

Dated: March 30, 1995.

**Lynn Goldman,**

*Assistant Administrator for Prevention,  
Pesticides and Toxic Substances.*

Therefore, 40 CFR part 372 is amended as follows:

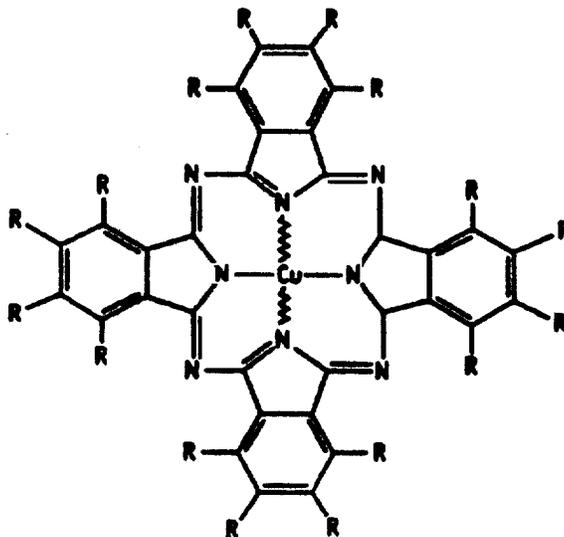
1. The authority citation for part 372 continues to read as follows:

**Authority:** 42 U.S.C. 11023 and 11048.

**§ 372.65 [Amended]**

2. In § 372.65(c) by adding the following language to the copper

compounds listing "except copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine that meet the following molecular structure definition:



where R = H and/or Br and/or Cl only."

[FR Doc. 95-8874 Filed 4-10-95; 8:45 am]

BILLING CODE 6560-50-F

#### 40 CFR Part 763

[OPPTS-62121A; FRL-4914-6]

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

**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 Louisiana 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 Public Docket Office. A copy is also on file and may be reviewed at the EPA Region 6 office in Dallas, Texas.

TSCA Docket Receipt (7407), Office of Pollution Prevention and Toxics, Rm. NE-B607, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

EPA, Region 6 (6T-PT), 1445 Ross Avenue, Dallas, TX 75202-2733.

#### FOR FURTHER INFORMATION CONTACT:

James B. Willis, Acting 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.

**SUPPLEMENTARY INFORMATION:** This notice 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. 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. 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 provisions.

EPA issued a notice in the **Federal Register** of February 18, 1993 (58 FR 8926), which announced the receipt of a waiver request from the State of Louisiana, and solicited comments from the public. The notice also discussed the program elements of the State program, listed differences between the State program and the AHERA requirements, and provided EPA's preliminary response to the State on the differences identified.

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 April 19, 1993. The 30-day review period may be extended if mutually agreed upon by EPA and the State. EPA and Louisiana mutually agreed to extend the review period.

The remainder of this document is divided into two units. The first unit discusses the Louisiana program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. This unit is subdivided into three sections. Section A discusses key elements of the State's program at the time the waiver request was submitted. Section B enumerates the differences EPA noted between the State's program and the AHERA requirements as discussed in the February 18, 1993 **Federal Register** notice, and sets out the State's response to those differences which EPA subsequently received. Section C gives EPA's final approval of the waiver request based on the State's response. The second unit of this notice discusses statutory requirements of the Paperwork Reduction Act.

## I. The Louisiana Program

### A. Program Elements

Louisiana Revised Statutes RS 30:2341-2345 and the Asbestos and Hazardous Material Detection Program RS 40:1749.1 give the Louisiana Department of Environmental Quality (LDEQ) the authority to regulate asbestos in schools and State buildings. Provisions in Louisiana's revised statutes, RS 30:2054, give the LDEQ the authority to regulate sources of air contaminants. The Louisiana Administrative Code (LAC), Title 33, Part III, Chapter 27 and Appendix A to Chapter 27 contain the State provisions for asbestos inspections and management in schools and State buildings. LAC 33:III.5151 contains the State provisions for training and accreditation of persons conducting asbestos activities in facilities.

The LDEQ conducts inspections to ensure compliance with the above statutes and regulations. LDEQ reviews the management plans submitted for schools and State buildings. The requirements of the Louisiana Program are at least as stringent as the Federal AHERA requirements. Most of the State requirements are, in fact, more stringent than the Federal requirements in that they are applied to all State buildings rather than just to schools as in the Federal rule.

