

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6466-3]

Operating Industries, Inc. Landfill Superfund Site; Notice of Proposed CERCLA Administrative De Minimis Settlement**AGENCY:** Environmental Protection Agency.**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), the Environmental Protection Agency ("EPA") is hereby providing notice of a proposed administrative *de minimis* settlement concerning the Operating Industries, Inc. Landfill Superfund site in Monterey Park, California (the "OII Site"). Section 122(g) of CERCLA, 42 U.S.C. 9622(g), provides EPA with the authority to enter into administrative *de minimis* settlements. This settlement is intended to resolve the liabilities of 76 settling parties for the OII Site under CERCLA and section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973. The settlement will also resolve OII Site-related claims by California Department of Toxic Substances Control against the settling parties. The settling parties will pay a total of \$5,477,209 toward OII Site response costs.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. In accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d), commenters may request an opportunity for a public meeting in the affected area. EPA will consider all comments it receives during this period, and may modify or withdraw its consent to the settlement if any comments disclose facts or considerations indicating that the settlement is inappropriate, improper, or inadequate.

DATES: Comments must be submitted on or before November 29, 1999.**ADDRESSES:** Comments and requests for a public meeting should be addressed to the Regional Hearing Clerk, U.S. EPA Region IX (ORC-1), 75 Hawthorne Street, San Francisco, CA 94105, and should refer to: Operating Industries, Inc. Landfill Superfund Site, Monterey Park, CA, U.S. EPA Docket No. 99-09. The proposed settlement and additional background information relating to the settlement are available for inspection, and EPA's response to any comments received will be available for inspection,

at the U. S. EPA Region IX Superfund Records Center, 95 Hawthorne Street, Suite 403 S, San Francisco, CA 94105; at the Bruggemeyer Memorial Library, 318 South Ramona Avenue, Monterey Park, CA 91754; the Montebello Regional Library, 1550 West Beverly Boulevard, Montebello, CA 90640; and the Chet Holifield Library, 1060 South Greenwood Avenue, Montebello, CA 90640. A copy of the proposed Administrative Order on Consent may be obtained from the Regional Hearing Clerk at the address provided above.

FOR FURTHER INFORMATION CONTACT: Arthur Haubenstock, Assistant Regional Counsel, U.S. EPA Region IX (ORC-3), 75 Hawthorne Street, San Francisco, CA 94105; E-Mail: haubenstock.arthur@epa.gov; Tel: (415) 744-1355.

Dated: October 19, 1999

Nancy Lindsey,*Acting Director, Superfund Division, Region IX.*

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6466-9]

San Gabriel Valley Superfund Sites; Notice of Proposed Administrative Settlement**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9600 *et seq.*, notice is hereby given that on September 30, 1999, the United States Environmental Protection Agency ("EPA") and the United States Department of Justice ("DOJ") executed a proposed Prospective Purchaser Agreement pertaining to a property transaction within the San Gabriel Valley Superfund Sites. The proposed Prospective Purchaser Agreement would resolve certain potential claims of the United States under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and section 7003 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6973, against the Industry Urban Development Agency (the "Purchaser") and the City of Industry, California. The Purchaser plans to acquire a 17 acre parcel located within the Puente Valley

Operable Unit of the San Gabriel Valley Superfund Sites near Los Angeles, California for the purposes of developing and operating a solid waste transfer and recycling station. The proposed settlement requires the Purchaser to make a one-time payment of \$25,000, which would be used for response actions in the Puente Valley Operable Unit.

For thirty (30) calendar days following the date of publication of this document, EPA will receive written comments relating to this proposed settlement. If requested prior to the expiration of this public comment period, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before November 29, 1999.**Availability**

The proposed Prospective Purchaser Agreement and additional background documentation relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA, 94105. A copy of the proposed settlement may also be obtained from EPA at the address listed below. Comments should reference "Industry Urban-Development Agency Prospective Purchaser Agreement, Docket No. 99-11, San Gabriel Valley Superfund Sites" and should be directed to Brett Moffatt at the address below.

