

ATTACHMENT 2

**Toxic Substances Control Act Section 404
(15 U.S.C. 2684)**

Sec. 2684. Authorized State programs

(a) Approval

Any State which seeks to administer and enforce the standards, regulations, or other requirements established under section 2682 or 2686 of this title, or both, may, after notice and opportunity for public hearing, develop and submit to the Administrator an application, in such form as the Administrator shall require, for authorization of such a State program. Any such State may also certify to the Administrator at the time of submitting such program that the State program meets the requirements of paragraphs (1) and (2) of subsection (b) of this section. Upon submission of such certification, the State program shall be deemed to be authorized under this section, and shall apply in such State in lieu of the corresponding Federal program under section 2682 or 2686 of this title, or both, as the case may be, until such time as the Administrator disapproves the program or withdraws the authorization.

(b) Approval or disapproval

Within 180 days following submission of an application under subsection (a) of this section, the Administrator shall approve or disapprove the application. The Administrator may approve the application only if, after notice and after opportunity for public hearing, the Administrator finds that -

- (1) the State program is at least as protective of human health and the environment as the Federal program under section 2682 or 2686 of this title, or both, as the case may be, and
- (2) such State program provides adequate enforcement. Upon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program.

(c) Withdrawal of authorization

If a State is not administering and enforcing a program authorized under this section in compliance with standards, regulations, and other requirements of this subchapter, the Administrator shall so notify the State and, if corrective action is not completed within a reasonable time, not to exceed 180 days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this subchapter.

(d) Model State program

Within 18 months after October 28, 1992, the Administrator shall promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program under this subchapter. Such model program shall, to the extent

practicable, encourage States to utilize existing State and local certification and accreditation programs and procedures. Such program shall encourage reciprocity among the States with respect to the certification under section 2682 of this title.

(e) Other State requirements

Nothing in this subchapter shall be construed to prohibit any State or political subdivision thereof from imposing any requirements which are more stringent than those imposed by this subchapter.

(f) State and local certification

The regulations under this subchapter shall, to the extent appropriate, encourage States to seek program authorization and to use existing State and local certification and accreditation procedures, except that a State or local government shall not require more than 1 certification under this section for any lead-based paint activities contractor to carry out lead-based paint activities in the State or political subdivision thereof.

(g) Grants to States

The Administrator is authorized to make grants to States to develop and carry out authorized State programs under this section. The grants shall be subject to such terms and conditions as the Administrator may establish to further the purposes of this subchapter.

(h) Enforcement by Administrator

If a State does not have a State program authorized under this section and in effect by the date which is 2 years after promulgation of the regulations under section 2682 or 2686 of this title, the Administrator shall, by such date, establish a Federal program for section 2682 or 2686 of this title (as the case may be) for such State and administer and enforce such program in such State.