

Amended Notices

EIS No. 990229, DRAFT EIS, AFS, MT, NB, WY, ND, SD, Dakota Prairie Grasslands, Nebraska National Forest Units and Thunder Basin National Grassland, Land and Resource Management Plans 1999 Revisions, Implementation, MT, NB, WY, ND and SD, Due: February 03, 2000, Contact: Pam Gardner (308) 432-0300. Published FR 10-01-99—Review Period Extended from 01-13-00 to 02-03-2000.

EIS No. 990277, DRAFT EIS, AFS, CO, White River National Forest, Revised Land and Resource Management Plan, Implementation, Eagle, Garfield, Gunnison, Mesa, Moffat and Pitkin Counties, CO, Due: May 09, 2000, Contact: Martha Ketelle (970) 945-2521. Published FR on 08/13/99: CEQ Comment Date has been extended from 2/2/2000 to 5/9/2000.

EIS No. 990430, DRAFT EIS, COE, AZ, Rio de Flag Flood Control Study, Improvement Flood Protection, City of Flagstaff, Coconino County, AZ, Due: January 18, 2000, Contact: David Compas (213) 452-3850. FR notice published on 11/19/1999: CEQ Comment Date extended from 1/04/2000 to 01/18/2000.

EIS No. 990492, DRAFT EIS, AFS, AK, Finger Mountain Timber Sales, Timber Harvesting, Implementation, U.S. Coast Guard, NPDES and COE Section 10 and 404 Permits, Tongass National Forest, Sitka Ranger District, AK, Due: February 28, 2000, Contact: Lisa Winn (907) 747-6671. Published—FR-12-30-99 Correction to CEQ Comment date from 02-28-1999 to 02-28-2000.

Dated: January 11, 2000.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00-967 Filed 1-13-00; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6523-4]

Request for Great Lakes Preproposals Through "FY2000-2001 Great Lakes Priorities and Funding Guidance"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: EPA's Great Lakes National Program Office (GLNPO) is now requesting the submission of preproposals for GLNPO funding. This request is part of the *FY2000-2001*

Great Lakes Priorities and Funding Guidance (Funding Guidance). The Great Lakes Funding Guidance identifies Great Lakes priorities and solicits preproposals for assistance projects in the areas of contaminated sediments, pollution prevention and reduction, habitat protection and restoration, invasive species, and emerging issues.

DATES: The deadline for submission of Preproposals is February 18, 2000.

ADDRESSES: The Funding Guidance is available on the Internet at <http://www.epa.gov/glnpo/fund/2000guid/>. Preproposals can also be sent to Lawrence Brail, Environmental Protection Agency, Great Lakes National Program Office (G-17J), 77 W. Jackson Blvd., Chicago, IL 60604; telephone (312) 886-7474; email address: brail.lawrence@epa.gov.

FOR FURTHER INFORMATION CONTACT:

Mike Russ, EPA-GLNPO, G-17J, 77 West Jackson Blvd., Chicago, IL 60604 (312-886-4013/russ.michael@epa.gov).

SUPPLEMENTARY INFORMATION: USEPA's Great Lakes National Program Office is requesting Preproposals for Great Lakes projects addressing: Contaminated Sediments (\$1.45 million), Pollution Prevention and Reduction—Binational Toxics Strategy (\$700 thousand); Habitat (Ecological) Protection and Restoration (\$700 thousand); Invasive Species (\$300 thousand); and Emerging Issues (\$220 thousand). A total of \$3.04 million is targeted for awards in the Summer and Fall of 2000. Potential applicants can find a description of GLNPO's funding process, the Request for Preproposals, evaluation criteria, and the Preproposal development and submittal program on the Internet at <http://www.epa.gov/glnpo/fund/2000guid/>.

Dated: January 6, 2000.

Gary V. Gulezian,

Director, Great Lakes National Program Office.

[FR Doc. 00-958 Filed 1-13-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6518-3]

Slotted Guidepoles at Certain Petroleum and Organic Liquid Storage Vessels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Storage Tank Emission Reduction Partnership Program and Request for Comments.

SUMMARY: In today's **Federal Register** the Environmental Protection Agency ("EPA") reaffirmed the applicability of certain NSPS Subpart Ka/Kb requirements to slotted guidepoles. EPA believes there are a substantial number of affected facilities with slotted guidepoles and, therefore, intends to establish a program for reducing their emissions in an expeditious, highly cost-effective manner. EPA solicits comments on the Storage Tank Emission Reduction Partnership Program described below.

