

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202-2733. Commenters may request an opportunity for a public meeting in the affected area in accordance with section 703(d) of RCRA, 42 U.S.C. 6973(d).

**DATES:** Comments must be submitted on or before July 3, 2006.

**ADDRESSES:** The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202-2733. A copy of the proposed settlement may be obtained from Rafael Casanova, 6SF-A, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733, or by calling 214-665-7437 or e-mail at [casanova.rafael@epa.gov](mailto:casanova.rafael@epa.gov). Comments should reference the Many Diversified Interest (MDI) Superfund Site, Houston, Texas, and EPA Docket Number 06-12-05, and should be addressed to Rafael Casanova at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Barbara Nann, 1445 Ross Avenue, Dallas Texas 75202-2733 or call 214-665-2157 or e-mail [nann.barbara@epa.gov](mailto:nann.barbara@epa.gov).

Dated: May 19, 2006.

**Richard E. Greene,**  
Regional Administrator, Region 6.

[FR Doc. E6-8481 Filed 5-31-06; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8176-2]

### Proposed CERCLA Administrative Cost Recovery Settlement; The Shenandoah Road Groundwater Contamination Superfund Site, East Fishkill, NY

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

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act as amended ("CERCLA"), 42 U.S.C.

9622(i), notice is hereby given of a proposed administrative settlement under section 122(h) of CERCLA, 42 U.S.C. 9622(h), for recovery of past response costs concerning the Shenandoah Road Groundwater Contamination Superfund Site located in East Fishkill, New York with the Settling Party, International Business Machines Corporation. The settlement requires the Settling Party to pay \$750,000, plus an additional sum for interest on that amount calculated from November 28, 2004 through the date of payment to the Shenandoah Road Groundwater Contamination Superfund Site Special Account within the EPA Hazardous Substance Superfund in reimbursement of EPA's past response costs incurred with respect to the Site. The settlement includes a covenant not to sue the Settling Party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a) for Past Response Costs, as defined in the agreement. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

**DATES:** Comments must be submitted on or before July 3, 2006.

**ADDRESSES:** The proposed settlement is available for public inspection at USEPA, 290 Broadway, 17th Floor, New York, New York 10007-1866. Comments should reference the Shenandoah Road Groundwater Contamination Superfund Site, CERCLA Docket No. 02-2006-2001 and sent to the individual identified below. To request a copy of the proposed settlement agreement, please contact the individual identified below.

#### FOR FURTHER INFORMATION CONTACT:

Carol Y. Berns, Assistant Regional Counsel, USEPA, 290 Broadway, 17th Floor, New York, New York 10007-1866, (212) 637-3177.

Dated: May 11, 2006.

**George Pavlou,**

Director, Emergency and Remedial Response Division, Region II.

[FR Doc. E6-8401 Filed 5-31-06; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2005-0096; FRL-8176-7]

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

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

**ACTION:** Notice of proposed approval and request for comments.

**SUMMARY:** This action provides notice and an opportunity for public hearing, and solicits written comments on EPA's proposed waiver of the requirements of the Federal asbestos-in-schools program for the Commonwealth of Kentucky. A waiver request will be granted if EPA determines that the Commonwealth of Kentucky is implementing or intends to implement a state program of asbestos inspection that is at least as stringent as the federal program. This action provides notice and an opportunity for a public hearing, and solicits written comments on the waiver request submitted by the Commonwealth of Kentucky.

**DATES:** Written comments under Docket ID Number OPPT-2005-0096 must be received by July 31, 2006. Each comment must include the name and address of the submitter. Any request for a public hearing must be in writing, be received on or before July 31, 2006, and detail specific objections to the grant of the waiver. If, during the comment period, EPA receives such a request for a public hearing, EPA will schedule a public hearing in Kentucky following the comment period. EPA will announce the date of the public hearing in the **Federal Register**.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-HQ-OPPT-2005-0096, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. E-mail: [hund.john@epa.gov](mailto:hund.john@epa.gov).

3. Fax: (404) 562-8972.

4. Mail: Docket ID Number EPA-HQ-OPPT-2005-0096, Asbestos Coordinator, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, GA 30303-8960.

