

initiation of the Charleston Harbor deepening project. EPA changes the period of use to 'continued use.' EPA also adds to the present restriction of site use the following language: 'and in accordance with all provisions of material placement as specified by the Site Management Plan.'

D. Site DEDesignation

The dedesignation of the smaller Charleston ODMDS is due to the presence of natural resources within its boundaries. Disposal of material within this site, particularly fine-grained materials, could directly and indirectly affect the survival of these resources. The modification on the larger ODMDS to allow for continued use will provide a suitable location for the disposal of all materials from the Charleston area that meet the ocean disposal criteria. Additionally, the boundaries of the smaller ODMDS lie totally within the larger ODMDS. Therefore, this action does not, at this time, actually remove any ocean bottom from potentially being used, if appropriate.

E. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the modifications and dedesignation will only have the effect of providing an environmentally acceptable disposal option for dredged material on a continued basis. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of \$100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this Rule does not necessitate preparation of a Regulatory Impact Analysis.

This Final Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

John H. Hankinson, Jr.,  
*Regional Administrator.*

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below.

**PART 228—[AMENDED]**

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by revising paragraphs (h)(5) (v) and (vi) and by removing and reserving paragraph (h)(4) to read as follows:

**§ 228.15 Dumping sites designated on a final basis.**

\* \* \* \* \*

(h) \* \* \*

(5) \* \* \*

(v) Period of use: Continued use.

(vi) Restriction: Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged materials, except entrance channel materials, shall be limited to that part of the site east of the line between coordinates 32°39'04" N, 79°44'25" W and 32°37'24" N, 79°45'30" W unless the material can be shown by sufficient testing to contain 10% or less of fine material (grain size of less than 0.074 mm) by weight and shown to be suitable for ocean disposal. Additionally, all disposals shall be in accordance with all provisions of material placement as specified by the Site Management Plan.

\* \* \* \* \*

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**40 CFR Part 300**

[FRL-5299-1]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of deletion of the Brown Wood Preserving Site from the National Priorities List.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) announces the deletion of the Brown Wood Preserving Site (Site) in Live Oak, Suwannee County, Florida, from the National Priorities List (NPL). The NPL is codified as Appendix B of the National Oil and Hazardous Substances Pollution

Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). EPA and the State of Florida (State) have determined that all appropriate responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that the remedial actions conducted at the Site to date have been protective of public health, welfare, and the environment.

**EFFECTIVE DATE:** September 22, 1995.

**FOR FURTHER INFORMATION CONTACT:** Randall Chaffins, U.S. Environmental Protection Agency, Region IV, Waste Management Division, South Superfund Remedial Branch, 345 Courtland Street, N.E., Atlanta, GA 30365, (404) 347-2643 ext. 6260.

**SUPPLEMENTARY INFORMATION:** The Brown Wood Preserving Superfund Site in Live Oak, Florida will be deleted from the NPL. A Notice of Intent to Delete this Site from the NPL was published in the Federal Register on July 6, 1995 (60 FR 35160). The closing date for comments on the Notice of Intent to Delete was August 7, 1995. EPA received no comments and therefore did not prepare a Responsiveness Summary.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Superfund.

Dated: September 5, 1995.

John H. Hankinson, Jr.,  
*Regional Administrator, USEPA Region IV.*

40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp. p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p. 193.

#### Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site "Brown Wood Preserving Site, Live Oak, Florida".

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### 40 CFR Part 763

[OPPTS-62091A; FRL-4976-4]

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final decision on requested waiver.

**SUMMARY:** EPA is issuing a final decision which approves the request of Utah for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools.

**ADDRESSES:** A copy of the complete waiver application submitted by the State is available from the TSCA Nonconfidential Information Center, TSCA Docket Receipt (7404), Office of Pollution Prevention and Toxics, Rm. NE-B607, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A copy is also on file and may be reviewed at the EPA Region 8 office in Denver, Colorado: EPA, Region 8 (8ART-RTI), 999 18th St., Denver, CO, 80202-2466.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551, e-mail: TSCA-Hotline@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** This action 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 (AHERA), Pub. L. 99519. 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. 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 program.

EPA issued a notice in the Federal Register of July 17, 1990 (55 FR 29069), which announced the receipt of a waiver request from the State of Utah, and solicited comments from the public. The notice also discussed the program elements of the State program.

No comments were received during the 60-day comment period. No request for a public hearing was received.

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 September 17, 1990. The 30-day review period may be extended if mutually agreed upon by EPA and the State. EPA and Utah mutually agreed to extend the review period.

The remainder of this document is divided into two units. The first unit discusses the Utah program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. Unit I. is subdivided into two sections. Section A discusses key elements of the State's program. Section B gives EPA's final approval of the waiver. The second unit of this document discusses statutory requirements of the Paperwork Reduction Act.

#### I. The Utah Program

##### A. Program Elements

The Utah Air Conservation Act, Title 26, Chapter 13 and implementing regulations (section 8, Utah Air Conservation Regulations) give the Utah Department of Environmental Quality (UDEQ) the authority to regulate asbestos in schools and commercial buildings. The State's regulations adopt by reference the AHERA regulations at 40 CFR part 763, subpart E effective when an AHERA waiver is approved by EPA. The State has the enforcement mechanism to allow it to implement the program. The State has EPA-approved Neutral Administrative Inspection Scheme (NAIS), logging system for tracking tips, complaints, etc., and an enforcement response policy in place. The State has qualified personnel to carry out the provision relating to the waiver. The program will be administered by the UDEQ, Bureau of Air Quality.

Since the State application for a waiver was received, EPA published a revision to its Asbestos Model Accreditation Plan (MAP). The Asbestos Model Accreditation Plan; Interim Final Rule was published on February 3, 1994 (59 FR 5236). This MAP required that each State adopt an accreditation plan that is at least as stringent as this MAP within 180 days after the commencement of the first regular session of the legislature of the State that is convened on or after April 4, 1994. The UDEQ submitted copies of the State's revised regulations. However, the State's regulations are not final at this time. Utah's revised regulations meet the requirements of the new MAP.

##### B. EPA's Decision on Utah's Request for Waiver

EPA grants the State of Utah a partial waiver from the requirements of 40 CFR part 763, subpart E, effective 30 days after publication of this Final Decision. This waiver includes all AHERA requirements except the MAP. EPA will amend the AHERA waiver to include the MAP when the State's MAP regulations become final. Federal jurisdiction shall be in effect in the period between the date of publication of this document and the effective 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 Utah. This waiver is applicable to all schools and public and commercial buildings covered by AHERA in the State and is subject to