DATES: Comments should be submitted by February 28, 2000.

ADDRESSES: Comments must be submitted to: Air Enforcement Division (Mail Code 2242A), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. James K. Jackson, Air Enforcement Division (2242A), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564-2002.

SUPPLEMENTARY INFORMATION: Slotted guidepoles are hollow poles with holes or "slots" that perforate the length of the pole and that are typically a foot-long and 1-2 inches wide. Where the pole passes through a floating roof, there is an opening in the roof and a gap between the pole and the roof. These holes, slots and gaps contribute to evaporative product losses and volatile organic compound (VOC) emissions. VOCs include a wide variety of hydrocarbons, some of which are hazardous air pollutants (e.g., benzene, toluene, xylene and ethyl benzene). Depending on the size, location and contents of a tank, uncontrolled emissions from slotted guidepoles can exceed 25,000 pounds per year. Relatively simple and inexpensive solutions exist to minimize these emissions and reduce evaporative losses.

A substantial but undetermined number of NSPS Subpart Ka/Kb tanks have slotted guidepoles. EPA is aware of at least 70 such tanks at 10 refineries in 4 EPA Regions, but the universe of all such tanks is much broader than refineries. They may be found at any facility that stores substantial quantities of volatile organic liquids, including petroleum products (e.g., refineries, gasoline distribution terminals, chemical plants and other facilities). Several EPA Regions have settled enforcement actions by requiring companies to install controls on their slotted guidepoles. EPA understands

that certain other companies have also installed slotted guidepole controls. In the interests of promoting fast, efficient and widespread emission reductions, EPA intends to offer and enter into agreements with companies that installed or will install controls to reduce slotted guidepole emissions at their NSPS Subpart Ka/Kb tanks. As under EPA's policy concerning voluntary disclosure, this opportunity will be available only to owners/operators of affected NSPS Subpart Ka/Kb facilities that are not currently the subject of an enforcement action based upon their use of slotted guidepoles. *See Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 60 FR 66706 (December 22, 1995).

The American Petroleum Institute ("API") has actively participated on this and related tank issues, suggesting that this matter could be resolved by establishing a cooperative emissions reduction program for tanks with slotted guidepoles. EPA engaged in discussions with API on the scope, appropriateness and terms of such a program, the result being the below-described program, appendices and related attachments.

During our discussions with API an issue arose over the use of slotted guidepoles at internal floating roof tanks. API agreed that they should be included in the program but urged that no add-on controls be required (as under the existing source Refinery MACT¹). EPA's Office of Air Quality Planning and Standards (OAQPS) has been requested to: (1) identify and quantify the emissions from slotted guidepoles at internal floating roof tanks without add-on controls; (2) assess whether slotted guidepoles at internal floating roof tanks should be exempt from add-on control requirements; and, if so, (3) decide whether a rulemaking is necessary and will be pursued to resolve the issue. If OAQPS commits to a rulemaking for these internal floating roof tanks, EPA may exclude them from this program. Comments are solicited on whether and what add-on controls could be installed at internal floating roof tanks with slotted guidepoles to reduce their evaporative product emissions.

EPA believes the Storage Tank Emission Reduction Partnership Program will result in substantial emission reductions through installing

low cost controls while avoiding the time and expense of litigation. Since these emission controls also reduce potentially significant evaporative product losses, EPA believes that the total annualized cost of controls (with product recovery credits) could be less than \$0.

EPA's proposal offers clear and consistent terms to reduce uncertainty, inform company decisions and eliminate the need for extended, individualized negotiations:

- The agreement would identify acceptable slotted guidepole controls. *See APPENDIX I (Acceptable Controls for Slotted Guidepoles under the Storage Tank Emissions Reduction Partnership Program)*. EPA previously determined that floats and wipers (i.e., gasketed covers) complied with applicable control requirements under NSPS Subparts Ka and Kb. Based on information provided by API, EPA believes that several other approaches are as or more effective in reducing emissions and evaporative product losses and are, therefore, identified as being acceptable in APPENDIX I. Suggestions for and comments on other controls/approaches are solicited.

- The agreement would not require that penalties be paid as a condition of program participation. EPA believes that immediate emission reductions under this program would be preferable to initiating enforcement actions seeking penalties under the Clean Air Act. Nonetheless and if a participating company fails to implement its agreed-to controls in a timely manner, stipulated penalties under its agreement with EPA would be imposed. This program addresses federal requirements and federal enforcement only; states may have more stringent requirements.

