

FACT SHEET

UTAH LEAD-BASED PAINT PROGRAM MAY 2003 PROPOSED ADMINISTRATIVE RULEMAKING

Background – On August 29, 1996, the U. S. Environmental Protection Agency (EPA) published regulations creating a national Lead-Based Paint (LBP) program that could be delegated to states. During the 1998 legislative session, Senate Bill 118 gave the Utah Air Quality Board (the board) authority to make administrative rules for a Utah LBP program. The Division proposed administrative rules during the May 1998 board meeting recommending that we substantially adopt the Federal regulations by reference. Minor modifications were made to the EPA regulation to facilitate program administration in Utah. These rules were subsequently adopted by the board and made effective on August 13, 1998. The Utah LBP program applied to the EPA for program authorization/approval on August 31, 1998 and the program received program authorization retroactive to date of application and program approval on March 1, 1999.

Purpose for Rulemaking – Since our initial rulemaking, the EPA has promulgated two additional final rules, an amendment and a correction in the Federal Register. The Utah LBP program also needs to make some minor modifications to our existing rule with format and content to facilitate program administration. The Utah LBP program needs to adopt these regulations on or before September 30, 2003 to maintain EPA program authorization.

EPA Regulations – The board previously adopted the federal LBP regulation published in the August 29, 1998 Federal Register by reference. Additional EPA regulations promulgated subsequent to our original rulemaking are as follows:

Federal Register - Vol. 64, No. 110, June 9, 1999 – Lead; Fees for Accreditation of Training Programs and Certification of Lead-based Paint Activities Contractors; Final Rule

Federal Register - Vol. 64, No. 151, August 6, 1999 – Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Certification Requirements and Work Practice Standards for Individuals and Firms; Amendment

Federal Register - Vol. 66, No. 4, January 5, 2001 – Lead; Identification of Dangerous Levels of Lead; Final Rule

Federal Register - Vol. 67, No. 63, April 2, 2002 – Lead; Identification of Dangerous Levels of Lead; Correction

Utah LBP Program Requirements – We need to delete R307-840-4 – Lead-Based Paint Fees from the current rule. This was the initial fee schedule for the Utah LBP program and is no longer required. Subsequent to the initial LBP program fee schedule, fees were included in the Utah Department of Environmental Quality fee schedule established by the legislature. We also need to modify other punctuation and formatting issues.

Future EPA Regulations – The EPA has proposed two rules in the Federal Register that should be published as final rules before the end of the 2003 calendar year.

Federal Register - Vol. 63, No. 243, December 18, 1998 – Management and Disposal of Lead-Based Paint Debris; Proposed Rule

Federal Register - Vol. 66, No. 14, January 22, 2001 – Lead; Notification Requirements for Lead-based Paint Abatement Activities and Training; Proposed Rule

The EPA also has a federal legislative mandate to develop regulations for renovation and remodeling activities in target housing and child-occupied facilities as well as LBP activities in public/commercial buildings and other structures. The proposed renovation and remodeling rule is expected before the end of the 2003 calendar year and the buildings and structures rule is currently expected before the end of the 2005 calendar year.

Other Delegatable EPA LBP Programs - EPA is currently administering the Pre-Renovation and Education Rule in Utah. This program requires contractors that disturb more than 2 ft² of LBP in target housing or child-occupied facilities to notify the owner and occupants of the potential hazards of LBP. EPA Region VIII is currently administering this program in Utah, but this program can be delegated to the Utah LBP program. The board does not have legislative authority to make rules for this program under the current statute and we would need to return to the legislature for authority to administer the Pre-Renovation and Education Rule in Utah. The Division is currently evaluating whether we should pursue this authority in the upcoming legislative session.