FOR FURTHER INFORMATION CONTACT: Brett Moffatt, Assistant Regional Counsel (ORC-3), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA, 94105; E-mail:

moffatt.brett@epamail.epa.gov; Phone:(415) 744-1374.

Keith A. Takata,*Director, Superfund Division, Region IX.*

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ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-62162; FRL-6386-8]

Asbestos-Containing Materials in Schools; State Request for Waiver from Requirements**AGENCY:** Environmental Protection Agency (EPA).

ACTION: Notice of proposed waiver.

SUMMARY: EPA has received from Texas a request for a waiver from the Agency's asbestos-in-schools program. A waiver of these requirements will be granted if EPA determines, after notice and comment and opportunity for a public hearing, that Texas is implementing or intends to implement a program of asbestos inspection and management at least as stringent as EPA's program. This notice announces an opportunity for a public hearing on the Texas waiver request and solicits written comments.

DATES: Written comments under docket control number OPPTS-62162 must be received on or before December 28, 1999. 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 December 28, 1999, 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 Texas following the comment period. EPA will announce the date of the public hearing in the **Federal Register**.

ADDRESSES: Written comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided under Unit I. of "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, you must identify docket control number OPPTS-62162 on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Neil Pflum, Asbestos Coordinator, (6PD-T), Region VI, Environmental Protection Agency, 1445 Ross Ave., Dallas, TX 75202; telephone: (214) 665-2295; e-mail: pflum.neil@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 special interest to teachers and other school personnel, their representatives, and parents in Texas, and asbestos professionals working in Texas. Since other entities may also be interested, the Agency has not attempted to describe all entities that may be affected by this action. If you have any questions regarding the applicability of this action to any entity, contact the person under "FOR FURTHER INFORMATION CONTACT."

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

EPA has established an official record for this action under docket control number OPPTS-62162. The official record consists of the documents referenced in this action, as well as any public comments received during the comment period, and other related information. The official record, which includes printed versions of any electronic comments, is available for inspection in Rm. 12D13 (Library 12th floor), EPA Region VI, 1445 Ross Ave., Dallas, TX. The Library is open from 8 a.m. to noon, Monday through Friday, excluding legal holidays. The telephone number is (214) 665-6427.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, you must identify docket control number OPPTS-62162 on the first page of your response.

1. *By mail.* Submit your comments to: Neil Pflum, Region VI Asbestos Coordinator (6PD-T), Environmental Protection Agency, 1445 Ross Ave., Dallas, TX 75202.

2. *In person or by courier.* Deliver your comments to: Rm. 12D13 (Library 12th floor), EPA Region VI, 1445 Ross Ave., Dallas, TX. The Library is open from 8 a.m. to noon, Monday through Friday, excluding legal holidays. The telephone number is (214) 665-6427.

3. *Electronically.* You may submit your comments by e-mail to: pflum.neil@epa.gov, or mail your computer disk to the address identified above. 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 standard disks in WordPerfect 5.1/6.1.

II. Background

A. What Action is the Agency Taking and under What Authority?

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

In 1987, under TSCA section 203, the Agency promulgated regulations that require the identification and management of asbestos-containing material by local education agencies (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 the State is located.

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 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 include schools in Indian country. Such schools would remain subject to EPA's asbestos-in-schools program.

B. When Did Texas Submit its Request for a Waiver and How is EPA Proposing to Respond?

On July 27, 1999, Texas Governor George W. Bush, submitted to Gregg A. Cooke, Regional Administrator, EPA Region VI, a letter requesting a full waiver of the requirements of EPA's asbestos-in-schools program.

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

C. What was EPA's Determination with Regard to the Completeness of Texas' Waiver Request?

The Texas waiver request has been deemed complete by EPA and contains the following:

1. A copy of the Texas provisions that include its program of asbestos inspection and management in schools. These consist of: The Texas Asbestos Health Protection Act (Texas Revised Civil Statutes Article 4477-3a) and implementing regulations (Texas

Administrative Code, Title 25, Part I, Chapter 295, Subchapter C "Texas Asbestos Health Protection," Sections 295.31-295.71).