- EPA would specify the terms and conditions for program participation through a standard participation agreement that each participant must execute. *See APPENDIX II. Comments on the specific terms and conditions of that agreement are solicited, including the possible use of binding arbitration to resolve certain disputes if and to the extent such may then be permitted under the Alternative Dispute Resolution Act.*

To aid informed company decision making on whether to participate, EPA intends to establish a realistic implementation schedule based on a progression of activities:

1. Each program participant will notify EPA of its intent to participate within 60 days of a final program notice. Such early registration will enable better resource planning and coordination by

the Agency and participating companies.

2. Participants must then assess *all* of their NSPS Subpart Ka/Kb tanks with slotted guidepoles. A company could withdraw from the program even after completing this assessment, but EPA anticipates that few will do so.

3. Each company will be required to submit an executed participation agreement to EPA, including a complete Annex A, within 240 days of the final program notice. Annex A would identify all that company's NSPS Subpart Ka/Kb tanks with slotted guidepoles, specify when acceptable controls were or will be installed on such tanks and predict emission reductions that will result from the installation of these controls. The accuracy of all information submitted to EPA will be certified by a responsible corporate official. Companies that already installed acceptable controls on some, many or all of their NSPS Subpart Ka/Kb affected facilities can participate in this program and benefit from its certainty and protections, provided such facilities are identified and included in Annex A.

4. EPA will execute the participation agreement and issue an enforceable order incorporating the company-supplied Annex A if no deficiencies are identified (e.g., Annex A's schedule for installing controls is or will be consistent with applicable requirements under Section 113(a)(4) of the Clean Air Act at the time the order is issued).

5. As required by the agreement and order, participating companies would then install controls as expeditiously as possible.

EPA believes that the above-described program is the best, most cost-effective way to achieve immediate environmental improvement and significant progress in resolving this issue. Its terms, conditions and protections will be available only to those companies that elect to participate. If and as appropriate, nonparticipants may be subject to enforcement actions in which significant penalties would be sought for violations of NSPS Subparts Ka and Kb.

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations and regulatory policies that have "substantial direct effects on the

¹ New refinery tanks are subject to the same or similar slotted guidepole requirements as under NSPS Subpart Ka/Kb. *Compare* 40 CFR 63.646(a), 63.119(b) and 63.119(c) *with* 40 CFR 60.112a(a) and 60.112b(a). Since existing sources are not subject to these requirements, 40 CFR 63.646(c), the Refinery MACT is less stringent than NSPS Subparts Ka/Kb at such sources.

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This notice does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. It reaffirms and publicizes prior EPA determinations concerning the applicability of certain federal requirements to the regulated community. Thus, the requirements of section 6 of the Executive Order do not apply to this notice.

Comments on the approach outlined above, as well as on the specific items and terms reflected in the following Appendices, are solicited. To be considered fully, comments must be received by February 28, 2000.

Dated: December 23, 1999.

Eric V. Schaeffer,

*Director, Office of Regulatory Enforcement,
Office of Enforcement and Compliance
Assurance.*

Appendix I—Acceptable Controls for Slotted Guidepoles Under the Storage Tank Emissions Reduction Partnership Program

1. *Pole Float System*—Each opening through the deck of the floating roof for a slotted guidepole shall be equipped with a deck cover, a pole wiper and a pole float. The deck cover shall also be equipped with a gasket between the cover and deck. The wiper or seal of the pole float shall be at or above the height of the pole wiper.

2. *Alternate Control Technologies and Combinations*—The following will inform EPA's determination of whether an alternate control technology is acceptable for use under the Storage Tank Emissions Reduction Partnership Program. An alternate control technology must be shown to have an emission factor less than or equal to the emission factor for the above-identified control system. Tests to determine emission factors for an alternate control technology shall accurately simulate conditions representative of the conditions under which the technology will/would operate (e.g., wind, temperature and barometric pressure). Such tests may utilize the methods listed in American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 19, Section 3, Part A (Wind Tunnel test Method for the Measurement of Deck-Fitting Loss Factors for External Floating-Roof Tanks) or Part E (Weight Loss Test Method for the Measurement of Deck-Fitting Loss Factors for Internal Floating-Roof Tanks).

