

connection with otherwise covered orthodontia directly related to the surgical correction of a cleft palate anomaly.

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Dated: September 18, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00-24495 Filed 9-27-00; 8:45 am]

**BILLING CODE 5001-10-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-6877-4]

#### National Priorities List for Uncontrolled Hazardous Waste Sites

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule; notice of vacatur.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. On October 22, 1999, the EPA promulgated a final rule adding the Georgia-Pacific Corporation Hardwood Sawmill site, located in Plymouth, North Carolina, to the NPL. EPA today is announcing the vacatur of the listing of the Georgia-Pacific Hardwood Sawmill site to the NPL and is amending the NPL at 40 CFR part 300, appendix B, to delete the site from the NPL in accordance with an order issued by the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir.) in *Georgia-Pacific Corporation v. EPA* (No. 00-1014).

**EFFECTIVE DATE:** The effective date for this amendment to the NCP is September 28, 2000.

**ADDRESSES:** For addresses for the Headquarters and regional docket, as

well as further details on the contents of these dockets, section II, "Availability of Information to the Public," in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

#### FOR FURTHER INFORMATION CONTACT:

Barbara Vandermer, phone (703) 603-9018, State, Tribal, and Site Identification Center, Office of Emergency and Remedial Response (mail code 5204G), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; or contact the Superfund Hotline, phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

**SUPPLEMENTARY INFORMATION:** The court order vacating the listing determination will be added to final docket NPL-FRU26 (10/21/99).

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#### I. Background

On October 22, 1999, the EPA promulgated a final rule adding the Georgia-Pacific Corporation Hardwood Sawmill site to the National Priorities List (NPL) (64 FR 56966). On January 18, 2000, Georgia-Pacific filed a petition for review of that rule in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). EPA and Georgia-Pacific subsequently filed a joint motion requesting that the D.C. Circuit enter a judgment vacating EPA's listing decision and an order suspending further briefing and argument in the case. The Court granted the joint motion on August 21, 2000. Today's rulemaking formally removes the Georgia-Pacific Hardwood Sawmill site from the NPL in accordance with the D.C. Circuit's order.

#### II. Availability of Information to the Public

##### A. Can I Review the Documents Relevant to This Final Rule?

Yes, documents relating to the evaluation and scoring of the site in this final rule are contained in dockets located both at EPA Headquarters and in the regional office in Atlanta, Georgia.

##### B. What Documents Are Available for Review at the Headquarters Docket?

The Headquarters docket for this rule contains the HRS score sheets, the documentation record describing the information used to compute the score, pertinent information regarding

statutory requirements or EPA listing policies that affect the site, and a list of documents referenced in the documentation record. The Headquarters docket also contains comments received, and the Agency's responses to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List Final Rule—October 1999."

##### C. What Documents Are Available for Review at the Regional Docket?

The regional docket contains all the information in the Headquarters docket plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score for the site. These reference documents are available only in the regional docket.

##### D. How Do I Access the Documents?

You may view the documents, by appointment only, after the publication of this document. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Contact information for the EPA Headquarters: Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, phone (703) 603-8917.

The contact for the regional docket is Joellen O'Neill, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, 9th floor, Atlanta, GA 30303; phone (404) 562-8127. Please contact the regional docket for hours.

##### E. How Can I Obtain a Current List of NPL Sites?

You may obtain a current list of NPL sites via the Internet at <http://www.epa.gov/superfund/> (look under site information category) or by contacting the Superfund docket (see contact information above).

#### III. Contents of This Final Rule

This rule deletes the Georgia-Pacific Corporation Hardwood Sawmill site from the General Superfund Section of the NPL.

#### IV. Good Cause Exemption From Notice and Comment Rulemaking

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule (5 U.S.C. 553(b)). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and

comment are unnecessary (5 U.S.C. 553(b)(3)(B)).

EPA has determined that it is not necessary to provide prior notice and opportunity for comment on the rule amending the NPL to remove the Georgia-Pacific Corporation Hardwood Sawmill site from the NPL. The rule is promulgated in order to comply with the D.C. Circuit's order vacating the listing. The listing is no longer legally in effect by order of the D.C. Circuit. Thus, amending the NPL has no legal impact and only states the current legal status of the NPL.

For the same reasons stated above, EPA believes there is good cause for making the amending regulations immediately effective. (See 5 U.S.C. 553(d))

## V. Administrative Assessments

### A. Executive Order 12866

#### 1. What Is Executive Order 12866?

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive order. The order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

#### 2. Is This Final Rule Subject to Executive Order 12866 Review?

No, the Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

### B. Unfunded Mandates

#### 1. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local,

and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments; enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates; and informing, educating, and advising small governments on compliance with the regulatory requirements.