5. Hand Delivery or Courier: John Hund, Asbestos Coordinator, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, GA 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional

Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**Instructions:** Direct your comments to Docket ID Number EPA-HQ-OPPT-2005-0096. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Asbestos Coordinator, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, GA 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional

Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8182; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

For technical information contact: John Hund, Asbestos Coordinator, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, GA 30303-8960; telephone number: (404) 562-8978; e-mail address: [hund.john@epa.gov](mailto:hund.john@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

###### *A. What Action Is the Agency Taking?*

EPA is considering granting, with conditions, a waiver of the asbestos-in-schools program to the Commonwealth of Kentucky. This notice is issued, and the waiver, if granted, would be issued under section 203(m) of the Toxic Substances Control Act (TSCA) and 40 CFR 763.98. Section 203 is within Title II of TSCA, the Asbestos Hazard Emergency Response Act (AHERA).

The Agency recognizes that a waiver granted to any State would not encompass schools operated under the defense dependents' education system (the third type of local education agency (LEA) defined at TSCA section 202(7) and 40 CFR 763.83), which serve dependents in overseas areas, and other elementary and secondary schools outside a State's jurisdiction, which generally includes schools in Indian country. Such schools would remain subject to EPA's asbestos-in-schools program.

###### *B. What Is the Agency's Authority for Taking This Action?*

In 1987, under TSCA section 203, the Agency promulgated regulations that require the identification and management of asbestos-containing material by LEAs in the nation's elementary and secondary school buildings: the "AHERA Schools Rule" (40 CFR part 763, subpart E). Under section 203(m) of TSCA and 40 CFR 763.98, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, EPA may waive, in whole or in part, the requirements of the asbestos-in-schools program (TSCA section 203 and the AHERA Schools Rule) if EPA

determines that the State has established and is implementing or intends to implement a program of asbestos inspection and management that contains requirements that are at least as stringent as those in the Agency's asbestos-in-schools program. A State seeking a waiver must submit its request to the EPA Region in which that State is located.

###### *C. When Did Kentucky Submit Its Request for a Waiver and How Is EPA Proposing To Respond?*

On January 4, 1999, Governor Paul E. Patton, submitted to the EPA Region 4 Regional Administrator, a letter with supporting documentation requesting a full waiver of the requirements of EPA's asbestos-in-schools program pursuant to the AHERA statute and 40 CFR 763.98. The EPA Region 4 Administrator indicated by letter dated February 19, 1999, to Kentucky that the request was complete. A subsequent letter dated August 21, 2000, from the Director of Kentucky Division for Air Quality, corrected an inadvertent error in the January 4, 1999, letter.

EPA is hereby issuing a notice in the **Federal Register** announcing receipt of the complete Kentucky waiver request and an opportunity for comment and public hearing, and making the request and supporting documentation available in the public record for this notice. The Agency is also describing the information submitted by Kentucky and the Agency's preliminary determination as to how the waiver request meets the criteria for the grant of a waiver.

###### *D. What was EPA's Determination With Regard to the Completeness of Kentucky's Waiver Request?*

The Kentucky waiver request has been deemed complete by EPA with regard to the required contents specified at 40 CFR 763.98 and contains the following:

1. A copy of the Kentucky provisions relating to its program of asbestos inspection and management in schools for which the request is made. These consist of the following, as well as other supporting documentation: (a) Kentucky Revised Statutes (KRS) section 224.20-300 "Asbestos Control: Purpose;" section 224.99-010(12) "Penalties;" section 224.99-020(1) "Action to recover penalties and costs—Injunctive relief;" (b) 401 Kentucky Administrative Regulations (KAR) 58:010 "Local education agencies;" (c) Kentucky AHERA Compliance-Monitoring Protocol, which includes the Neutral Administrative Inspection Scheme for Asbestos Compliance-Monitoring inspections in Kentucky; and (d)

Kentucky's Enforcement Protocol for Violations of Certain AHERA Requirements Associated with Accreditations, Management Plans, and Recordkeeping. A copy of each of these documents and other supporting documentation is included in the official record.

2. The name of the Kentucky agency that is responsible for administering and enforcing the requirements for which a waiver is requested, namely the Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky (the "Cabinet"), which includes the Department of Environmental Protection, and within the Department, the Division for Air Quality. The officials within the Division for Air Quality who are responsible for Kentucky's asbestos-in-schools program are: John S. Lyons, Division Director; Kevin Flowers, Manager of the Division's Field Operations Branch; and Parker Moore, Manager of the Division's Special Programs Branch—telephone: (502) 573-3382.

