

agents used in agriculture such as ethylenediaminetetraacetic acid (EDTA). The acute oral LD<sub>50</sub> for humic acid is 5.5 gms/kg, for EDTA it is 2 gms/kg, thus humic acid is three times less toxic than EDTA. This poses no significant human health risks. Published literature reports that humic acid is nongenotoxic, nonteratogenic and nonmutagenic to test animals. There are no reports in the literature of humic acid, potassium salt causing disease or injury to man or other animals. No incidents of hypersensitivity have been reported in the published literature by researchers, manufacturers or users.

2. *Mutagenicity.* Studies performed on A-MAX, a humic acid, potassium salt based material, indicate that humic acid is not mutagenic in *S. typhimurim* tester strains or in *E.coli* strain in either the presence or the absence of metabolic activation. The test results were also negative upon utilization of both the plate incorporation and pre-incubation methods.

3. *Genotoxicity.* A study published on the *in vivo* cytogenic effects of natural humic acid determined that "humic acid has not been demonstrated to be genotoxic either *in vitro* or *in vivo*."

4. *Endocrine disruption.* To date there is no evidence to suggest that humic acid, potassium salt functions in a manner similar to any known hormone, or that it acts as an endocrine disrupter.

#### C. Aggregate Exposure

1. *Dietary exposure.* Dietary exposure from use of humic acid, potassium salt in pesticide formulations is minimal. Even if exposure occurred, the lack of reports of disease in man or animals indicates there is no risk for these exposures.

i. *Food.* Dietary exposure from use of humic acid, potassium salt in pesticide formulations is minimal. Residues of humic acid, potassium salt are not expected on agricultural commodities. Humic substances are ubiquitous in nature and have been used for many years in commercial agriculture without adverse effect.

ii. *Drinking water.* Humic substances are ubiquitous in nature, including soils, fresh water and oceans. Increased drinking water exposure from use of humic acid, potassium salt in pesticide formulations would not be expected. Humic acid, potassium salt has been widely used in commercial agriculture for many years without adverse effect.

2. *Non-dietary exposure.* The potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use sites of pesticide formulations that would contain humic

acid, potassium salt are commercial, agricultural and horticultural settings. However, non-dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern. In addition, the personal protective equipment required for use of most pesticide formulations mitigates the potential for exposure to applicators and handlers of the proposed products, when used in commercial, agricultural and horticultural settings.

#### D. Cumulative Effects

Humate residues such as humic acid, potassium and sodium salts, when used as proposed, will not remain in human food items. As indicated previously in the acute toxicity section, the humic acid, potassium or sodium salts have shown a lack of toxicity to humans or other animal species, and there is no information in the literature indicating a cumulative effect with any other compound. A cumulative risk assessment is therefore, not necessary.

#### E. Safety Determination

1. *U.S. population.* Humic substances are ubiquitous in the environment. Based on known acute toxicity studies, humic acid, potassium salt is not toxic to humans. There have been no reports of toxins or secondary metabolites associated with humic acid, potassium salt, and the acute toxicity studies conducted have shown that it is nontoxic and nonirritating to test animals. Published literature reports that humic acid is nongenotoxic, nonteratogenic and nonmutagenic to test animals. Residues of humic acid, potassium salt are not expected on agricultural commodities, and therefore, exposure to the general U.S. population, from the proposed uses, is not anticipated.

2. *Infants and children.* Residues of humic acid, potassium salt, when used in pesticide formulations, are not expected on agricultural commodities. There is a reasonable certainty of no harm for infants and children from exposure to humic acid, potassium salt from the proposed use.

#### F. International Tolerances

There are no international tolerances or tolerance exemptions for humic acid, potassium salt. No CODEX maximum residue levels have been established for humic acid, potassium salt.

[FR Doc. 02-5316 Filed 3-5-02; 8:45 am]

BILLING CODE 6560-50-S

## ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-CO/B; FRL-6823-2]

### Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Colorado Lead-Based Paint Activities Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; requests for comments and opportunity for public hearing.

