

refer to: In the Matter of Old World Trade Center Superfund Site.

FOR FURTHER INFORMATION CONTACT:

Karen L. Peaceman, Mail Code C-14J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5751.

SUPPLEMENTARY INFORMATION: The following parties executed binding certification of their consent to participate in the settlement: 5900 Associates, L.L.C. and Peter Adamo.

The settling parties will pay \$100,000 for response costs related to the Old World Trade Center Superfund Site, if the United States Environmental Protection Agency determines that it will not withdraw or withhold its consent to the proposed settlement after consideration of comments submitted pursuant to this notice.

U.S. EPA may enter into this settlement under the authority of Section 122(h) of CERCLA. Section 122(h)(1) authorizes EPA to settle any claims under Section 107 of CERCLA where such claim has not been referred to the Department of Justice. Pursuant to this authority, the agreement proposes to settle with parties who are potentially responsible for costs incurred by EPA at the Old World Trade Center Superfund Site.

A copy of the proposed administrative order on consent and additional background information relating to the settlement are available for review and may be obtained in person or by mail from Karen L. Peaceman, Mail Code C-14J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The U.S. Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this notice.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*

William E. Munro,

Director, Superfund Division.

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ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-IN; FRL-6593-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On April 12, 2000, the State of Indiana 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 Indiana's application, provides a 45-day public comment period, and provides an opportunity to request a public hearing on the application. Indiana has provided a certification that its 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 take effect in Indiana.

DATES: Comments, identified by docket control number PB-402404-IN, must be received on or before September 22, 2000. In addition, a public hearing request may be submitted on or before September 22, 2000.

ADDRESSES: Comments and the public hearing request may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PB-402404-IN in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Ludmilla Koralewska, State of Indiana Project Officer, Pesticides and Toxics Branch, (DT-8J), U.S. Environmental Protection Agency, Region V, 77 West Jackson Blvd., Chicago, IL 60604; telephone: (312) 886-3577; e-mail address: koralewska.ludmilla@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to firms and individuals engaged in lead-based paint activities in Indiana. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this

action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number PB-402404-IN. The official record consists of the documents specifically referenced in this action, this notice, the State of Indiana's authorization application, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at the U.S. EPA Region V Office, U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division, Pesticides and Toxics Branch, Toxics Program Section, (DT-8J), 77 West Jackson Blvd., Chicago, IL 60604.

C. How and to Whom Do I Submit Comments and Hearing Requests?

You may submit comments and hearing requests through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PB-402404-IN in the subject line on the first page of your response.

1. *By mail.* Submit your comments and hearing requests to: Environmental Protection Agency, Region V, Waste, Pesticides and Toxics Division,

Pesticides and Toxics Branch, (DT-8)), 77 West Jackson Blvd., Chicago, IL 60604.

2. *In person or by courier.* Deliver your comments and hearing requests to: U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division, Pesticides and Toxics Branch, (DT-8)), 77 West Jackson Blvd, Chicago, IL 60604. The regional office is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

3. *Electronically.* You may submit your comments and hearing requests electronically by e-mail to: "koralewska.ludmilla@epamail.epa.gov" or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data and hearing requests will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and hearing requests in electronic form must be identified by docket control number PB-402404-IN. Electronic comments and hearing requests may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What Action is the Agency Taking?

The State of Indiana has provided a certification letter stating that its lead-based paint training and certification program meets the requirements for

authorization of a State program under section 404 of TSCA and has requested approval of the Indiana lead-based paint training and certification program. Therefore, pursuant to section 404 of TSCA, the program is deemed authorized as of the date of submission (i.e., April 12, 2000). If EPA subsequently finds that the program does not meet all the requirements for approval of a State program, EPA will work with the State to correct any deficiencies in order to approve the program. If the deficiencies are not corrected, a notice of disapproval will be issued in the **Federal Register** and a Federal program will be implemented in the State.

Pursuant to section 404(b) of TSCA (15 U.S.C. 2684(b)), EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before approving the application. Therefore, by this notice EPA is soliciting public comment on whether the Indiana application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 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. 2681-2692), 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 of TSCA, 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. 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 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 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 approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, 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. This authorization becomes ineffective, however, if EPA disapproves the application or withdraws the program authorization.

III. State Program Description Summary

The following summary of the State of Indiana's proposed program has been provided by the applicant.

Under Indiana Statute IC 13-17-14-5, the Indiana Department of Environmental Management (Department), was designated the State agency to develop and administer a lead-based paint licensing program and training course approval program for the State of Indiana. The purpose of the program is to ensure that a person conducting lead-based paint activities in target housing, child-occupied facilities, and any other type of building does so in a manner that safeguards the environment and protects the health of the building's occupants, especially children who are not more than 6 years of age. The Department is granted all powers necessary to fulfill the duties as prescribed in Indiana Statutes and to bring any and all enforcement actions as necessary, including but not limited to civil and criminal actions.

326 IAC 23, Indiana Administrative Code, has been promulgated by IDEM

under the authority of IC 13-17-14-5, Indiana Statute, to ensure that persons who perform lead-based paint activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring that before a person performs, supervises, or offers to perform or supervise a lead-based paint activity involving target housing (built before 1978) or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, the person shall be licensed by the Department.