A combination of technologies and devices to control emissions from slotted guidepoles and deck fittings may be acceptable under

the Storage Tank Emissions Reduction Partnership Program if such alternate emits no more than the above-identified control system plus the same combination of deck fittings (equipped as required under NSPS Subpart Kb), as determined using AP-42. The emissions from an alternate combination of control technologies and devices shall be determined using AP-42 and/or as specified above.

3. *Pole Sleeve System*—Each opening through the deck of the floating roof for a slotted guidepole shall be equipped with a deck cover, a pole wiper and a pole sleeve. The deck cover shall be equipped with a gasket between the cover and the deck. The sleeve extends into the stored liquid.

4. *Internal Sleeve Emission Control System*—An internal guidepole sleeve that eliminates the hydrocarbon vapor emission pathway from inside the tank through the guidepole slots to the outside air; a guidepole cover at the top of the guidepole; and a well cover positioned at the top of the guidepole well that seals any openings between the well cover and the guidepole (e.g., pole wiper), any openings between the well cover and any other objects that pass through the well cover, and any other openings in the top of the guidepole well.

5. *Covers on External Floating Roof Tanks*—The external floating roof tank shall be (or have been) modified by installing a fixed roof mounted on the tank above its external floating roof. Each opening through the deck for a slotted guidepole shall have its lower edge below the surface of the stored liquid.

6. *Removal of Tank from Service and Surrender of Permits*—Remove the tank from service storing liquids subject to NSPS Ka or Kb controls, surrender any and all operating permits for that tank to the appropriate state/local regulatory authority and represent to such authority that it will not be used to store petroleum liquids, as defined in 40 CFR 60.111a(b) that have a maximum true vapor pressure in the range defined in 40 CFR 60.112a(a), or volatile organic liquids, as defined in 40 CFR 60.111b(k), that have a maximum true vapor pressure in the range defined in 40 CFR 60.112b(a).

Definitions: Deck cover means a device which covers an opening in a floating roof deck. Some deck covers move horizontally relative to the deck (i.e., a sliding cover).

Pole float means a float located inside a guidepole that floats on the surface of the stored liquid. The rim of the float has a wiper or seal that extends to the inner surface of the pole.

Pole sleeve means a device which extends from either the cover or the rim of an opening in a floating roof deck to the outer surface of a pole that passes through the opening. The sleeve extends into the stored liquid.

Pole wiper means a seal that extends from either the cover or the rim of an opening in a floating roof deck to the outer surface of a pole that passes through the opening.

Slotted guidepole means a guidepole or gaugepole that has slots or holes through the wall of the pole. The slots or holes allow the stored liquid to flow into the pole at liquid levels above the lowest operating level.

Appendix II—Storage Tank Emission Reduction Partnership Agreement

The United States Environmental Protection Agency (“EPA”) and (“Participating Company”), the parties herein, desire to enter into and be bound by the terms of this Storage Tank Emission Reduction Partnership Agreement (“Partnership Agreement” or “Agreement”).

Whereas Participating Company recognizes that reducing emissions from tanks and other storage vessels with slotted guidepoles¹ can improve air quality while reducing evaporative product losses.

Whereas Participating Company is committed to environmental improvement and the cost-effective reduction of emissions.

Whereas EPA recognizes the value of cooperative emission reduction programs with industry.

Whereas Participating Company desires to participate in the Storage Tank Emission Reduction Partnership Program announced by EPA at Fed. Reg. (2000) (hereinafter referred to as “Program notice”).

Now, therefore, in consideration of the above and the mutual undertakings of each to the other, EPA and Participating Company agree as follows:

Applicability

1. The provisions of this Partnership Agreement shall apply to and be binding upon EPA and upon Participating Company, its officers, directors, agents, servants, employees, successors and assigns. Participating Company shall give notice of this Agreement to any successor in interest prior to the transfer of any ownership interest in any tank identified in Annex A.

Representations

2(a). Participating Company represents that:

a. It notified EPA of its intent to participate in the Storage Tank Emission Reduction Partnership Program within 60 days of the Program notice.

b. It assessed and evaluated each of its NSPS Subpart Ka and Kb affected facilities² with slotted guidepoles (hereinafter referred to as “Tanks”) and is submitting this executed Partnership Agreement to EPA within 240 days of the Program notice.

c. Annex A (attached hereto and incorporated by reference herein) is a true, accurate and complete identification of:

¹ A guidepole (also referred to as a gaugepole, gauge pipe or stilling well) is a vertically oriented pipe or tube that is affixed to a tank and that passes through its floating roof. Slotted guidepoles are guidepoles with slots or holes that allow stored liquids to flow into the pole, thereby enabling representative samples to be collected from within the slotted guidepole.

