

Dated: February 23, 2011.

**Timothy J. Meeks,**  
Administrator.

[FR Doc. 2011-4605 Filed 3-3-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-R07-OW-2011-0112; FRL-9275-5]

### Lead-Based Paint Renovation, Repair and Painting Activities in Target Housing and Child Occupied Facilities; State of Kansas; Notice of Self-Certification Program Authorization, Request for Public Comment, Opportunity for Public Hearing

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

**ACTION:** Notice.

**SUMMARY:** This notice announces that on April 19, 2010, the State of Kansas was deemed authorized under section 404(a) of the Toxic Substances Control Act (TSCA), to administer and enforce requirements for a renovation, repair and painting program in accordance with section 402(c)(3) of TSCA. This notice also announces that EPA is seeking comment during a 45-day public comment period, and is providing an opportunity to request a public hearing within the first 15 days of this comment period, on whether Kansas's program is at least as protective as the Federal program and provides for adequate enforcement. This notice also announces that the authorization of the Kansas 402(c)(3) program, which was deemed authorized by regulation and statute on April 19, 2010, will continue without further notice unless EPA, based on its own review and/or comments received during the comment period, disapproves the Kansas program application.

**DATES:** Comments, identified by docket control number EPA-R07-OW-2011-0112, must be received on or before April 18, 2011. In addition, a public hearing request must be submitted on or before March 21, 2011.

**ADDRESSES:** Comments and requests for a public hearing may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Section I of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number EPA-R07-OW-2011-0112 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Crystal McIntyre, Technical Contact,

Toxics and Pesticides Branch, Water, Wetlands, and Pesticides Division, Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, KS 66101, *telephone number:* (913) 551-7261; *e-mail address:* [mcintyre.crystal@epa.gov](mailto:mcintyre.crystal@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this action apply to me?

This action is directed to the public in general, to entities offering Lead Safe Renovation courses, and to firms and individuals engaged in renovation and remodeling activities of pre-1978 housing in the State of Kansas. Individuals and firms falling under the North American Industrial Classification System (NAICS) codes 231118, 238210, 238220, 238320, 531120, 531210, 53131, e.g., General Building Contractors/Operative Builders, Renovation Firms, Individual Contractors, and Special Trade Contractors like Carpenters, Painters, Drywall workers and Plumbers, "Home Improvement" Contractors, as well as Property Management Firms and some Landlords are also affected by these rules. This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this notice could also be affected. The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical 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:* EPA has established an official record for this action under docket control number EPA-R07-OW-2011-0112. This docket may be accessed through <http://www.regulations.gov>. The official record consists of the documents specifically referenced in this action, this notice, the State of Kansas 402(c)(3) program 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).

2. *In person:* You may read this document, and certain other related documents, by visiting Kansas Department of Health and Environment, 1000 SW Jackson, Suite 330, Topeka, KS

66612-1365; contact person, Shannon Steinbauer, telephone number (866) 865-3233. You may also read this document, and certain other related documents, by visiting the Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, KS 66101. You should arrange your visit to the EPA office by contacting the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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, it is imperative that you identify docket control number EPA-R07-OW-2011-0112 in the subject line on the first page of your response.

1. *By mail or in person or by courier:* Submit or deliver your comments and public hearing requests to: Crystal McIntyre, Technical Contact, Toxics and Pesticides Branch, Water, Wetlands, and Pesticides Division, Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, KS 66101. The Regional office is open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

2. *Electronically:* You may submit your comments and public hearing requests electronically by e-mail to: [mcintyre.crystal@epa.gov](mailto:mcintyre.crystal@epa.gov) or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be Confidential Business Information (CBI). 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 Microsoft Word or ASCII file format.

#### D. How should I handle CBI information that I want to submit to the agency?

Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark on each page the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA as CBI, and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes 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 docket. Information so marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. If you have any questions

about CBI or the procedures for claiming CBI, please consult the technical person identified under **FOR FURTHER INFORMATION CONTACT**.

