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FOR FURTHER INFORMATION CONTACT: Stuart P. Hersh, Associate Regional Counsel (C-14J), Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604, or call (312) 353-9484.

Authority: The Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. sections 9601-9675, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. sections 6901-6992, and the Illinois Environmental Protection Act, as amended, 415 ILCS section 5/22.2a.

Dated: October 19, 1998.

James Mayka,

Acting Director, Superfund Division, Region 5.

[FR Doc. 98-28865 Filed 10-27-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-UT; FRL-6037-5]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Utah's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 31, 1998, the State of Utah submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Utah's application, provides a 45-day public comment period and an opportunity to request a public hearing on the application. Utah has provided a certification that this program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will be established.

DATES: Comments on the authorization application must be received on or before December 14, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number PB-402404-UT (in duplicate) to: Bruce Cooper, Environmental Protection Agency, Region VIII, 8P3-T, 999 18th St., Suite 500, Denver, CO 80202-2466. Comments, data, and requests for a public hearing may also be submitted electronically to: cooper.bruce@epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT:

Dave Combs, Regional Toxics Team Leader, 999 18th St., Suite 500, 8P3-T, Denver, CO 80202-2466; telephone: 303-312-6021; e-mail address: combs.dave@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL-5389-9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA authorization, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA authorization.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA

authorization, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized until such time as EPA disapproves the program application or withdraws the authorization.

Section 404(b) of TSCA provides that EPA may approve a program application only after providing notice and an opportunity for a public hearing on the application. Therefore, by this notice EPA is soliciting public comment on whether Utah's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. Utah has provided a self-certification letter from the Governor that its program meets the requirements for authorization of a State program under section 404 of TSCA. The State of Utah has requested interim approval of the compliance and enforcement program portion of the Utah Lead Program. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission (August 31, 1998). If EPA finds that the program does not meet the requirements for authorization of a state program, EPA will disapprove the program application, at which time a notice will be issued in the **Federal Register** and the Federal program will be established in Utah.

II. State Program Description Summary

The following summary of Utah's program has been provided by the applicant:

A. Legislative Summary

During the 1998 Utah legislative session, Senate Bill 118 (SB 118) was unanimously passed by both the House and the Senate. SB 118 amends section 19-2-104, Utah Code Annotated (UCA) of the Utah Air Conservation Act, which provides authority for the Utah Air Quality Board (Board) to make administrative rules for a Utah Lead-Based Paint (LBP) Program. The legislation specifically gives authority to the Board to make rules for training, certification, and performance requirements in accordance with the section 402 and 404 of subchapter IV of the Toxic Substances Control Act (TSCA). SB 118 also provides the Board with the authority to establish work practice, certification and clearance sampling requirements for persons who conduct LBP inspections in facilities subject to TSCA Title IV. The legislation also specifically gives the Board the

authority to establish certification requirements for inspectors, risk assessors, supervisors, project designers or abatement workers when performing LBP activities subject to TSCA Title IV.

The Utah Attorney General's Office reviewed the content of SB 118 prior to enactment. It determined that SB 118 would provide the Board with the necessary legislative authority to develop a Utah LBP Program that is as protective as the Federal LBP Program (Title 40 Code of Federal Regulations (CFR) part 745, subpart L).

B. Administrative Rule Summary

On April 25, 1998, the Utah Department of Environmental Quality/Division of Air Quality (UDEQ/DAQ) provided the Board with a proposed administrative rule (R307-840--Lead-Based Paint Accreditation, Certification and Work Practice Standards) for the Utah LBP Program. R307-840, adopts substantially all of 40 CFR part 745, subpart L by reference as the administrative rule regulating LBP activities in target housing and child-occupied facilities. The UDEQ/DAQ also proposed to add a new subsection to the Utah Air Conservation Rules (R307-1-2.5.1.f, Utah Administrative Code (UAC)) that allows any hearings or other proceedings pertaining to R307-840, to be conducted informally.