#### 2. Does UMRA Apply to This Final Rule?

No. Today's action will have no impact upon State, local, and tribal governments, or on the private sector. The amending regulations promulgated today reflect current law and will result in no legal impact on public or private entities.

### C. Effect on Small Businesses

#### 1. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the

rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

#### 2. Does the Regulatory Flexibility Act Apply to This Final Rule?

No. The amending regulations promulgated today will have no effect on small entities. This is evidenced by the fact that the regulations promulgated today have no legal impact. Today's rule only amends the CFR to comply with the current legal status of the rules.

I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

### D. The Congressional Review Act

#### 1. What Is the Congressional Review Act?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States.

#### 2. How Does the Congressional Review Act Apply to This Rule?

Section 808 allows the issuing agency to make the rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This statement must be supported by a brief statement. As stated previously, EPA has made such a good cause finding, including the reasons therefor, and has established an effective date of September 28, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

*E. What Could Cause the Effective Date of This Rule To Change?*

A statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983) and *Bd. of Regents of the University of Washington v. EPA*, 86 F.3d 1214, 1222 (D.C. Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, EPA will publish a document of clarification in the **Federal Register**.

*F. National Technology Transfer and Advancement Act*

1. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

2. Does the National Technology Transfer and Advancement Act Apply to This Final Rule?

No. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*G. Executive Order 12898*

1. What Is Executive Order 12898?

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," as well as through EPA's April 1995 "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report" and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental

justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

2. Does Executive Order 12898 Apply to This Final Rule?

No. Today's final rule will have no effect upon minority or low-income populations. The amending regulation promulgated today reflect current law and is meant only to amend the Code of Federal Regulations to comply with the current legal status of the rules.

*H. Executive Order 13045*

1. What Is Executive Order 13045?

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866 and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

2. Does Executive Order 13045 Apply to This Final Rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

*I. Paperwork Reduction Act*

1. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that requires OMB approval under the PRA unless it has been approved by OMB and displays a currently valid

OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070-0012 (EPA ICR No. 574).

2. Does the Paperwork Reduction Act Apply to This Final Rule?

No. There are no information collection requirements associated with today's rule.

*J. Executive Order 13132*

1. What Is Executive Order 13132?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

2. Does Executive Order 13132 Apply to This Final Rule?

No. This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive order do not apply to this rule.

*K. Executive Order 13084*

## 1. What Is Executive Order 13084?

Under Executive Order 13084, 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 or unless EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, 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."

## 2. Does Executive Order 13084 Apply to This Final Rule?

No. This rule does not significantly or uniquely affect the communities of Indian tribal governments because it does not significantly or uniquely affect their communities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

*L. Executive Order 12875*

## 1. What Is Executive Order 12875?

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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 or EPA consults with those governments.

## 2. Does Executive Order 12875 Apply to This Rule?

No. Today's action will have no impact upon State, local, or tribal governments. The amending regulations promulgated today reflect current law and will result in no legal impact on public or private entities.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 18, 2000.

**Timothy Fields, Jr.,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

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 to Part 300—[Amended]**

2. Table 1 of appendix B to part 300 is amended by removing the site "Georgia-Pacific Corporation Hardwood Sawmill", Plymouth, NC.

[FR Doc. 00–24672 Filed 9–27–00; 8:45 am]

**BILLING CODE 6560–50–P**

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

**[DA 00–2106; MM Docket No. 00–75; RM–9863]**

**Radio Broadcasting Services; Kahului, HI**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 223C2 to Kahului, Hawaii, as that community's second local FM transmission service, in response to a petition for rule making filed by New West Broadcasting. See 65 FR 33798, May 25, 2000. The allotment requires a site restriction 10.5 kilometers (6.5 miles) southeast of Kahului at coordinates 20–50–24 NL and 156–23–14 WL.

**DATES:** Effective October 30, 2000. A filing window for Channel 223C2 at Kahului, Hawaii, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Joyner, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 00–75, adopted September 6, 2000, and released September 15, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by adding Channel 223C2 at Kahului.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 00–24880 Filed 9–27–00; 8:45 am]

**BILLING CODE 6712–01–P**

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

**[DA 00–2106; MM Docket No. 00–74; RM–9862]**

**Radio Broadcasting Services; Sterling, CO**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 248C3 to Sterling, Colorado, as that community's third local FM transmission service, in response to a petition for rule making filed by Ling Broadcasting. See 65 FR 33798, May 25, 2000. Coordinates used for this proposal are the city reference at 40–37–32 NL and 103–12–25 WL.

**DATES:** Effective October 30, 2000. A filing window for Channel 248C3 at