**SUMMARY:** On September 28, 2001, the State of Colorado submitted a self-certification letter stating that Colorado's Lead-Based Paint Abatement Program is at least as protective of human health and the environment as the Federal program under section 402 (15 U.S.C. 2682) of the Toxic Substances Control Act (TSCA). Colorado certifies that its program meets the requirements for approval of a State program under section 404 of TSCA and that Colorado has the legal authority and ability to implement the appropriate elements necessary to enforce the program. 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. Today's notice announces the receipt of Colorado's application, provides a 45-day public comment period, and an opportunity to request a public hearing on the application.

**DATES:** Comments on the application must be received on or before April 22, 2002.

**ADDRESSES:** Submit all written comments and/or requests for a public hearing identified by docket number PB-402404-CO/B (in duplicate) to: Amanda Hasty, Environmental Protection Agency, Region VIII, 8P-P3T, 999 18th St., Suite 300, Denver, CO 80202-2466

Comments, data, and requests for a public hearing may also be submitted electronically to: [hasty.amanda@epa.gov](mailto:hasty.amanda@epa.gov). Follow the instructions under Unit V. 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 300, 8P-P3T, Denver, CO 80202-2466; telephone: 303-312-6021; e-mail address [combs.dave@epa.gov](mailto:combs.dave@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

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. The Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), titled *Lead Exposure Reduction*.

Section 402 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. 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). These 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 (15 U.S.C. 2684), a State or Indian Tribe may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. EPA will review those applications 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 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 application.

On December 21, 1998, the State of Colorado submitted an application for EPA interim approval to administer and

enforce the 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 TSCA. Colorado provided a self-certification letter stating that its program is at least as protective of human health and the environment as the Federal program and it possesses the legal authority and ability to implement the appropriate elements necessary to receive interim enforcement approval. Based upon the State's self-certification, Lead-Based Paint Activities Interim Program Authorization was granted to the State of Colorado effective on December 21, 1998.

On September 7, 1999 (64 FR 48618) (FRL-6099-1), EPA published a notice in the **Federal Register** granting interim approval of the Colorado TSCA Section 402/404 Lead-Based Paint Accreditation and Certification Program. Full-approval was not granted at the time due to the State of Colorado's Environmental Audit Privilege and Penalty Immunity Statute, sometimes known as S.B. 94-139 (codified at sections 13-25-126.5, 13-90-107(1)(j), and 25-1-114-5, C.R.S.). This statute impaired the State's ability to fully administer and enforce the lead-based paint program. Interim compliance and enforcement approval was granted to provide the State the opportunity to address problems and issues associated with its Environmental Audit Privilege and Penalty Immunity statute. During the 2000 Legislative Session, the Colorado State Legislature amended the State's Environmental Audit Privilege and Immunity Statute.

On May 30, 2000, EPA and the State of Colorado signed a Memorandum of Agreement resolving all of the issues with the State's Environmental Audit Privilege and Immunity statute. Based upon the revised statute and the MOA between Colorado and EPA, the legal barriers for final EPA approval of Colorado's Lead Based Paint Abatement and Certification Program have been removed.

On September 28, 2001, Colorado 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. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission.

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 Colorado's application meets

the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. 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 Colorado.

**II. State Program Description Summary**

The following is a summary of the State of Colorado's Lead-Based Paint Abatement Regulation Number 19, and is intended to meet the requirement of 40 CFR 745.324(a)(3)(iii). The Agency responsible for administering and enforcing the program is the Air Pollution Control Division, Colorado Department of Public Health and Environment, of the State of Colorado. The official at the Agency designated as the point contact with US EPA is Mr. Steven Fine, Supervisor of the CFC, Indoor Air, Asbestos, and Lead-Based Paint Abatement Unit, Air Pollution Control Division. Mr. Fine can be reached by telephone at (303) 692-3164 or by mail at APCD-SS-B1, 4300 Cherry Creek Drive South, Denver, CO 80246-1530. There is only one agency responsible for administering and enforcing the Lead-Based Paint Abatement program. However, pursuant to section 25-7-1104(1)(b)(2), C.R.S., the Division may delegate the "implementation or enforcement" of standards to local health or building departments, as appropriate, if requested by such a local department. Such standards regarding such delegations are part of Regulation No. 19. If the Division approves such a delegation to a local health or building department, the Division shall be the primary agency responsible for overseeing and coordinating administration and enforcement of the program and Mr. Fine shall serve as the primary contact with US EPA.