² NSPS Subpart Ka applies to petroleum liquid storage vessels with a capacity of greater than 40,000 gallons that were constructed, reconstructed or modified after May 18, 1978; NSPS Subpart Kb applies to volatile organic liquid storage vessels with a capacity of greater than 40 cubic meters that were constructed, reconstructed or modified after July 23, 1984. The equipment design requirements for floating roof tanks subject to NSPS Subparts Ka and Kb are found at 40 CFR 60.112a and 60.112b.

i. Each Tank;
 ii. The date(s) by which controls were or will be installed at each Tank, provided that if controls were installed before [the date of the Program notice] that date may be used; and

iii. Predicted emission reductions such controls will achieve at each Tank.

d. The controls identified in Annex A were either specified in Appendix I to the Program notice (Acceptable Controls for Tanks with Slotted Guidepoles Under the Storage Tank Emission Reduction Partnership Program), attached hereto and incorporated by reference herein, or expressly determined by EPA to be acceptable for purposes of the Storage Tank Emission Reduction Partnership Program under Paragraph 2 of Appendix I.

e. The predicted emission reductions reflected in Annex A were calculated and derived through the proper use of either EPA's TANKS software (version 3.1 or later) or an alternative methodology expressly determined to be acceptable for this purpose by EPA.

f. The undersigned is a duly authorized representative of Participating Company, with full powers to make these representations, enter into this Agreement and bind Participating Company to the terms hereof.

(b). The undersigned EPA representative is authorized to enter into this Agreement and bind EPA to the terms hereof.

Participating Company Undertakings

3. Participating Company shall install slotted guidepole controls on Tanks identified in Annex A as expeditiously as possible (e.g., when the Tank is next taken out of service) but not later than:

a. Twenty-six (26) months after issuance of the Program notice; or

b. One hundred and twenty months (120) of the Program notice if a Tank must be taken out of service in order to instal such controls, provided Annex A describes why such Tank(s) must be taken out of service and either identifies the date(s) by which appropriate interim controls will be installed (i.e., a self-aligning float equipped with at least one wiper seal gasket that is maintained at or above the height of the pole wiper) or describes why such Tank(s) must be taken out of service in order to instal interim controls.

4. Participating Company shall properly operate and maintain all slotted guidepole controls required under Paragraph 3 in the manner specified in Attachment 1 and shall include such controls and this requirement in federally enforceable permits issued by appropriate permitting authorities.

5. Participating Company shall not seek or obtain emission reduction credits for emission reductions that result from installing slotted guidepole controls under Paragraph 3 or from the work required under Paragraph 4 of this section, nor shall it use such reductions to offset or net against other emission increases in any permitting or enforcement action required by or taken pursuant to state or federal law.

6. Participating Company agrees and by entering into this Agreement consents to

EPA's issuance of an order under and as specified in Paragraph 9.

EPA Undertakings

7. Compliance with the requirements set forth herein, including Paragraphs 3–6, shall be deemed and will, therefore, constitute full settlement and satisfaction by EPA of those violations of the Standards of Performance for New Sources, Subparts Ka and Kb, that could be or could have been alleged in civil actions or proceedings brought by EPA or the United States concerning Participating Company's use of slotted guidepoles at Tanks identified in Annex A.

8. Within sixty (60) days of its receipt of this Partnership Agreement, EPA will promptly review and either sign and return a fully executed copy of that Agreement to Participating Company or identify deficiencies in Annex A. If deficiencies identified by EPA are not corrected and a revised Annex A submitted within thirty (30) days of Participating Company's receipt of such identification by EPA, Participating Company's opportunity to participate under the Storage Tank Emission Reduction Partnership Program shall then cease and all its rights, expectations, obligations and undertakings (if any) under that program and this Agreement shall terminate and be deemed a nullity.

9. If and after EPA executes this Agreement as specified in Paragraph 8, it will issue an order to Participating Company in the form provided at Attachment 2.

Publicity

10. Participating Company may publicize that it is partnering with EPA under the Storage Tank Emission Reduction Partnership Program.

11. Upon request, EPA will recognize and acknowledge Participating Company's participation under this Partnership Program and/or industry's leadership and assistance in identifying controls for slotted guidepoles.