## II. Background

### A. What action is the agency taking?

EPA is announcing that on April 19, 2010, the State of Kansas was deemed authorized under section 404(a) of TSCA, and 40 CFR 745.324(d)(2), to administer and enforce requirements for a renovation, repair and painting program in accordance with section 402(c)(3) of TSCA. This notice also announces that EPA is seeking comment and providing an opportunity to request a public hearing on whether the state program is at least as protective as the Federal program and provides for adequate enforcement. The 402(c)(3) program ensures that training providers are accredited to teach renovation classes, that individuals performing renovation activities are properly trained and certified as renovators, that firms are certified as renovation firms, and that specific work practices are followed during renovation activities. On April 19, 2010, Kansas submitted an application under section 404 of TSCA requesting authorization to administer and enforce requirements for a renovation, repair and painting program in accordance with section 402(c)(3) of TSCA, and submitted a self-certification that this program is at least as protective as the Federal program and provides for adequate enforcement. Therefore, pursuant to section 404(a) of TSCA, and 40 CFR 745.324(d)(2), the Kansas renovation program is deemed authorized as of the date of submission and until such time as the Agency disapproves the program application or withdraws program authorization. Pursuant to section 404(b) of TSCA and 40 CFR 745.324(e)(2), EPA is providing notice, opportunity for public comment and opportunity for a public hearing on whether the state program application is at least as protective as the Federal program and provides for adequate enforcement. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time and place of the hearing. The authorization of the Kansas 402(c)(3) program, which was deemed authorized by regulation and statute on April 19, 2010, will continue without further notice unless EPA, based on its own review and/or comments received during the comment period, disapproves the program 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), entitled Lead Exposure Reduction. In the **Federal Register** dated April 22, 2008 (73 FR 21692), EPA promulgated final TSCA section 402(c)(3) regulations governing renovation activities. The regulations require that in order to do renovation activities for compensation, renovators must first be properly trained and certified, must be associated with a certified renovation firm, and must follow specific work practice standards, including recordkeeping requirements. In addition, the rule prescribes requirements for the training and certification of dust sampling technicians. EPA believes that regulation of renovation activities will help to reduce the exposures that cause serious lead poisonings, especially in children under age 6, who are particularly susceptible to the hazards of lead.

Under section 404 of TSCA, a state may seek authorization from EPA to administer and enforce its own renovation, repair and painting program in lieu of the Federal program. The regulation governing the authorization of a state program under section 402 of TSCA is codified at 40 CFR part 745, subpart Q. States 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 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, as required by section 404(b) of TSCA. EPA's regulations at 40 CFR part 745, subpart Q provide the detailed requirements a state program must meet in order to obtain EPA approval. A state may choose to certify that its own renovation, repair and painting program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program is at least as protective of human health and the environment as the Federal program and provides for adequate enforcement. Upon submission of such a certification letter the program is deemed authorized

pursuant to TSCA section 404(a) and 40 CFR 745.324(d)(2). This authorization becomes ineffective, however, if EPA disapproves the application or withdraws the program authorization.

## III. State Program Description Summary

The following program summary is from Kansas's self-certification application:

### Program Summary

The State of Kansas has administered regulations concerning lead-based paint in housing since 2000. The U.S. Environmental Protection Agency (EPA) has authorized the Kansas Department of Health and Environment (KDHE) to operate a lead poisoning prevention program in Kansas to advance public health. The program at KDHE has provided for the oversight and accreditation of firms and individuals who provide specific lead-based paint activity training. KDHE has also provided for the licensing and oversight of firms who engage in specialized activities such as lead-based paint abatement, and environmental inspections and risk assessments that identify lead-based paint in housing and other properties such as schools and daycare centers. KDHE certifies and oversees individuals who are trained and then seek to perform lead-based activities within the state. KDHE also operates a program that oversees the contractors in the state, who for compensation, engage in activities that could disturb painted surfaces on homes constructed prior to 1978 (target housing). The program known as the Pre Renovation Education (PRE) program requires that homeowners and occupants of target properties be properly notified about the dangers associated with the work that could affect the occupants and provide educational materials that are designed to help protect their health. Kansas is one of only two states nationally that has operated a PRE program under EPA authorization.

Today EPA, Kansas, and KDHE are expanding authorizations to include the newly promulgated Renovation, Repair, and Painting (RRP) rule. RRP enhances PRE and requires that contracting firms who perform work for compensation in target housing be licensed and that individuals who perform work which disturbs lead-based paint are properly trained in work practices that protect human health public safety. Records of the use of proper work practices, work training, and owner/occupant disclosure must be maintained as part of the RRP

program in Kansas. KDHE will oversee the firm licensing, worker training, work practice adherence and record retention. KDHE modernized and enhanced the operational capacity of the Healthy Homes and Lead Hazard Prevention (HHLHP) program in order to assist the regulated entities and individuals in Kansas achieve compliance with the RRP regulations. HHLHP will also perform extensive compliance assistance and educational outreach to homeowners, tenants, landlords and other individuals who request it in order to advance the success of the lead poisoning prevention efforts in the state. KDHE has enhanced the PRE rule in Kansas to require retailers who sell paint removal and contractor supplies to post educational signage in plain view near the painting supplies that explain the hazards of lead-based paint and where to receive more information about health protection. The poster also reminds contractors of their duty to comply with the PRE and RRP regulations. KDHE will advance the program through compliance training, oversight, and enforcement activities that can include financial penalties of \$5,000 or more under Kansas law.

