questions regarding payments made by check should be directed to Natalie Pearson at 314-418-4087. All electronic wire transfer payments shall be directed to the Federal Reserve Bank of New York, ABA No. 021030004, Account 68010727, SWIFT address FRNYUS33, 33 Liberty Street, New York, NY 10045 (Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"). All Automated Clearinghouse or REX payments shall be directed to PNC Bank, 808 17<sup>th</sup> Street NW, Washington DC 20074, ABA No. 051036706, Transaction Code 22 – checking, Environmental Protection Agency, Account No. 310006, CTX Format. Questions regarding payments made through the Automated Clearinghouse should be directed to John Schmid at 202-874-7026. The online payment option can be accessed at [WWW.PAY.GOV](http://WWW.PAY.GOV) and by entering "sfo 1.1" in the search field. At the same

time that any payment is made, copies of any corresponding check, or written notification confirming any electronic wire transfer, Automated Clearinghouse, or online payment shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Stephen Forostiak (3LC62), Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

#### **V. Reservation of Rights**

29. 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**

30. 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:**

10/21/09  
Date

B. Keith Rowland  
Keith Rowland, Ph.D.  
Superintendent

**For Complainant:**

10-27-09  
Date

Stephen Forostiak  
Stephen Forostiak  
Compliance Officer

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

11/20/2009  
Date

Abraham Ferdas for AF  
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:

Shenandoah County School District  
600 North Main Street  
Woodstock, VA 22664

Docket No: TSCA 03-2010-0004

**Final Order**

**Respondent**

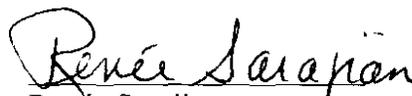
**FINAL ORDER**

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, 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 seven thousand seven hundred and thirty five dollars (\$7,735).

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

12/3/09  
Date



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**

IN RE:

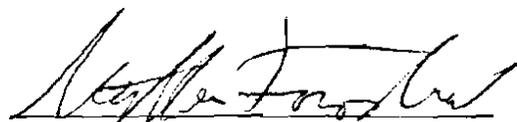
<b>Shenandoah County School District</b>	:	<b>Docket No: TSCA-03-2010-0004</b>
<b>600 North Main Street</b>	:	
<b>Woodstock, VA 22664</b>	:	
	:	
<b>Respondent</b>	:	
	:	<b>Consent Agreement and</b>
	:	<b>Final Order</b>
	:	

**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 regular U.S. Mail upon the following person:

Dr. Keith Rowland  
Shenandoah County School District  
600 North Main Street Suite 200,  
Woodstock, VA 22664

Date: 12-3-2009



Mr. Stephen Forostiak  
Compliance Officer  
U.S. EPA - Region III