Access and Inspection

12. Without prior notice, any authorized representative of EPA (including a designated contractor), upon presentation of credentials where Tanks are located, may enter such location(s) at reasonable times to determine compliance with the requirements, terms and conditions of this Agreement. To make such a determination, EPA's authorized representative(s) shall have full and complete access to inspect, photograph, or videotape any Tank and to copy such records related to Participating Company's undertakings under this Agreement that EPA's representative(s) may deem necessary, provided such is consistent with EPA's authority under applicable laws, permits and regulations. Access under this Paragraph is subject to the normal health and safety requirements in effect at such locations. This Paragraph is in addition to, and not in limitation of, EPA's authority to investigate, inspect or enter premises pursuant to applicable laws, permits and regulations.

Force Majeure

13. If any event occurs that causes or may cause a delay in Participating Company's compliance with Paragraphs 3 or 4 of this

Agreement, Participating Company shall notify EPA within thirty (30) days after Participating Company becomes aware of such event. This notice shall reasonably describe the anticipated length of the delay, the reason(s) for the delay, measures Participating Company has taken and will take to prevent or minimize the delay, and the timetable by which these measures have been or will be implemented. Increased costs or expenses associated with the implementation of this Agreement shall not be the sole or primary basis for a change in its terms or an extension of time. Participating Company shall adopt reasonable measures to avoid or minimize any such delay.

14. If the parties agree that the delay or anticipated delay in compliance with Paragraph 3 of this Agreement has been or will be caused by circumstances beyond the reasonable control of Participating Company and its contractors as under Paragraph 20, the time for performance hereunder shall be extended for a period no longer than the length of the delay caused by such circumstances. The parties shall also then seek to agree on the period of such extension as under Paragraph 20, but if they cannot so agree, the determination by EPA shall control unless Participating Company invokes the formal Dispute Resolution provisions of Paragraph 21.

15. If EPA determines that such delay, anticipated delay or any identified portion thereof was caused by circumstances within the reasonable control of Participating Company and its contractors, Participating Company shall be in breach of this Agreement and subject to stipulated noncompliance penalties as set forth in Paragraph 16 unless Participating Company invokes the Dispute Resolution provisions of this Agreement (Paragraphs 20–21).

Stipulated Noncompliance Penalties

16. If Participating Company fails to comply with the requirements of Paragraphs 3 (including Annex A), 4 or 5, it shall pay up to \$1,000 per day for the first thirty (30) days of noncompliance and up to \$2,500 per day for each day of noncompliance thereafter until compliance is demonstrated. Stipulated penalties are to be determined for each Tank, provided that stipulated penalties for all noncompliance occurring on the same day shall not exceed \$10,000 per facility at which such noncompliance exists or occurs and \$25,000 per participating company. Payment of stipulated penalties shall be by cashier's check, certified check or wire transfer, payable to "Treasurer, United States of America" and delivered to EPA.

17(a). If any noncompliance with Paragraphs 3, 4 or 5 is discovered by Participating Company, it shall so notify EPA and provide a written statement describing such noncompliance by the last day of the month following the month in which such noncompliance was identified by Participating Company.

If any noncompliance with Paragraphs 3, 4 or 5 is discovered by EPA, it shall so notify Participating Company and there describe such noncompliance.

18. After an opportunity to informally resolve issues under Paragraph 20, EPA will

demand payment of such stipulated penalties as it determines are appropriate under the circumstance and permitted under Paragraph 16. Stipulated penalties shall be paid by the last day of the month following the month in which such demand is made unless Participating Company invokes the formal Dispute Resolution provisions of Paragraph 21.

19. For any noncompliance that is or could be subject to stipulated noncompliance penalties hereunder, EPA expressly reserves the right to seek any other relief to which it may be entitled under law, including but not limited to specific performance of this Agreement, injunctive relief under the Act and such other relief as may be available under any federal statute or the common law.

Dispute Resolution

20. *Informal.* If Participating Company disputes any determination made by EPA pursuant to Paragraphs 14–15 (Force Majeure), Paragraph 18 (Stipulated Noncompliance Penalties), Paragraphs 32–33 (Termination) or Appendix I (Alternate Control Technologies) but only if such alternate was requested by Participating Company, it shall send a written notice to EPA outlining the nature of the dispute/disagreement and requesting informal negotiations to resolve the dispute. Such period of informal negotiations shall not extend beyond thirty (30) days from the date when the notice was sent unless the parties expressly agree otherwise in writing.