On August 12, 1998, the UDEQ/DAQ reported back to the Board with the comments received during the public hearing. The Board reviewed those comments and subsequently adopted the UDEQ/DAQ proposed administrative rules R307-840, UAC (appendix 4) and R307-1-2.5.1.f, UAC (appendix 5) with an effective date of August 13, 1998.

R307-840, UAC incorporates the Federal regulation with a few modifications to facilitate LBP program implementation by the State of Utah. The UDEQ/DAQ considers these modifications necessary to implement an effective LBP program and also considers these modifications to be as protective as the Federal LBP program. The following paragraphs provide a brief summary of the four sections of State Administrative Rule R307-840, UAC. Each section will identify which parts of the Federal regulations in 40 CFR part 745, subpart L are adopted by reference and give a brief overview of the contents of each section.

Throughout R307-840, UAC, references to "EPA" (Environmental Protection Agency) have been replaced with "Executive Secretary" (meaning Executive Secretary of the Utah Air Quality Board) when "EPA" is used for LBP program administrative activities.

1. *R307-840-1—Purpose and applicability.* This section uses the regulatory language found in 40 CFR 745.220 and modifies that language to facilitate LBP program implementation in Utah. These modifications to the Federal regulations in this and following sections are considered nonsubstantive by the UDEQ/DAQ and are considered as protective as the Federal LBP regulations.

2. *R307-840-2—Definitions.* This section substantially adopts 40 CFR 745.223 by reference. The only significant change to Federal definitions are those that reference "TSCA Section 403." EPA has not yet promulgated final rules pursuant to TSCA section 403. The UDEQ/DAQ could not propose administrative rules to the Board which included a reference for a regulation which was not yet final. The UDEQ/DAQ chose to substitute an existing document (EPA Guidance on Identification of LBP Hazards - 60 FR 47248-57) which has been used by EPA as interim guidance during the TSCA section 403 rulemaking process.

3. *R307-840-3—Accreditation, certification and work standards: target housing and child-occupied facilities.* This section adopts 40 CFR 745.225(a)–(g), 745.225(i), 745.226(a)–(h), 745.227, and 745.233 from the Federal LBP regulations by reference. This section of the Utah LBP rule outlines the requirements for course accreditation, certification of individuals and firms as well as establishing the Utah LBP work practice standards.

Section R307-840-3, UAC creates some minor modifications to the Federal LBP regulations to facilitate program implementation in Utah. The Utah rules provide additional flexibility during the course accreditation process by allowing instructors to use experience from Utah accredited courses as relevant training experience, as well as allowing training experience from EPA-accredited and EPA-authorized State and Indian Tribe accredited courses. The Utah LBP rules require course providers to submit all course materials for approval when seeking course accreditation even if the course has been previously approved by another State, Indian Tribe, or the EPA. The Utah rules also require that LBP activities performed in the State of Utah must be performed according to the work practice standards of 40 CFR 745.227, which are adopted by reference. However, documented methodologies for the sampling of paint, dust and soil that are found in the regulations, guidance, methods or protocols used by other States, Indian Tribes, or EPA may not be considered appropriate methodologies in Utah.

4. *R307-840-4—Lead-based paint fees.* This section adopts a fee schedule for the Utah LBP Program during the first year of program implementation as allowed by section 63-38-3.2(5)(a) UAC. In subsequent years, LBP fees will be incorporated into the UDEQ Fee Schedule which is approved by the Utah Legislature annually.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number PB-404404-UT. Copies of this notice, the State of Utah's authorization application, and all comments received on the application are available for inspection in the Region VIII office, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket is located at EPA, Region VIII, 8P3-T, 999 18th St., Suite 500, Denver, CO 80202.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a non-confidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:
cooper.bruce@epa.com

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number PB-402404-UT. Electronic comments on this document may be filed online at many

Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (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. This 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.

C. 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 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 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.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 21, 1998.

William Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 98-28866 Filed 10-27-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6180-9]

Final Second Modification of General NPDES Permit (GP) for Alaskan Mechanical Placer Miners (Permit Number AKG-37-0000)

AGENCY: Environmental Protection Agency (EPA).