### B. Resolution of Differences Between State and AHERA

In the February 18, 1993, **Federal Register** notice, EPA gave its preliminary comments regarding the differences between the Louisiana and AHERA requirements. EPA's preliminary comments identified four differences that needed to be addressed before July 29, 1994. In a letter on July 28, 1994, LDEQ informed EPA of its correction of those portions of the State's program. Following are the four differences between the Federal requirements and the State's program which were listed in the February 18, 1994 **Federal Register** notice and the corresponding responses by the LDEQ:

1. The State's definition of school building does not specifically mention "any portico or covered exterior hallway or walkway" and "any exterior portion of a mechanical system used to condition interior space."

LDEQ response: To address this item the State has expanded its definition of school building to include, any portico or covered exterior hallway or walkway and any exterior portion of a mechanical system used to condition interior space.

2. The State's procedures to be followed for any operations and maintenance activities disturbing friable ACBMs do not include the statement "place the asbestos debris and cleaning materials in a sealed leak-tight container."

LDEQ response: The State has expanded its Operations and Maintenance Activities by adding LAC 33:III.2719.D.6: "Place the asbestos debris and other cleaning materials in sealed, clear, leak-tight containers."

3. Submission of a management plan for a building that an LEA begins to use as a school building is not required by the State's program prior to the building's use as a school.

LDEQ response: To address this concern, LAC 33:III.2723.A.3 has been modified as follows: "If a local education agency or the state government begins to use a building as a school building or state building more than 90 days after promulgation of this regulation, the local education agency or the state government shall submit a management plan for the school building or state building to the Department of Environmental Quality prior to its use as a school or state building. Each plan developed or modified after June 20, 1994 must include Form AAC-8, Required Elements for Management Plans."

4. Warning labels are required by the State rule to be attached immediately adjacent to any "accessible" friable and

nonfriable ACBM and suspected ACBM assumed to be asbestos-containing material located in routine maintenance areas. The Federal rule does not limit the warning label requirements to ACBM which is accessible.

LDEQ response: The State has modified LAC 33:III.2727.A by removing the word "accessible" from the regulation.

Since the State application for waiver and the **Federal Register** notice of February 18, 1993, 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 Louisiana Legislature convened on April 25, 1994. Therefore the 180-day period expired on October 22, 1994. In a letter of December 1, 1994, LDEQ submitted copies of the State's accreditation regulations and stated its position that Louisiana's Accreditation Program meets or exceeds the U.S. EPA Model Accreditation Plan. Revised copies of LAC 33:III, Chapter 27 and LAC 33:III.5151 were submitted to support that position.

### C. EPA's Decision on Louisiana's Request for Waiver

EPA grants the State of Louisiana a waiver from the requirements of 40 CFR part 763, subpart E, effective 30 days after publication of this Notice of Final Decision. 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 Louisiana. This waiver is applicable to all schools covered by AHERA in the State and 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 763.98(i).

## II. Other Statutory Requirements

The reporting and recordkeeping 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.

#### List of Subjects in 40 CFR Part 763

Environmental protection, Asbestos, Asbestos in schools (ASHERA), Hazardous substances, Reporting and recordkeeping requirements, State and local governments, Worker protection.

Dated: March 30, 1995.

Jane Saginaw,

Regional Administrator, Region VI.

[FR Doc. 95-8873 Filed 4-10-95; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Coast Guard

#### 46 CFR Parts 401, 403, and 404

[OST Docket No. 50248]

[CGD 92-072]

RIN 2105-AC21

#### Great Lakes Pilotage Rate Methodology

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; request for comments.

**SUMMARY:** The Department of Transportation (the Department) is amending the regulations concerning Great Lakes pilotage by amending the procedures for determining Great Lakes pilotage rates, and revising the financial reporting requirements mandated for Great Lakes pilot associations. The purpose of these changes is to improve the ratemaking process. This final rule does not change the existing Great Lakes pilotage rates and charges.

**DATES:** This rule is effective on June 12, 1995. Comments must be received on or before May 11, 1995. Late-filed comments will be considered only to the extent practicable.

**ADDRESSES:** Comments should be sent, preferably in triplicate, to Docket Clerk, OST Docket No. 50248, U.S. Department of Transportation, 400 7th St. SW., room PL-401, Washington, DC 20590. Comments will be available for inspection at this address from 9 a.m. to 5:30 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back. Unless otherwise indicated, documents referred to in this preamble are also available for inspection or copying at

this address. Comments should not be sent to the Coast Guard docket.