Both lead contractors and individual lead professionals must be licensed to perform any of the following lead-based paint activities: Inspection, risk assessment, project design, supervision or conducting work on a lead-based paint project. These rules do not apply to the following: A person conducting an inspection under the authority of IC 22-8-1.1 (the Indiana Occupational, Safety, and Health Act) or a person who performs lead-based paint activities within a residential dwelling that the person owns, unless the residential dwelling is occupied by a person, other than the owner or owner's immediate family while these activities are being performed, or a child who is 6 years of age or younger and resides in the building and has been identified as having an elevated blood lead level.

Licensing of individuals is offered in the following disciplines: Lead inspector, risk assessor, project designer, supervisor, worker, and contractor. To be licensed, an individual must meet the discipline, education and experience requirements, successfully complete an Indiana-approved lead-based paint training course in the discipline in which they are seeking licensure, and in the case of lead inspectors, risk assessors, and supervisors, to pass the appropriate third party exams administered by the Department.

Check-lists are used by the Department in the review process of both individual and contractor licenses. In addition to the above licensing requirements, to be licensed as a contractor:

1. A company shall not allow an agent or employee of the contractor to exercise control over a lead-based paint activities project, come into contact with lead-based paint in connection with lead-based paint activities, or engage in lead-based paint activities unless the agent or employee is licensed under 326 IAC 23.

2. The contractor and all of its agents and employees shall, when performing lead-based paint activities projects, comply with all work practice standards

as found in 326 IAC 23-4 using documented methodologies as specified in 326 IAC 23-4 and Indiana's Nonrule Policy.

3. Require that at least one licensed lead-based paint project supervisor is responsible for direct supervision of workers in the work area of the project and that workers have access to the supervisors throughout the duration of the project.

4. The contractor shall ensure that the current lead-based paint licenses of all supervisors and workers are kept on the job site during all lead-based paint activities. Furthermore, the contractor shall ensure that all lead-based paint activities records are kept in accordance with the manner prescribed in 326 IAC 23.

The Department does not address multi-dwelling clearance testing specifically. The Department instead addresses clearance testing for all projects, regardless of multi-dwelling or single dwelling status as outlined in 326 IAC 23-4-10.

The Department approves training courses which prepare individuals for licensure for the following disciplines: Inspector, risk assessor, project designer, supervisor, and worker. No person may offer, advertise, claim to provide, or conduct a lead training course that is represented as qualifying a person for licensure unless the course has received approval from the Department. Applicants for training course approval must meet all requirements as outlined in 326 IAC 23-3 (Indiana's Rule of Lead-Based Paint Training Courses and Instructors). Approval requires, but is not limited to the following: approval of principal instructors, use of only approved instructors, ownership by or employment of an approved training manager, approval of all course materials/curriculums, and development and implementation of recordkeeping requirements. The Department further requires that the training manager submits a letter to the Department that indicates that the course meets the applicable requirements of the rule (326 IAC 23-3-2(1)(e)). As a part of this, the training manager must ensure that only qualified instructors and training managers are used as outlined in 326 IAC 23-3-8. The training provider must also submit an application for each course approval it is seeking. This application requires a signed certification that there is no misrepresentations in, or falsifications of, information submitted in the application or addenda and further certifies that the course will meet all Federal, State and local regulations

including 40 CFR part 745. This ensures that the course meets the requirements in both the Federal and State rules and that training managers and instructors meet the minimum requirements as outlined. 326 IAC 23-3-6 requires that the training managers allow the Department to audit the training course to verify compliance with the lead-based paint rules. During the desk reviews (for contingent approval) and course audits (for full approval), the Department will use check-lists to determine the training course provider eligibility for approval.

Enforcement Capabilities

Indiana Administrative Code 13-30 empowers the State of Indiana or its designated representative to bring an action for declaratory and equitable relief in the name of the State of Indiana for the protection of the environment of Indiana from significant pollution, impairment, or destruction. In addition, the Indiana audit law, amended in May 1999, presents no barrier to the authorization, approval, and/or delegation of the lead-based paint program.

The Department has the right, under 326 IAC 23-2-7, to deny an application for an individual or contractor license, to reprimand a license (issuance of warning letters), or to suspend or revoke a license for any reason as so outlined in this provision. The Department did not include modification within the licensing portion of its rule. Unlike the EPA, the Department does not modify licenses. Under 326 IAC 23-3-9, the Department may suspend, revoke, or modify training course provider approval. The Department does allow modification for training course providers, since a training provider may from time to time sell its business (transfer of ownership), change its name or have changes in its training managers, instructors, and so on. This allows the Department the capability to make any necessary modifications to the training course approval.

Staff Training

The Department will ensure that all lead-based paint staff (including inspectors, licensing and training provider staff, and enforcement staff) are trained at EPA-authorized lead-based paint training courses. In addition, the Department will ensure that all staff receive the necessary training in computer use, enforcement procedures, and standards for inspections. Staff will be updated and trained accordingly, as to any changes in Federal, State, and local regulations pertaining to lead-based paint activities.

