

and suspected to occur for other species in Hawaii.

The Applicant proposes to make up to 12 applications per acre per year of 100 - 200 pounds of product (99 - 198 pounds of caffeine) in 1,200 gallons of water per acre. However, a maximum of only 1,200 pounds of product (1,188 pounds caffeine) will be applied per acre per year. The projected acreage for 2002-2003 is 200 acres of floriculture and nursery crops, parks, hotels and resort areas, and forest habitats throughout the state of Hawaii. Therefore, a maximum of 240,000 pounds caffeine could be applied.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient) which has not been registered by EPA. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the quarantine exemption requested by the USDA, APHIS.

#### List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 20, 2002.

**Peter Caulkins,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

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## ENVIRONMENTAL PROTECTION AGENCY

[OPPT-2002-0038; FRL-7188-1]

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

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

**ACTION:** Notice; final approval of the Illinois TSCA Section 402/404 Lead-Based Paint Accreditation and Certification Program.

**SUMMARY:** On October 12, 2001, the State of Illinois, through the Illinois Department of Public Health (IDPH), submitted an application for EPA final 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 approval of Illinois' application, and the authorization of the Illinois Department of Public Health's lead-based paint program to apply in the State of Illinois effective April 11, 2002, in lieu of the Federal program under section 402 of TSCA.

**DATES:** Lead-based paint activities program authorization was granted to the State of Illinois effective April 11, 2002.

**FOR FURTHER INFORMATION CONTACT:** By mail: Larisa Leonova, State of Illinois Project Officer, Pesticides and Toxics Branch, (DT-8J), Environmental Protection Agency, Region V, 77 West Jackson Blvd., Chicago, IL 60604; telephone: (312) 353-5838; e-mail address: leonova.larisa@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 Illinois. 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 **Federal Register** notice 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 ID number OPPT-2002-0038. The official record consists of the documents specifically referenced in this action, this notice, the State of Illinois' 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 EPA Region V Office, Waste, Pesticides and Toxics Division, Pesticides and Toxics Branch, Toxics Program Section, (DT-8J), 77 West Jackson Blvd., Chicago, IL 60604.

## II. Background

### A. What Action is the Agency Taking?

EPA issued correspondence to the Illinois Department of Public Health dated May 6, 1999, which granted a 3-year interim approval of the Illinois Lead Poisoning Prevention Program. The interim approval authorized the Department to enforce the Illinois Lead Poisoning Prevention Act (LPPA), 410 ILCS 45, and Lead Poisoning Prevention Code (LPPC), 77 Ill Adm. Code 845, in lieu of the Federal program. The effective date of the interim approval was April 16, 1999 (published by EPA in the **Federal Register** of February 29, 2000 (65 FR 10787) (FRL-6399-4). As a condition of the interim approval, the Department was required to submit a request for full (final) approval of the Illinois Program at least 180 days prior to the expiration of the 3-year interim approval.

Illinois applied for final approval and authorization to enforce its Lead Poisoning Prevention Program on October 12, 2001. The Department provided amended copies of the LPPA, LPPC, and the program policies that govern the administration of the program. Copies of the correspondence from the Illinois Attorney General's office indicating the inapplicability of the Illinois Environmental Audit Privilege Law to the Illinois LPPA and EPA's response accepting the opinion offered by the Illinois Attorney General's office were also included with this application. These materials resolved the only remaining issue dealing with the applicability of the Illinois Environmental Audit Privilege Law to the enforcement of the LPPA and

LPPC and removed the legal barriers for final EPA approval.

Notice of Illinois' application, a solicitation for public comment regarding the application, and background information supporting the application was published in the **Federal Register** of January 11, 2002 (67 FR 1465) (FRL-6815-5). As determined by EPA's review and assessment, Illinois' application successfully demonstrated that the State's Lead-Based Paint Activities Program achieved the protectiveness and enforcement criteria, as required for Federal authorization. Furthermore, no public comments were received regarding any aspect of the Illinois program and/or application.

*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), titled "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 (15 U.S.C. 2684 (h)), 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. 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.

### IV. 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).

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

The Congressional Review Act, 5 U.S.C. 801 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: August 27, 2002.

**Bharat Mathur,**

*Acting Regional Administrator, Region V.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7384-8]

### Notice of Availability of Draft National Pollution Discharge Elimination Systems (NPDES) General Permit for Storm Water Discharges From Small Municipal Separate Storm Sewer Systems in the States of Massachusetts and New Hampshire and Indian Lands in the States of Connecticut, Massachusetts, and Rhode Island and Federal Facilities in Vermont

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

**ACTION:** Notice of availability of the draft NPDES general permits MAR040000; NHR040000; MAR04000I; CTR04000I; RIR04000I and VTR04000F.

**SUMMARY:** The Director of the Office of Ecosystem Protection, Environmental Protection Agency-Region 1, is today providing notice of the availability of the Draft National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from small municipal separate storm sewer systems (MS4s) to certain waters of the States of Massachusetts, New Hampshire and Vermont, and to certain waters on Indian Country lands in the States of Connecticut, Massachusetts, and Rhode Island. This draft NPDES general permit establishes Notice of Intent (NOI) requirements, standards, prohibitions, and management practices for discharges of storm water from municipal separate storm sewer systems.

Owners and/or operators of small MS4s that discharge storm water will be required to submit an NOI to EPA-Region 1 to be covered by the general permit and will receive a written notification from EPA-Region 1 of permit coverage and authorization to discharge under the general permit. This general permit does not cover new sources as defined at 40 CFR 122.2.