



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

Dr. Thomas R. Chapman, Jr., Superintendent  
Reading School District  
800 Washington Street  
Reading, PA 19601

SEP 22 2010

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2010 SEP 22 AM 11:45

Re: Reading School District  
Consent Agreement Docket No. TSCA-03-2010-0356

Dear Dr. Chapman:

Enclosed, please find the final Consent Agreement and Final Order ("CAFO") resolving case number: TSCA-03-2010-0356. On September 20, 2010 the CAFO was signed by the Regional Judicial Officer and filed with the Regional Hearing Clerk on September 22, 2010. The case is considered closed.

Thank you for your cooperation in this matter. If you have any questions, I can be reached at (215) 814-2136.

Sincerely,

Russell Swan, Chief  
Underground Storage Tanks, Asbestos, Lead  
and Pesticides Branch  
U.S. EPA - Region III

Enclosures

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

IN RE:

Reading School District  
800 Washington Street  
Reading, PA 19601

Docket No: TSCA-03-2010-0356

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 the Reading School District. This CA includes the assessment of a civil penalty against the Reading School District ("Respondent"), because it is a local education agency liable for violations which occurred at the Reading 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

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 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 eleven thousand five hundred and seventy five dollars (\$ 11,575) since EPA's December 8, and 9, 2009 inspections 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, Reading 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, including the Facility, 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, including the Facilities and as such, is responsible for ensuring that the Facilities are in compliance with the requirements of AHERA.

15. On December 8, and 9, 2009 a duly authorized representative of the EPA conducted inspections at the:

Thomas Ford Elementary School, located at 901 Margaret Street, Reading Pennsylvania;  
12th and Marion Elementary School, located at 1200 North 12th Street, Reading, Pennsylvania; (collectively, the "Facilities").

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 I

17. The allegations contained in Paragraphs 1 through 16 are incorporated herein by reference.

18. Pursuant to 40 CFR § 763.93(g)(3), each school shall maintain in its administrative office a complete and updated copy of the management plan for that school.

19. During the December 8 and 9 2009 inspections, the inspector discovered that the management plan in the administrative office of the Thomas Ford Elementary School did not include a copy of the 2006 reinspection.
20. Respondent's failure maintain a complete and updated copy of the management plan in the administrative office of the Thomas Ford Elementary School violated the requirements of 40 CFR § 763.93(g)(3), also constituting a violation of 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. Pursuant to 40 CFR § 763.93(g)(3), each school shall maintain in its administrative office a complete and updated copy of the management plan for that school.
23. During the December 8, and 9, 2009 inspections, the inspector discovered that the management plan in the administrative office of the 12th and Marion Elementary School did not include a copy of the 2006 reinspection.
24. Respondent's failure maintain a complete and updated copy of the management plan in the administrative office of the 12th and Marion Elementary School violated the requirements of 40 CFR § 763.93(g)(3), 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 two hundred and twenty five dollars (\$7,225) 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 certifies that it has spent eleven thousand five hundred and seventy five dollars (\$ 11,575) since EPA's December 8, and 9, 2009 inspections 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 seven thousand two hundred and twenty five dollars (\$7,225) of the civil penalty assessed against the Respondent.

28. Respondent consents to the assessment of seven thousand two hundred and twenty five dollars (\$7,225) civil penalty with a cash component of zero dollars (\$ 0).

#### **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**

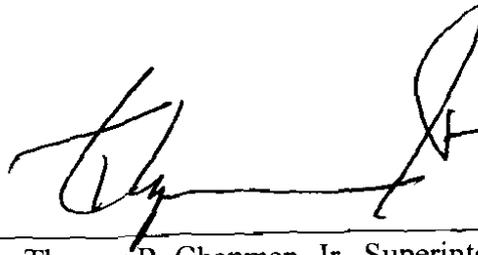
30. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

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:**

8/25/10

Date



Dr. Thomas R. Chapman, Jr., Superintendent  
Reading School District

**For Complainant:**

9-7-10

Date

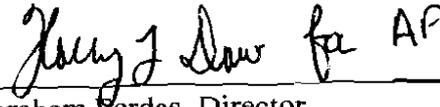


Stephen Forostiak,  
Enforcement Officer

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

9/17/2010

Date



Abraham Ferdas, Director  
Land and Chemicals Division

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Docket No: TSCA-03-2010-0356

**Final Order**

**Respondent**

**FINAL ORDER**

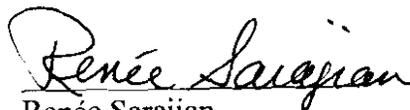
The undersigned accepts and incorporates into this Final Order by reference all provisions set forth in the foregoing Consent Agreement.

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 seven thousand two hundred and twenty five dollars (\$7,225), but that the cash component of that civil penalty will be zero dollars (\$0).

In accordance with Section 207(a) of TSCA, 15 U.S.C. § 2647(a), the seven thousand two hundred and twenty five dollars (\$7,225) 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.

9/29/10  
Date



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



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**Respondent**

: **Docket No: TSCA-03-2010-0356**

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: **Consent Agreement and**

: **Final Order**

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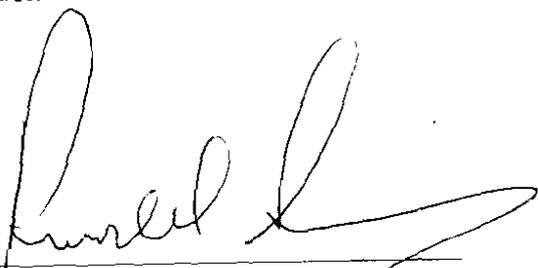
**CERTIFICATE OF SERVICE**

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. Thomas R. Chapman, Jr., Superintendent  
Reading School District  
800 Washington Street  
Reading, PA 19601

Date:

9/22/10

  
Russell Swan, Chief  
Underground Storage Tanks, Asbestos, Lead  
and Pesticides Branch  
U.S. EPA - Region III