2. The name of the Texas agency responsible for administering and enforcing the requirements of a waiver, namely the Texas Department of Health (TDH). Responsible officials include: John A. Jacobi, P.E., Chief, Bureau of Environmental Health; Claren Kotrla, Director, Toxic Substances Control Division; Todd F. Wingler, Chief, Asbestos Programs Branch; and Gordon Leeks, Inspector, PCB/AHERA program—telephone: (512) 834-6600.

3. Reasons, supporting papers, and the rationale for concluding that Texas' asbestos inspection and management programs, for which the waiver request is made, are at least as stringent as the requirements of EPA's program, as discussed in EPA's Preliminary Determinations in Units II.D.2. and 3.

4. A discussion of any special situations, problems, and needs pertaining to the waiver request accompanied by an explanation of how Texas plans to handle them, as discussed in EPA's Preliminary Determination in Unit II.D.6.

5. A statement of the resources that Texas intends to devote to the administration and enforcement of its program, as discussed in EPA's Preliminary Determination in Unit II.D.5.

6. Copies of Texas laws and regulations relating to the request, including provisions for assessing penalties, as referenced in Unit II.C.1.

7. Assurance from the legal counsel of TDH that the Department has the legal authority necessary to carry out the requirements relating to the waiver request, as indicated in a letter from Susan Steeg, General Counsel, to Gregg Cooke, dated February 22, 1999.

D. What are the Criteria for EPA's Grant of the Waiver and What are EPA's Preliminary Determinations Relating to These Criteria?

EPA may waive the requirements of the Agency's asbestos-in-schools program if the Agency determines that Texas 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 Texas are set forth below:

1. *Criterion:* Texas' 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 Unit II.C.1. give TDH such legal authority.

2. *Criterion:* Texas' program is or will be at least as stringent as the EPA asbestos-in-schools program.

EPA's Preliminary Determination: Since Texas has adopted the AHERA schools rule by reference in its regulations, EPA has determined preliminarily that Texas' program is or will be at least as stringent as EPA's program. See EPA's Preliminary Determination in Unit II.D.6.

3. *Criterion:* Texas 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 Texas' asbestos-in-schools program are adequate to run the program. Inspectors will use site visits to determine if the LEAs are complying with the program. Violations will be cited for enforcement action which can range from warning letters (notices of noncompliance) to administrative actions to civil actions.

4. *Criterion:* TDH has or will have qualified personnel to carry out the provisions relating to the waiver request.

EPA's Preliminary Determination: EPA has preliminarily determined that TDH has or will have qualified personnel to carry out the provisions of the waiver. An inspector currently employed by TDH has had experience in conducting asbestos inspections in schools. The Department also employs a number of individuals that have experience in asbestos program enforcement who are available to lend their expertise to the asbestos-in-schools program.

5. *Criterion:* Texas 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 Texas has adequate resources to administer and enforce the provisions of the program. Texas plans to devote \$114,311 to the program annually. It plans to match a Federal grant of \$85,733, with \$28,578 of State funds. The budget allows for two full-time employees, travel, supplies, and training.

6. *Criterion:* Texas 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 applicable criteria in Units II.D.2.4.

EPA's Preliminary Determination: For EPA to grant a full waiver to Texas, the State, as a condition of the grant of the waiver, would need to give a written assurance satisfactory to EPA that, if following the grant of the waiver, any provision of either TSCA section 203 or the AHERA schools rule is changed, the State 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, Texas, utilizing adequate resources, would need to continue its asbestos-in-schools implementation and enforcement strategy. EPA may evaluate periodically the adequacy of Texas' 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.

E. What Recordkeeping and Reporting Burden Approvals Apply to the Texas 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 announces the Agency's receipt of the Texas waiver request and, therefore, imposes no additional burden beyond that covered under existing OMB control number 2070-0091.

III. Materials in the Official Record

The official record, under docket control number OPPTS-62162, contains the Texas waiver request, supporting documentation, and other relevant documents.

List of Subjects

Environmental protection, Administrative practice and procedure, Asbestos, Hazardous substances, Imports, Intergovernmental relations, Labeling, Occupational safety and health, Reporting and recordkeeping requirements, Schools.

Dated: October 19, 1999.

Jerry Clifford,

Acting Regional Administrator, Region VI.

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