#### FOR FURTHER INFORMATION CONTACT:

Scott A. Poyer, Project Manager, Merchant Vessel Personnel Division, Office of Marine Safety, Security and Environmental Protection (G-MVP/12) room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-6102, or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement, 400 7th St. SW., room 10424, Washington, DC 20590, (202) 366-9306.

#### Regulatory History

On December 7, 1988, the Department of Transportation published the Great Lakes Pilotage Study Final Report (1988 DOT Pilotage Study). The study revealed weaknesses in accounting for the expenses incurred by the pilot associations and the need to formally establish the factors used in establishing pilotage rates. On April 25, 1990, the Coast Guard published a final rule (55 FR 17580) establishing improved audit requirements and general guidelines and procedures to be followed in ratemaking (CGD 92-072).

In May 1990, the Inspector General (IG) for the Department of Transportation initiated an audit of Coast Guard oversight of Great Lakes pilotage. The final report of the audit (Audit of the U.S. Coast Guard's Oversight and Management of the Great Lakes Pilotage Program), detailing further issues affecting the basis for Great Lakes pilotage rates, was issued on December 14, 1990.

On August 2, 1991, a DOT Task Force was formed to: (1) Develop an interim rate adjustment; and (2) establish a new pilotage ratemaking methodology. On June 5, 1992, an interim rate increase was published (CGD 89-104). The DOT Task Force then developed a new pilotage ratemaking methodology, which the Coast Guard published in a notice of proposed rulemaking (NPRM) (59 FR 17303) dated April 12, 1994.

The NPRM proposed to amend the Great Lakes pilotage regulations by establishing new procedures for determining Great Lakes pilotage rates and revising the financial reporting requirements mandated for Great Lakes pilot associations (CGD 92-072). The NPRM also announced a public hearing that was held in Cleveland, OH on May 20, 1994. The comment period for the NPRM ended on July 11, 1994.

In response to the NPRM and the public hearing, the Coast Guard received 31 comments and two requests for additional public meetings to explain the proposals contained in the

NPRM. In the **Federal Register** (59 FR 18774) on April 20, 1994, the Coast Guard announced that it would conduct two public meetings. The first public meeting was held in Chicago, IL on May 3, 1994. The second public meeting was held in Massena, NY on May 5, 1994.

The Coast Guard also received one request to extend the comment period for the NPRM. Because the comment period for the NPRM was 90 days, the Coast Guard determined that there was sufficient time to submit comments. Therefore, the comment period was not extended.

#### Background and Purpose

Under the Great Lakes Pilotage Act of 1960 (Pub. L. 86-555, 46 U.S.C. 9301 *et seq.*) (the Act), vessels of the United States operating on register and foreign vessels must engage a U.S. or Canadian registered pilot when traversing the waters of the Great Lakes. The Act vests the Secretary of Transportation with responsibility for setting pilotage rates. Section 9303 of the Act provides that the Secretary shall prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services. This authority, except for the authority to enter into, revise or amend arrangements with Canada, has been delegated to the Commandant of the Coast Guard by 49 CFR 1.46(a). This authority has been further delegated to the Director, Great Lakes Pilotage (the Director).

Currently, the navigable waters of the Great Lakes are divided into eight pilotage areas. United States registered pilots, along with their Canadian counterparts, provide pilotage services in areas 1, 2, 4, 5, 6, 7, and 8. Pilotage area 3 (the Welland Canal) is currently a wholly-Canadian area where only Canadian pilots provide services. Pilotage areas 2, 4, 6, and 8 are "undesignated waters." Pilotage areas 1, 5, and 7 are "designated waters." Pilots are required to direct navigation of vessels in designated waters. Pilots are required to be on board and available to direct navigation in undesignated waters. The seven U.S. pilotage areas are grouped together into three pilotage districts. District 1 consists of areas 1 and 2. District 2 consists of areas 4 and 5. District 3 consists of areas 6, 7, and 8. Each district has its own pilot association.

Section 9305 of the Pilotage Act provides that the Secretary of Transportation, subject to the concurrence of the Secretary of State, may make agreements with the appropriate agency of Canada to prescribe joint or identical rates and