

Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective from 4 p.m. on October 31, 1998 through 7 p.m. on November 1, 1998 § 117.451 is amended by suspending paragraph (b) and adding a new paragraph (f).

§ 117.451 Gulf Intracoastal Waterway.

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(f) The draw of SR 23 bridge, Algiers Alternate Route, mile 3.8 at Belle Chasse, shall open on signal; except that from 4 p.m. until 6:45 p.m. on Saturday, October 31, 1998 and from 4 p.m. until 7 p.m. on Sunday, November 1, 1998, the draw need not open for the passage of vessels.

Dated: October 14, 1998.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 98–28754 Filed 10–26–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPPTS–62155A; FRL–6038–1]

Asbestos-Containing Materials in Schools; Final Decision on State Request for Waiver From Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on requested waiver.

SUMMARY: EPA is issuing a final decision which approves the request of the Commonwealth of Massachusetts for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools, based on a formal assurance to EPA that Massachusetts has an asbestos accreditation program at least as stringent as the EPA's Asbestos Model Accreditation Plan.

EFFECTIVE DATE: August 24, 1998.

ADDRESSES: A copy of the complete waiver application submitted by the State, identified by the docket control number OPPTS–62155, is available from the Environmental Protection Agency,

TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460, from 12 noon to 4 p.m., Monday through Friday, except legal holidays. A copy is also on file and may be reviewed at the Environmental Protection Agency, Region I Office, John F. Kennedy Federal Building, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

James M. Bryson at 617–565–3836 or e-mail: bryson.jamesm@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

This document is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act 1986 (AHERA), Pub. L. 99–519. AHERA is the abbreviation commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools and will be used in this document. EPA issued a final rule in the **Federal Register** of October 30, 1987 (52 FR 41846), the Asbestos-Containing Materials in Schools Rule (the Schools Rule, 40 CFR part 763, subpart E), which requires all Local Education Agencies (LEAs) to identify asbestos-containing building materials (ACBMs) in their school buildings and to take appropriate actions to control the release of asbestos fibers.

Under section 203 of AHERA, EPA may, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, waive in whole or part the requirements of the Schools Rule, if the State has established and is implementing or intends to implement an ongoing program of asbestos inspection and management which is at least as stringent as the requirements of the rule. Section 763.98 (40 CFR 763.98) sets forth the procedures to implement this statutory provision. The Schools Rule requires that specific information be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and rescission of waivers granted to States. The Agency encourages States to establish and manage their own school regulatory programs under the AHERA waiver provision. EPA issued a notice in the **Federal Register** of June 24, 1998 (63 FR 34348; FRL–5762–3), which announced the receipt of a waiver request from the Commonwealth of Massachusetts, and solicited comments from the public. The notice also discussed the program elements of the

State program, and provided EPA's preliminary evaluation of the State resources responsible for effective implementation and administration of the asbestos program in Massachusetts. No comments were received during the 60-day comment period. No request for a public hearing was received. Consequently, no hearing was held.

EPA is required to issue a notice in the **Federal Register** announcing its decision to grant or deny a request for waiver within 30 days after the close of the comment period. The comment period for this docket closed on August 24, 1998. The 60-day review period may be extended if mutually agreed upon by EPA and the State.

The remainder of this document is divided into Units II., III., and IV. Unit II. discusses the Commonwealth of Massachusetts program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. Unit II. is divided into sections A. and B. Section A. discusses key elements of the State's program at the time the waiver request was submitted. Section B. gives EPA's final approval of the waiver request based on the State's response. Units III. and IV. of this notice discuss the regulatory assessment requirements.

II. The Commonwealth of Massachusetts Program

A. Program Elements

The Massachusetts Department of Labor and Workforce Development (MDLWD) has the authority to regulate asbestos in schools and state buildings. The Massachusetts General Laws Chapter 149, sections 6, 6A–6G and the MDLWD Regulation No. 453 CMR 6.00 are the State provisions for asbestos inspections and management in school and public and commercial buildings.

The MDLWD conducts inspections to ensure compliance with the above laws and rules. MDLWD reviews the management plans submitted for schools. The requirements of the Massachusetts Program are the same as or more stringent than the Federal AHERA requirements. The State requirements are more stringent in that the requirements apply to public and commercial buildings in addition to schools.

B. EPA's Decision on the Commonwealth of Massachusetts Request for Waiver

Based on a formal assurance to EPA from the lead Massachusetts agency (MDLWD) having the legal authority to carry out the requirements relating to the waiver request that Massachusetts

has incorporated into its asbestos inspection and management program, an asbestos accreditation program at least as stringent as the EPA's Asbestos Model Accreditation Plan (MAP), interim final rule is approved by this notice.

Accordingly, EPA grants the Commonwealth of Massachusetts a waiver from the requirements of 40 CFR part 763, subpart E, effective October 24, 1998. Federal jurisdiction shall be in effect in the period between the date of publication of this document and that date. This will assure that the State has sufficient time to prepare to assume its new responsibilities. It will also assure the public that no gap in authority occurs, and gives the public sufficient notice of the transfer of duties from EPA to the State of Massachusetts. This waiver is applicable to all schools covered by AHERA in the State. This waiver is subject to rescission under 40 CFR 763.98(j) based on periodic EPA oversight evaluation and conference with the State in accordance with 40 CFR 763.98(h) and (i).

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This action does not impose any requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

B. Paperwork Reduction Act

The reporting and record keeping provisions relating to State waivers from the requirements of the Asbestos-Containing Materials in Schools Rule (40 CFR part 763) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and have been assigned OMB control number 2070-0091.

C. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local, or tribal governments. The action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

D. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on

matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined by 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 763

Environmental protection, Administrative practice and procedure, Asbestos, Confidential business information, Hazardous substances, Imports, Intergovernmental relations, Labeling, Occupational safety and health, Reporting and recordkeeping requirements, Schools.

Dated: October 15, 1998.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98-28726 Filed 10-26-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 15

[USCG-1998-3323; CGD 97-073]

RIN 2115-AF57

Federal Pilotage for Vessels in Foreign Trade

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is issuing a final rule requiring that vessels in foreign trade, under way on the Cape Fear River and the Northeast Cape Fear River in North Carolina, be under the direction and control of Federal pilots when not under the direction and control of State pilots. This measure is necessary to ensure that vessels are navigated by competent, qualified persons, who are familiar with the local area and accountable to either the State or the Coast Guard. This measure will promote navigational safety by increasing the level of accountability and reducing risk of both accident and