21. *Formal.* If informal negotiations are unsuccessful, either party may request and both parties shall then attempt to reach agreement on a process and procedure for resolving the dispute by formal means using a neutral third party. Such process and procedures may include, but need not be limited to, mediation, nonbinding arbitration and binding arbitration (but only if and to the extent binding arbitration is then permitted under the Administrative Dispute Resolution Act of 1996 and EPA policy). If an agreement on process and procedure is not reached within sixty (60) days from the date notice was sent under Paragraph 20 or as otherwise provided in this Agreement, either party may then assert whatever rights they may have hereunder in an appropriate federal court.

Notification

22. All notices, records and submissions required under this Agreement shall be maintained where each Tank is located or where such Tank's records are normally maintained, provided they can be made available by facsimile (or otherwise) upon request during an inspection under Paragraph 12.

23. All notices, submissions and certifications required of Participating Company under this Agreement shall be in writing and postmarked or hand delivered to:

All notices required of EPA and all EPA determinations under this Agreement shall be in writing and postmarked or hand delivered to:

24. Upon completion of its obligations and undertakings under this Agreement, Participating Company shall provide a written certification of its compliance with this Agreement to EPA, including a description of the work performed under Paragraph 3, the date such work was completed and an identification of such permit(s) that were or will be issued under Paragraph 4. Such certification shall be signed by a responsible official and contain the following language: I certify under penalty of law that the information contained in and accompanying this document (if applicable) is true, accurate, and complete to the best of my knowledge, information and belief after reasonable inquiry.

For purposes of this Paragraph, a "responsible official" means the president, secretary, treasurer, or a vice-president of Participating Company, its senior management representative(s) where such Tanks are located, or any person who performs similar policy or decision-making functions for Participating Company.

Miscellaneous Provisions

25. Participating Company agrees to accept service from EPA by mail with respect to all matters relating to or arising under this Agreement at the address listed below (if different from Paragraph 23):

EPA agrees to accept service from Participating Company by mail with respect to all matters relating to or arising under this Agreement at the address listed below (if different from Paragraph 23):

26. Annex A of this Participation Agreement may be modified only if EPA and Participating Company agree and consent to such modification in writing.

27. This Agreement does not modify or affect in any way Participating Company's responsibility to achieve and maintain compliance with all other applicable federal, state and local laws, regulations and permits.

28. Each party shall bear its own costs, attorney's fees and disbursements in this matter.

29. This document, including its attached Annex A, Appendix I and Attachments 1 and 2, encompasses the entire agreement of the parties with respect to the subject matter hereof and totally supersedes all prior agreements and understandings, whether oral or in writing.

Termination

30. When Participating Company has complied with Paragraph 3, is in compliance with Paragraph 4 and has certified compliance under Paragraph 24, Participating Company may notify EPA of its intent to terminate this Agreement. EPA may object to such termination only on the grounds that Participating Company has not complied with this Agreement.

31. If EPA does not object to Participating Company's notice of intent to terminate, this Agreement will terminate ninety (90) days after the date of dispatch of such notice of intent to terminate. Notwithstanding such termination of this Participation Agreement, the obligations of Paragraphs 3, 4, 5 and 7 shall continue indefinitely.

32. If EPA objects to Participating Company's notice of intent to terminate, it must do so in writing within sixty (60) days of its receipt of such notice. If EPA objects to Participating Company's notice of intent to terminate, Participating Company may invoke the Dispute Resolution provisions of this Agreement (Paragraphs 20–21). In resolving any dispute regarding termination of this Agreement, Participating Company shall have the burden of proving that it is, was and has been in compliance with this Agreement.

33. If EPA determines that Participating Company is in material breach of this Agreement (e.g., evinces a pattern and practice of noncompliance with its terms and conditions), it shall give notice of such breach and may give notice of its intent to terminate this Agreement. If Participating Company objects to EPA's determination and/or notice of intent to terminate, Participating Company may invoke the Dispute Resolution provisions of this Agreement (Paragraphs 20–21). If then terminated, Participating Company's opportunity to participate under the Storage Tank Emission Reduction Partnership Program shall then cease and all its rights, expectations, obligations and undertakings (if any) under that program and this Agreement shall terminate and be deemed a nullity.