3. Detailed reasons, supporting papers, and rationale for concluding that Kentucky's asbestos inspection and management programs, for which the waiver request is made, are at least as stringent as the requirements of the AHERA Schools Rule (40 CFR part 763, subpart E).

4. A discussion of any special situations, problems, and needs pertaining to the waiver request accompanied by an explanation of how the Commonwealth intends to handle them.

5. A statement of the resources that Kentucky intends to devote to the administration and enforcement of the provisions relating to the waiver request.

6. Copies of any specific or enabling Kentucky laws and regulations relating to the request, including provisions for assessing criminal and/or civil penalties.

7. Assurance from the Governor, that the Cabinet has the legal authority necessary to carry out the requirements relating to the waiver request, as indicated in the January, 4, 1999, letter from Governor Patton of Kentucky to the EPA Region 4 Regional Administrator, as supplemented by the August 21, 2000, letter.

#### *E. What Are the Criteria for EPA's Grant of the Waiver?*

EPA may waive some or all of the requirements of the Agency's asbestos-in-schools program if the Agency determines that Kentucky has met the criteria set forth at 40 CFR 763.98. The

criteria and EPA's preliminary determinations relating to the grant of the waiver to Kentucky are set forth below:

1. Kentucky's lead agency has the legal authority necessary to carry out the provisions of asbestos inspection and management in schools relating to the waiver request.

#### *EPA's Preliminary Determination*

EPA has determined preliminarily that the statutory and regulatory provisions cited at Section I.D.1 of this notice give the Kentucky Division for Air Quality the legal authority necessary to carry out the provisions of asbestos inspection and management in schools relating to the waiver request.

2. Kentucky's program of asbestos inspection and management in schools and its implementation of the program are or will be at least as stringent as the requirements of the AHERA Schools Rule.

#### *EPA Preliminary Determination*

EPA has determined preliminarily that Kentucky's program is at least as stringent as EPA's program. On January 25, 1989, Kentucky adopted the requirements of 40 CFR part 763, subpart E in their entirety, with the exception of §§ 763.83 (definitions), 763.97 (compliance and enforcement), and 763.98 (waiver; delegation to State), into the Kentucky Regulation 401 KAR 58:010 "Local Education Agencies." Kentucky also adopted several provisions which supplement and clarify this rule.

3. Kentucky has an enforcement mechanism to allow it to implement the program described in the waiver request.

#### *EPA's Preliminary Determination*

EPA has determined preliminarily that the compliance and enforcement provisions of Kentucky's asbestos-in-schools program are adequate to run the program. The Kentucky Environmental and Public Protection Cabinet is empowered under KRS 224.10-100 to provide for the prevention, abatement, and control of air pollution. KRS 224.10-100(5). This includes the authority to "enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with this chapter, or any regulation which may be promulgated there under." KRS 224.10-100(10). Any person who violates any provision of state law or any determination, permit, administrative regulation or order of the Cabinet

relating to the Asbestos Hazard Emergency Response Act (AHERA) of 1986, Public Law 99-519, is liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed \$25,000 for each violation. KRS 224.99-010(4). A person who knowingly violates these provisions or who knowingly provides false information is guilty of a Class D felony and punishable by a fine not to exceed \$25,000, or by imprisonment for a term of not less than one year and not more than five years or by both for each separate violation. The Cabinet also has the authority to bring an action for an injunction against any person violating or threatening to violate any provision of the Kentucky statute, regulation, or order or determination of the cabinet related to AHERA. KRS 224.99-020.

To help ensure compliance with its asbestos regulations, the Division for Air Quality has developed a Neutral Administrative Inspection Scheme (NAIS) for targeting non-compliant inspections. By focusing on activities where problems are most likely to occur, the NAIS is designed to maximize the effectiveness of their inspection/enforcement efforts toward preventing and controlling asbestos-related risks to human health and the environment. The NAIS was revised October 9, 1998. The Division for Air Quality under a cooperative agreement with EPA uses compliance monitoring and enforcement protocols for overseeing Kentucky's Asbestos-in-Schools Program, pursuant to the Asbestos Hazard Emergency Response Act and the Kentucky AHERA regulations. The enforcement protocol includes: Warning Letter (Notice of Noncompliance), Administrative Action (Notice of Violation), and Civil Action. The enforcement protocol was revised October 9, 1998.