At this time, there is no delegation to a local health or building department; therefore, the Division has not developed a description of the functions to be performed by each agency. If the Division ever performs such a delegation, it will submit to EPA the required information as detailed in 40 CFR 745.324(b)(1)(iii).

**A. Program Elements**

The Division has followed EPA's regulation at 40 CFR part 745 and the State Legislature's statutory requirements to develop Regulation Number 19 to be consistent with the Federal program and to be acceptable to

EPA. Implementation of Regulation Number 19 is an appropriate step to begin to protect children from exposure to lead as a result of lead-based paint abatement in "target housing" and "child-occupied facilities." Regulation Number 19 will also achieve uniformity in the regulation of lead abatement practices and in the qualifications for, and certification of, persons who perform such abatement.

Regulation Number 19 includes procedures for training and certification of persons and companies involved in inspection, risk assessment, planning, project design, supervision, or conduct of the abatement of surfaces containing lead-based paint. Regulation Number 19 has a training and certification program that is nearly identical to EPA's program. Training is to be provided by private contractors. In order to facilitate the scheduling of course audits by the Division, Regulation Number 19 includes an additional requirement that training course providers must receive the Division's approval or acknowledgment of each course prior to offering the course.

Regulation Number 19 includes work practice standards and practices for lead-based paint abatement. These standards include EPA's work practice standards and work practice measures that an abatement contractor must include in an occupant protection plan and comply with before, during, and after abatement. The program also includes a requirement, similar to HUD's requirement, that a contractor must sample the soil to ensure that the soil is not contaminated. The sampling would be required unless the contractor is removing or permanently covering the contaminated soil. Colorado's program requires a certified supervisor to be on site during all work site preparation, abatement, and during post-abatement cleanup of the work areas.

The regulation includes procedures for the approval of persons or companies who provide training or accreditation of workers, supervisors, inspectors, risk assessors, or project designers performing lead-based paint activities in "target housing" or "child-occupied facilities." Also included in Regulation Number 19 are procedures for the Division notifying appropriate persons regarding lead-based paint projects in "target housing" or "child-occupied facilities." Colorado's program requires a contractor to notify the Division 10 working days prior to the commencement of lead-based paint abatement activities if the amount of lead-based paint, lead contaminated soil, or lead contaminated dust is greater than 2 square feet on interior surfaces or

10 square feet on exterior surfaces. This time period for a notification is necessary because of document review and inspection planning. The regulation includes *de minimis* levels that trigger the notification requirement based upon proposed EPA identified triggers for risk assessment requirements and HUD's trigger levels for onsite preparation requirements. The State is in the process of revising Colorado Regulation No. 19 in order to incorporate the new EPA 403 Rule. The tentative completion date is late summer of 2002.

The program includes requirements for fees for certification of persons conducting lead abatement services, for any necessary monitoring of such persons to ensure compliance with Regulation No. 19 and for approval of persons or companies involved in the training or accreditation of workers.

The State of Colorado's program provides adequate enforcement fulfilling the criteria in 40 CFR 745.324(e)(2).

The Division has legal authority and ability to immediately implement the standards and requirements of Regulation No. 19. The Division has authority to immediately commence an enforcement action for violation of lead-based paint activities and requirements, including: Accreditation of training programs; certification of individuals; standards for the conduct of lead-based paint abatement activities; and requirements that regulate the conduct of pre-renovation notification activities.

The Division has authority to enter, through consent, warrant, or other authority, premises or facilities where lead-based activities may occur for purposes of conducting inspections. The Division has authority to enter premises or facilities where those engaged in training for lead-based paint activities conduct business; to enter a renovator's place of business for the purposes of enforcing a pre-renovation program; and to take samples and review records as part of the lead-based paint activities inspection process.

The Division has available to it a diverse and flexible array of enforcement remedies that apply to the State's lead-based paint abatement program. The Division has authority to utilize enforcement remedies, including: Requests for information, warning letters, and notices of violation; administrative and civil actions, including authority to suspend, revoke, or modify accreditation or certification; and criminal sanctions.