Reservation of Rights

34. By entering into the Agreement, EPA understands that Participating Company neither agrees nor concedes that its use of slotted guidepoles without the controls specified in Appendix I violate or violated any Clean Air Act requirement. Similarly, Participating Company understands that EPA neither agrees nor concedes that Participating Company's prior use of slotted guidepoles without such controls was acceptable or excused in any way or on any basis whatsoever. With respect to any tank(s) other than a Tank identified in Annex A, each party reserves all rights they may have to contest or otherwise litigate any issue arising out of any use of slotted guidepoles.

Effective Date

35. This Participation Agreement shall be effective when signed by both Participating Company and EPA.

By:
[Participating Company]
Date:

with copy to: U.S. Environmental Protection Agency, Air Enforcement Division—Station Source Enforcement Branch, Mail Code 2242A, Washington, DC 20460.

By:
U.S. Environmental Protection Agency
Date:

Attachment 1: Operating and Maintenance Requirements for Slotted Guidepole Controls Under the Storage Tank Emissions Reduction Partnership Program

The sliding cover shall be in place over the slotted-guidepole opening through the floating roof at all times except when the sliding cover must be removed for access. If the control technology used includes a guidepole float, the float shall be floating within the guidepole at all times except when it must be removed for access to the stored liquid or when the tank is empty.

Visually inspect the deck fitting for the slotted guidepole at least once every 10 years and each time the vessel is emptied and degassed. If the slotted guidepole deck fitting or control devices have defects, or if a gap of more than 0.32 centimeters (1/8 inch) exists between any gasket required for control of the slotted guidepole deck fitting and any surface that it is intended to seal, such items shall be repaired before filling or refilling the storage vessel with regulated material.

Tanks taken out of hydrocarbon service, for any reason, do not have to have any controls in place during the time they are out of service.

Attachment 2: Form Compliance Order

United States Environmental Protection Agency

In The Matter of:
[Participating Company]
Respondent.

Storage Tank Emission Reduction
Partnership Program
Agreement No.

Findings and Order

Pursuant to Section 113(a)(3) of the Clean Air Act ("CAA"), consistent with the Storage Tank Emission Reduction Partnership Agreement identified above and entered into between the United States Environmental Protection Agency ("EPA") and Respondent, and based upon available information, EPA hereby makes and issues the following Findings and Order:

Findings

1. Respondent is a Participating Company under above-identified Storage Tank Emission Reduction Partnership Agreement.

2. EPA promulgated New Source Performance Standards ("NSPS") for Petroleum Liquid Storage Vessels and for Volatile Organic Liquid Storage Vessels, appearing in 40 CFR Part 60, Subparts Ka and Kb.

3. Respondent owns or operates certain "affected facilities" under NSPS Subpart Ka and/or Kb that have or had floating roofs with slotted guidepoles, as identified in Annex A.

Order

4. Respondent shall install, maintain and operate properly those controls specified in Annex A by the date(s) there indicated and shall include or seek to include such controls

and this requirement in federally enforceable permits issued by appropriate permitting authorities.

5. Respondent shall not seek or obtain emission reduction credits for emission reductions that result from its compliance with this order, nor shall it use such reductions to offset or net against other emission increases in any permitting or enforcement action required by or taken pursuant to state or federal law.

6. Pursuant to Section 113(a) of the CAA, failure to comply with this Order may lead to a civil action to obtain compliance or an action for civil or criminal penalties.

Issued this day of , 2000.
U.S. Environmental Protection Agency.

[FR Doc. 00-620 Filed 1-13-00; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-KS; FRL-6397-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On November 8, 1999, the State of Kansas 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 the State of Kansas application, provides a 45-day public comment period, and provides an opportunity to request a public hearing on the application. Kansas has provided self-certification of a lead program meeting the requirements for approval under section 404 of TSCA. Therefore, pursuant to section 404 of TSCA, the State program is deemed authorized as of the date of submission. 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.

DATES: Comments, identified by docket control number PB-402404-KS, must be

received on or before February 28, 2000. In addition, public hearing requests may be submitted on or before February 28, 2000.

ADDRESSES: Comments and public hearing requests 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-KS in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Mazzie Talley, Lead Coordinator, Radiation, Asbestos, Lead and Indoor Programs Branch, Air, RCRA and Toxics Division, Environmental Protection Agency, Region VII, 901 North 5th St., Kansas City, KS 66101; telephone number: (913) 551-7518; e-mail address: talley.mazzie@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 the State of Kansas. 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-KS. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business