

Dated: February 27, 1999.

Sylvia Lowrance,

*Acting Assistant Administrator for
Enforcement and Compliance Assurance.*

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ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-VA; FRL-6063-5]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Authorization of the Commonwealth of Virginia's Lead-Based Paint Activities Program

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice; final approval.

SUMMARY: On December 19, 1997, the Commonwealth of Virginia 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 404 of the Toxic Substances Control Act (TSCA). Today's notice announces the approval of the Commonwealth of Virginia's application, and the authorization of the Department of Professional and Occupation Regulation's lead-based paint program to apply in the Commonwealth of Virginia effective March 10, 1999, in lieu of the corresponding Federal program under section 402 of TSCA.

DATES: Lead-based paint activities program authorization was granted to the Commonwealth of Virginia effective on March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3WC33), Waste and Chemicals Management Division, Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103-2029, telephone: (215) 814-2067, e-mail address: gerena.enid@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Title IV of TSCA, Lead Exposure Reduction, 15 U.S.C. 2681-2692, and regulations promulgated thereunder, States and Tribes that choose to apply for lead-based paint activities program authorization must submit a complete application to the appropriate Regional EPA office for review. Complete, final applications are subject to a public comment period, and

must be approved or disapproved by EPA within 180 days of receipt. To receive EPA approval, 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 adequate enforcement (section 404(b) of TSCA). Included in Virginia's application is a program certification signed by Governor James S. Gilmore, III certifying that the Commonwealth of Virginia lead-based paint activities program: (1) Is at least as protective of human health and the environment as the corresponding Federal program; and (2) provides adequate enforcement. The inclusion of this certification requires that the program be authorized by EPA until such a time as the Administrator disapproves the program application or withdraws the program authorization.

Notice of Virginia's application, a solicitation for public comment regarding the application, and background information supporting the application was published in the **Federal Register** of April 29, 1998 (63 FR 23464) (FRL-5781-6).

As determined by EPA's review and assessment, Virginia's application successfully demonstrated that the State's lead-based paint activities program achieves the protectiveness and enforcement criteria, as required for Federal authorization. Furthermore, no public comments were received regarding any aspect of Virginia's application.

II. 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.

III. Withdrawal of Authorization

Pursuant to TSCA section 404(c), the Administrator may withdraw a State or Tribal lead-based paint activities program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

IV. 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: February 19, 1999.

W. Michael McCabe

Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6307-4]

Final NPDES General Permit for Oil and Gas Exploration, Development and Production Facilities in Cook Inlet, AL (AKG285000)

AGENCY: Environmental Protection Agency (EPA), Region 10.

ACTION: Notice of final NPDES general permit.

SUMMARY: The Director, Office of Water, EPA Region 10, is issuing the National Pollutant Discharge Elimination System

(NPDES) General Permit for Cook Inlet, Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251 *et seq.* The permit authorizes discharges from existing oil and gas exploration, development and production platforms and shore-based facilities in Upper Cook Inlet (north of the Forelands). The permit also authorizes future exploratory operations in Cook Inlet north of the line between Cape Douglas on the west, and Port Chatham on the east. All dischargers covered by this permit fall within the Coastal and Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subparts A and D).

Discharges authorized by this permit include drilling muds and cuttings; produced water; deck drainage; sanitary and domestic wastes; completion, workover, well treatment and test fluids; and miscellaneous discharges. Discharges from facilities in the Onshore Subcategory (40 CFR Part 435, Subpart C), or to wetlands adjacent to the territorial seas and inland coastal waters of Alaska are not authorized by this permit. The permit does not authorize discharges from "new sources," as defined in 40 CFR 122.2.

The existing permit was published in the **Federal Register** at 51 FR 35460 on October 3, 1986, and authorized discharges from oil and gas facilities in Upper Cook Inlet, and from oil and gas exploration wells in federal waters offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sales 55 (Gulf of Alaska) and 60 (Cook Inlet) in state waters offered for lease by the State of Alaska in Lease Sales 32, 33, 35, 40, 46A, and 49. The permit issued in 1986 also covered areas offered under state lease sales held during the effective period of the permit. The area of coverage for the permit issued today is not linked to lease sale areas, and covers all state and federal waters in Cook Inlet north of the line between Cape Douglas on the west and Port Chatham on the east.

A total of 23 facilities were covered under the 1986 general permit. Of those 23 facilities, 18 are currently active. All of those permittees have complied with the reissuance application procedures and indicated preference to be covered under this general permit.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Mann, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 553-1583, or via e-mail to the following address: mann.laurie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Public Comment

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA proposed and solicited comments on NPDES general permit AKG285000 at 60 FR 48796 (September 20, 1995). The public comment period was scheduled to close November 30, 1995, but was extended to January 29, 1996 at 60 FR 6155 (November 30, 1995). Public hearings were held in Anchorage on November 28, 1995, Soldotna on November 29, 1995, and Homer on January 25, 1996.

EPA Region 10 received over 350 letters, petitions and verbal comments from tribal, federal and state governments, companies, non-profit organizations, and individuals. All comments specifically addressing the draft Cook Inlet permit which were submitted during the public comment period were considered during finalization of the permit. Changes have been made from draft permit to the final permit in response to public and governmental comment. All comments, along with the EPA's responses, are summarized in the Response to Comments, which may be obtained from Laurie Mann at the above address, or may be obtained from the EPA Region 10 web site at www.epa.gov/r10earth/offices/water/ow.htm.

Other Legal Requirements

Ocean Discharge Criteria Evaluation

EPA Region 10 has determined that discharges occurring under the proposed permit are in compliance with section 403 of the Clean Water Act. These discharges will not cause unreasonable degradation as long as the depth-related conditions, discharge restrictions, and environmental monitoring requirements in the permit are met. For example, all discharges are prohibited within the boundaries, or within 1,000 meters of a coastal marsh, river delta, river mouth, and designated Critical Habitat Areas, Areas of Special Attention, National Park, State Game Refuges, and State Game Sanctuaries. The permit also prohibits discharges in Kamishak Bay, Chinitna Bay, and Tuxedni Bay.

Coastal Zone Management Act

The State of Alaska, Office of Management and Budget, Division of Governmental Coordination found this action to be consistent with the approved Alaska Coastal Zone Management Program.

Endangered Species Act

EPA has determined that issuance of the Cook Inlet General Permit will not