4. Kentucky has or will have qualified personnel to carry out the provisions relating to the waiver request.

#### *EPA's Preliminary Determination*

EPA has determined preliminarily that Kentucky has qualified personnel to carry out the provisions of the waiver. The existing program staff includes 14 employees trained to stringently enforce the requirements of 40 CFR part 763, subpart E. The program will be carried out by staff in the Kentucky Environmental and Public Protection Cabinet, Division for Air Quality. The Division's Field Operations Branch includes seven asbestos inspectors located in seven regional offices around the Commonwealth. The Division's Special Programs Branch is responsible for reviewing AHERA management

plans, re-inspections, and issuing AHERA accreditations. The Division's Enforcement Branch is responsible for enforcement actions involving AHERA violations. Kentucky commits approximately four persons each year to AHERA compliance monitoring and enforcement activities under the EPA TSCA Asbestos Enforcement Grant. Staff is fully-trained and certified as Contractor/Supervisor, Inspector, and Management Planner.

5. Kentucky will devote adequate resources to the administration and enforcement of the asbestos inspection and management provisions relating to the waiver request.

#### EPA's Preliminary Determination

EPA has determined preliminarily that the resources developed by the Kentucky Division for Air Quality are adequate to effectively administer and enforce the provisions of the asbestos program in Kentucky. Kentucky continues to receive funding through an EPA cooperative agreement in the amount of \$60,000 with state matching funds of \$20,000 for a total of \$80,000 for FY 2006.

6. Kentucky gives satisfactory assurances that the necessary steps, including specific actions it proposes to take and a time schedule for their accomplishment, will be taken within a reasonable time to conform with criteria numbers 2–4 above.

#### EPA's Preliminary Determination

For EPA to grant a full waiver to Kentucky for its asbestos-in-schools program, the Commonwealth, as a condition of the grant, would need to give a written assurance satisfactory to EPA that if, any provision of either TSCA section 203 or the AHERA Schools Rule is changed, the Commonwealth would, within a reasonable period of time, make appropriate changes, as necessary, to the statutory and regulatory provisions of its asbestos-in-schools program to ensure that the program remains at least as stringent as the EPA asbestos-in-schools program.

In addition, if a waiver is granted and as long as it remains in effect, Kentucky would need to continue its asbestos-in-schools implementation and enforcement strategy utilizing adequate resources. EPA may evaluate periodically the adequacy of Kentucky's program under 40 CFR 763.98, and under circumstances set forth in the regulation, may in whole or in part rescind the waiver if the Agency determines the program to be inadequate.

#### *F. What Recordkeeping and Reporting Burden Approvals Apply to the Kentucky Waiver Request?*

The recordkeeping and reporting burden associated with waiver requests was approved by the Office of Management and Budget (OMB) under OMB control number 2070–0091. This document simply announces the Agency's receipt of the Kentucky waiver request and therefore it imposes no additional burden beyond that covered under existing OMB control number 2070–0091.

#### II. Materials in the Official Record

The official record, under Docket ID Number EPA–HQ–OPPT–2005–0096, contains the Kentucky waiver request, and any other supporting or relevant documents.

Dated: May 11, 2006.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E6–8399 Filed 5–31–06; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–OW–2006–0435; FRL–8177–6]

#### Massachusetts Marine Sanitation Device Standard—Receipt of Petition

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

**ACTION:** Notice—Receipt of Petition.

**SUMMARY:** Notice is hereby given that a petition has been received from the Commonwealth of Massachusetts requesting a determination by the Regional Administrator, U.S. Environmental Protection Agency, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Plymouth Bay, Plymouth Harbor, Kingston Bay, and Duxbury Bay; their respective coastlines and coastal tidal rivers.

**DATES:** Comments must be received on or before July 3, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R01–OW–2006–0435 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: [rodney.ann@epa.gov](mailto:rodney.ann@epa.gov).

- Fax: (617) 918–0538.

- Mail and hand delivery: U.S.

Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, mail code–COP, Boston, MA 02114–2023. Deliveries are only

accepted during the Regional Office's normal hours of operation (8 a.m.–5 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA–R01–OW–2006–0435 EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copy-righted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, mail code–COP, Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's are