

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.

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**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 5<sup>th</sup> 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

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 5 p.m., Monday through Friday, excluding legal holidays. The docket is located at the regional office 901 North 5<sup>th</sup> St., Kansas City, KS.

### *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 PB-402404-KS in the subject line on the first page of your response.

1. *By mail.* Submit comments and hearing requests to: Mазzie Talley, Lead Coordinator, Radiation, Asbestos, Lead and Indoor Programs Branch, Air, RCRA and Toxics Division, Environmental Protection Agency, Region VII, 901 North 5<sup>th</sup> St., Kansas City, KS 66101.

2. *In person or by courier.* Deliver comments and hearing requests to: Radiation, Asbestos, Lead and Indoor Programs Branch, Air, RCRA and Toxics Division, Environmental Protection Agency, Region VII, 901 North 5<sup>th</sup> St., Kansas City, KS 66101. The regional office is open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The telephone number for the regional office is (913) 551-7020.

3. *Electronically.* You may submit comments and hearing requests electronically by e-mail to: "talley.mazzie@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 WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PB-402404-KS. Electronic comments may also be filed online at many Federal Depository Libraries.

### *D. How Should I Handle CBI Information That I Want To Submit to the Agency?*

Do not submit any information electronically that you consider to be

CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any 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 version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under "FOR FURTHER INFORMATION CONTACT."

## **II. Background**

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

The State of Kansas has provided a self-certification letter stating that its lead-based paint training and certification program meets the requirements for authorization of a State program under section 404 of TSCA and has requested approval of the Kansas lead-based paint training and certification program. Therefore, pursuant to section 404 of TSCA, the program is deemed authorized as of the date of submission (i.e., November 8, 1999). 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.

Pursuant to section 404(b) of TSCA (15 U.S.C. 2684(b)), EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before approving the application. Therefore, by this notice EPA is soliciting public comment on whether the State of Kansas application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

### *B. What is the Agency's Authority for Taking this Action?*

On October 28, 1992, the Housing and Community Development Act of 1992, Pubic 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."

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.

In the **Federal Register** of 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). 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, 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 (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. State Program Description Summary

The following summary of the State of Kansas proposed program has been provided by the applicant.

The Kansas Department of Health and Environment, Lead Poisoning Prevention Program certifies lead professionals, accredits the required training programs, licenses lead activity firms, and enforces the work practice standards for conducting lead-based paint activities and abatement projects. The department operates under the authority of Senate Bill 107 and Kansas Administrative Regulations (1999) 28-72-1 to 28-72-22. Together, these functions fulfill the requirements for an EPA approved State program and ensure the quality of lead abatement and lead-based paint activities conducted in Kansas.

The Lead Poisoning Prevention Program certifies individuals and accredits training programs for the following lead occupations: Lead inspectors, risk assessors, lead abatement workers, lead abatement supervisors, project designers, and lead abatement contractors. For each occupation, an applicant for certification must meet or exceed education and experience requirements, successfully complete an appropriate training program, and score at least 70% on the national 3<sup>rd</sup> party examination for lead inspectors, risk assessors, and lead abatement supervisors all pursuant to regulation. An applicant for a lead abatement contractor has no experience and education requirements. The licensed lead abatement contractor's application includes a statement that it will only hire certified individuals to conduct lead-based paint activities and that it will follow approved work practice standards.

Certified lead professionals must comply with Kansas Work Practice Standards when conducting lead-based paint activities on target housing or child-occupied facilities. These work practice standards ensure that lead-based paint activities are conducted reliably, effectively, and safely. The department has the authority to take administrative or civil actions or seek criminal actions against an entity that violates the work practice standards or fails to comply with any part of the licensure, certification, or accreditation regulations.

The Lead Poisoning Prevention Program staffing consists of the

following: Barry Brooks, Director, Public Service Executive; Sue Bowden, Nurse Consultant, Public Health Nurse; Trent Roehler, Office/Accounting Specialist; Wendy Butler, Intern; and Tom Morey, Health and Environment Consultant.

### 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 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.

### V. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added 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: December 21, 1999.

**Dennis D. Grams,**

*Administrator, Region VII.*

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**BILLING CODE 6560-50-F**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6523-1]

### CWA 303(d): Final Notice of EPA's Decision To Withdraw the Total Maximum Daily Loads (TMDLs) for Copper in the Arthur Kill and Kill Van Kull and Establish a TMDL for Nickel in the Hackensack River

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

**ACTION:** Notice of final decision.

**SUMMARY:** EPA has reached the following conclusions regarding certain segments of the New York-New Jersey Harbor: the applicable water quality standard for copper in the Arthur Kill and the Kill van Kull is not likely to be exceeded (i.e., the waters are not water quality-limited for copper) and therefore, no TMDL is necessary for copper; and the Hackensack River below the Oradell Dam is water quality-limited for nickel. Therefore, as part of this action, EPA is establishing a TMDL for nickel in the Hackensack River.

EPA is hereby issuing public notice of: its final decision to withdraw the Phase I copper TMDL in the Arthur Kill and Kill Van Kull established by EPA on January 24, 1996; and its final decision to establish a TMDL for nickel in the Hackensack River.

**EFFECTIVE DATE:** December 27, 1999.

**ADDRESSES:** Copies of the responsiveness summary and relevant supporting documents may be obtained by writing to Ms. Rosella O'Connor, Fate & Effects Team, U.S. Environmental Protection Agency Region 2, 290 Broadway, 24th Floor, New York, New York 10007-1866, oconnor.rosella@epamail.epa.gov, or by calling (212) 637-3823.

The administrative record containing background technical information is on file and may be inspected at the U.S. EPA, Region 2 office between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday, except holidays. Arrangements to examine the administrative record may be made by contacting Ms. Rosella O'Connor.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosella O'Connor, telephone number (212) 637-3823.

**SUPPLEMENTARY INFORMATION:**  
I. Background  
II. Public Notice of Draft Decision  
III. Final Determination

### I. Background

A TMDL, or total maximum daily load, is the maximum amount of a pollutant that a waterbody can assimilate and still meet ambient water quality standards. TMDLs are established for water quality-limited segments, which are defined as "any segment where it is known that water quality does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards, even after the application of technology-based effluent limitations \* \* \*" (40 CFR 130.2(j)).

On January 24, 1996 (61 FR 1930), EPA established certain phased TMDLs, including waste load allocations (WLAs) and load allocations (LAs) for copper