IV. Federal Overfiling

Section 404(b) of TSCA 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.

V. Submission to Congress and the Comptroller General

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 certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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 this document in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

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

Dated: July 20, 2000.

Francis X. Lyons,

Regional Administrator, Region V.

[FR Doc. 00-20019 Filed 8-7-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6843-1]

State Program Amendment; Addendum to EPA/LDEQ MOA for Administration of the National Pollutant Discharge Elimination System (NPDES) Program; Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment to the Memorandum of Agreement.

SUMMARY: A Court Order dated October 1, 1999, in the case *Sierra Club et al. v. Clifford et al.*, No. 96-0527 (E.D. La.), directs EPA to amend the Memorandum Of Agreement (MOA) for the Louisiana Pollutant Discharge Elimination System (LPDES) Program pursuant to section 402 of the Clean Water Act (CWA). By

letter dated March 30, 2000, the Secretary for the Louisiana Department of Environmental Quality (LDEQ) agreed to amend the MOA to include an addendum addressing the Court's order. EPA is providing notice on the addendum to the LPDES program signed by Secretary Givens on March 31, 2000. Pursuant to the Court orders dated October 1, 1999, and June 21, 2000, EPA was ordered to sign and approve the MOA revisions. Acting EPA Regional Administrator, Sam Coleman, signed the MOA addendum approving the MOA revision on June 28, 2000. The procedures for revising NPDES state programs are set forth in federal regulations found at 40 CFR 123.62. 40 CFR 123.62(b)(4) and Section X of the MOA provide that LPDES program revisions become effective once the EPA Region 6 Administrator approves revisions submitted by the State. Approval of substantial revisions must be noticed in the **Federal Register**. Today, to satisfy its regulatory responsibilities and to allow for public participation, EPA provides notice of a comment period on its approval of such program revisions. Having approved LDEQ's program amendments, EPA now seeks public input on the amendment, and therefore, is providing opportunity for the public to provide comments on this action to determine if further action is appropriate. Upon consideration of information gathered under this comment period EPA may request the Court to allow EPA to make appropriate changes.

DATES: EPA Region 6 will accept written comments on the revisions to the MOA through September 7, 2000.

ADDRESSES: Written comments must be submitted to: Ms. Evelyn Rosborough; Customer Service Branch; Water Quality Protection Division; EPA Region 6; 1445 Ross Avenue; Dallas, Texas 75202; Mail Stop Code: (6WQ-CA); (214) 665-7515.

FOR FURTHER INFORMATION CONTACT: Ms. Evelyn Rosborough, Customer Service Branch; Water Quality Protection Division, EPA Region 6; 1445 Ross Avenue; Dallas, TX 75202; telephone: (214) 665-7515. Copies of the amended MOA submitted to EPA by LDEQ, are available for review at EPA Region 6, Customer Service Branch, Water Quality Protection Division; 1445 Ross Avenue, Dallas, TX 75202, between 8:00 a.m. and 4:30 p.m., Monday through Friday. EPA recommends that you write or call the contact above for an appointment, so the record(s) will be available at your convenience. The MOA signed August 27, 1996, and other pertinent regulations may be viewed at website

<http://yosemite.epa.gov/r6/genper.nsf/pages/npdespn>.

PUBLIC HEARING PROCEDURES: EPA's comments and public hearing procedures may be found at 40 CFR 123.62(b)(2). The comment period during which written comments on the amended MOA may be submitted extends for thirty (30) days from the date of this Notice. During the comment period any interested person may request a public hearing by filing a written request which must state the issues to be raised. A public hearing will be held if there is significant public interest based on requests.

SUPPLEMENTARY INFORMATION: As a result of litigation in *Sierra Club et al. v. Clifford et al.*, No. 96-0527 (E.D. La.), the Court ordered, among other things, that EPA Region VI amend its MOA with Louisiana. The principal regulations governing the MOA are found in 40 CFR 123.24. These regulations provide that, among other requirements, the MOA shall be submitted to EPA by the state that seeks to administer the NPDES program. The MOA specifies the responsibilities of EPA, and the state and provides structure for the state's program management and EPA's program oversight. The MOA provides that EPA will review certain preliminary draft permits and permit modifications to ensure that permits will comply with federal guidelines and requirements and may review others.

The MOA provides provisions for modification as well. Section X of the MOA (modification) provides that the MOA shall be reviewed and revised appropriately at least within five years of the effective date. Either EPA or LDEQ may initiate action to modify the MOA at any time. Any substantial changes must be in writing and signed by the LDEQ Secretary and the EPA Regional Administrator. The MOA addendum submitted by the state of Louisiana was signed by the Secretary of LDEQ on March 31, 2000, and by the Acting EPA Regional Administrator on June 28, 2000.

The language at issue in this approved MOA revision is found in paragraphs 6, 7 and 9 of the Court's October 1, 1999, Order, which state the following:

"(6) The defendants [EPA] shall implement the total maximum daily loads in permits by amending the agreement with Louisiana under Section 402 of the Clean Water Act to require that the limits for point sources established in total maximum daily loads be achieved:

(a) By any point source that discharges pursuant to a new permit