#### 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 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 program.

#### V. Withdrawal of Authorization

Pursuant to section 404(c) of TSCA, the EPA Administrator may withdraw authorization of a state or Indian Tribal renovation, repair and painting program, 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).

#### List of Subjects

Environmental protection, Hazardous substances, Lead, Renovation, Renovation work practice standards, Renovation training, Renovation certification, Renovation notification, Reporting and record keeping requirements, State of Kansas.

Dated: February 22, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2011-4975 Filed 3-3-11; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8995-7]

#### Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepa/>.

#### Weekly Receipt of Environmental Impact Statements Filed 02/21/2011 Through 02/25/2011

Pursuant to 40 CFR 1506.9

#### Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has included its comment letters on EISs on its Web site at: <http://www.epa.gov/compliance/nepa/eisdata.html>. Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

*EIS No. 20110055, Second Draft Supplement, USACE, CA, Sacramento River Deep Water Ship Channel Project, Proposal to Re-initiate Deepening and Selective Widening, Yolo, Sacramento, Solano and Contra Costa Counties, CA, Comment Period Ends: 04/18/2011, Contact: Dr. William Brostoff 415-503-6867.*

*EIS No. 20110056, Final EIS, NRC, TX, South Texas Project, Electric Generating Station Units 3 and 4, Application for Combined Licenses (COLs) for Construction Permits and Operating Licenses, Matagorda County, TX, Review Period Ends: 04/04/2011, Contact: Jessie M. Muir 301-415-0491.*

*EIS No. 20110057, Draft EIS, USACE, FL, Everglades Restoration Transition Plan (ERTP), To Defined Water Management Operating Criteria for Central and Southern Florida Project*

*(C&SF) features and the Constructed features of the Modified Water Deliveries and Canal-III Project until a Combined Operational Plan is Implemented, Broward and Miami-Dade Counties, FL, Comment Period Ends: 04/18/2011, Contact: Gina Paduano Ralph 904-232-2336.*

*EIS No. 20110058, Final EIS, USFS, UT, Uinta National Forest Oil and Gas Leasing, Implementation, Identify National Forest Systems Lands with Federal Mineral Rights, Wasatch, Utah, Juab, Tooele, and Sanpete Counties, UT, Review Period Ends: 04/04/2011, Contact: Kim Martin 801-342-5100.*

*EIS No. 20110059, Final EIS, USACE, 00, Sabine-Neches Waterway Channel Improvement Project, Proposed Ocean Dredged Material Disposal Site Designation, Southeast Texas and Southwest Louisiana, Review Period Ends: 04/04/2011, Contact: Janelle Stokes 409-766-3039.*

*EIS No. 20110060, Draft EIS, DOE, WV, Mountaineer Commercial Scale Carbon Capture and Storage Project, Construction and Operation, New Haven, Mason County, WV, Comment Period Ends: 04/18/2011, Contact: Mark W. Lusk 304-285-4145.*

*EIS No. 20110061, Final EIS, USFS, MN, Tracks Project, Proposing Forest Vegetation Management and Related Transportation System Activities, Superior National Forest, Laurentian Ranger District, St. Louis and Lake Counties, MN, Review Period Ends: 04/04/2011, Contact: Sudan Duffy 218-365-2097.*

*EIS No. 20110062, Draft EIS, USACE, LA, New Orleans To Venice (NOV), Louisiana, Hurricane Rick Reduction Project, Incorporation of Non-Federal Levees from Oakville to St. Jude, Plaquemines Parish, LA, Comment Period Ends: 04/18/2011, Contact: Christopher Koepfel 601-631-5410.*

*EIS No. 20110063, Draft EIS, USFS, CA, Mudflow Vegetation Management Project, To Improve or Sustain the Health and Resiliency of the Forest and Reduce the Risk of Stand-replacing Wildfire, Siskiyou County, CA, Comment Period Ends: 04/18/2011, Contact: J. Sharon Heywood 530-226-2520.*

*EIS No. 20110064, Final EIS, FERC, CA, McCloud-Pit Hydroelectric Project, (Project No. 2106) Application to Relicense its 368-Megawatt (MW), McCloud and Pit Rivers, Shasta County, CA, Review Period Ends: 04/04/2011, Contact: Mary O'Driscoll 1-866-208-3372.*

*EIS No. 20110065, Draft EIS, FHWA, TN, North Second Street Corridor Improvement Project, from Interstate*