#### B. Performance Elements

The State of Colorado's lead-based paint abatement program includes the

necessary performance elements as required pursuant to 40 CFR section 745.327(c). The Division has in place a training program which teaches inspectors case development procedures, proper maintenance of case files, violation discovery, methods of obtaining consent, evidence gathering, preservation of evidence, and chain of custody and sampling procedures. The Division requires that its inspectors attend continuing education courses.

The Division has in place an enforcement-tracking data base that allows inspectors to process and react to tips and complaints and track enforcement cases. The Division has the ability to target inspections to ensure compliance with Regulation No. 19, including a notification requirement for the commencement of abatement activities. The Division has more than 15 years of experience in implementing a compliance monitoring and enforcement program in asbestos. Elements of the asbestos program will allow for a smooth transition to lead-based paint abatement compliance monitoring and enforcement that will result in correction of violations found during either routine inspections or those conducted in response to tips, complaints, and emergencies.

#### C. Statement of Resources (40 CFR 745.327(a)(2)(i)(B))

Richard Fatur, an Environmental Protection Specialist, is employed full time to assist with the development and maintenance of Colorado's LBP Program. The States are currently in the process of hiring another FTE to assist with the program. Four additional Environmental Protection Specialists in the Asbestos Program, trained as Lead-Based Paint Inspectors & Risk Assessors or Supervisors, provide support to the lead-based paint program as needed.

While the legislature did grant the Division authority to assess fees for certain aspects of the Lead Program, the level of abatement activity and numbers of individuals and firms seeking certification may not generate sufficient revenues for several more years to fully fund the program. In consideration of this, the Division will be submitting a grant application request to EPA for supplemental funding until such time as the program can operate in the black based solely on revenues collected.

#### D. Summary on Progress and Performance

The Division agrees to submit to EPA a Summary on Progress and Performance of lead-based paint abatement compliance and enforcement activities.

### III. Federal Overfiling

TSCA section 404(b) (15 U.S.C. 2684(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-402404-CO/B. Copies of this notice, the State of Colorado'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, and 8P-P3T, 999 18th Street, Suite 300, 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 nonconfidential 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: [hasty.amanda@epa.gov](mailto:hasty.amanda@epa.gov). 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-CO/B. Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

### V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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: February 20, 2002.

**Jack McGraw,**

*Acting Regional Administrator, EPA Region VIII.*

[FR Doc. 02-5190 Filed 3-5-02 8:45 am]

**BILLING CODE 6560-50-S**

### ENVIRONMENTAL PROTECTION AGENCY

[FRL-7153-4]

#### Notice of Proposed Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. 9601-9675, notice is hereby given that a proposed prospective purchaser agreement ("Purchaser Agreement") associated with the Recticon/Allied Steel Superfund Site, Parkerford, Chester County, Pennsylvania was executed by the Environmental Protection Agency and the Department of Justice and is now subject to public comment, after which the United States may modify or withdraw its consent if comments received disclose facts or considerations which indicate that the Purchaser Agreement is inappropriate, improper, or inadequate. The Purchaser Agreement would resolve certain potential EPA claims under sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, against Longstreth Sporting Goods, Inc. and Parkerford Property,

Inc. ("Purchasers"). The settlement would require the Purchasers to, among other things, reimburse the Environmental Protection Agency \$ 38,000.00 for response costs incurred and to be incurred at the Site.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the Purchaser Agreement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

**DATES:** Comments must be submitted on or before April 5, 2002.

**Availability:** The Purchaser Agreement and additional background information relating to the Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Purchaser Agreement may be obtained from John J. Monsees (3RC42), Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the "Recticon/Allied Steel Superfund Site, Prospective Purchaser Agreement" and "EPA Docket No. CERCLA-03-2002-0079," and should be forwarded to John J. Monsees at the above address.

**FOR FURTHER INFORMATION CONTACT:** John J. Monsees (3RC42), Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814-2632.

Dated: February 20, 2002.

**James W. Newsom,**

*Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.*

[FR Doc. 02-5310 Filed 3-5-02; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

[FRL-7153-5]

#### New York State Prohibition on Marine Discharges of Vessel Sewage; Receipt of Petition and Tentative Determination

Notice is hereby given that a petition was received from the State of New York on July 5, 2001 requesting a determination by the Regional Administrator, Environmental Protection Agency (EPA), pursuant to section 312(f) of Public Law 92-500, as amended by Public Law 95-217 and Public Law 100-4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably