

EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

If the requests for voluntary cancellation and use termination are granted, the Agency intends to publish the cancellation order in the **Federal Register** that will allow persons other than the registrant to continue to sell and/or use existing stocks of canceled products until such stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product. The order will specifically prohibit any use of existing stocks that is not consistent with such previously approved labeling. The Agency will publish the cancellation order in the **Federal Register**.

#### List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 7, 2009.

**Richard P. Keigwin, Jr.,**

*Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. E9-11631 Filed 5-19-09; 8:45 am]

**BILLING CODE 6560-50-S**

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-8908-3]

#### Proposed CERCLA Settlement Agreement for Recovery of Past Response Costs Incurred at the Bueno Mill and Mine Site Located Adjacent to Jamestown in Boulder County, CO

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

**ACTION:** Notice and request for public comment.

**SUMMARY:** In accordance with the requirements of section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed Settlement Agreement for Recovery of Past Response Costs ("Agreement") under section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), concerning the Bueno Mine and Mill Site located adjacent to Jamestown in

Boulder County, Colorado. This Agreement, as embodied in a CERCLA section 122(h) Settlement Agreement for Recovery of Past Response Costs, is designed to resolve the liability at the Site for Ozark-Mahoning Company and its parents Delaware Chemicals Corporation and Arkema Inc. ("Settling Parties") for past work and past response costs through covenants under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607. The proposed Agreement requires the Settling Party to pay \$1,321,619 to the EPA Hazardous Substances Superfund.

**Opportunity for Comment:** For thirty (30) days following the date of publication of this notice, the Agency will consider all comments received, and may modify or withdraw its consent to the Agreement if comments received disclose facts or considerations which indicate that either the Agreement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Superfund Records Center, 1595 Wynkoop St., 3rd floor in Denver, Colorado.

**DATES:** Comments must be submitted on or before June 19, 2009.

**ADDRESSES:** The proposed Agreement and additional background information relating to the settlement are available for public inspection at the EPA Superfund Records Center, 1595 Wynkoop St., 3rd Floor, in Denver, Colorado. Comments and requests for a copy of the proposed Agreement should be addressed to William Ross (8ENF-RC), Technical Enforcement Program, U.S. Environmental Protection Agency, 1595 Wynkoop St., Denver, Colorado 80202-1129, and should reference the Bueno Mine and Mill Site, in Boulder County, Colorado and the Docket Number CERCLA-08-2009-0001.

**FOR FURTHER INFORMATION CONTACT:** William Ross, Enforcement Specialist/SEE (8ENF-RC), Technical Enforcement Program, U.S. Environmental Protection Agency, 1595 Wynkop St., Denver, Colorado 80202-1129, (303) 312-6208.

**SUPPLEMENTARY INFORMATION:** Regarding the Agreement under section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1): In accordance with section 122(i) of CERCLA, 42 U.S.C. 9622(i), notice is hereby given that the terms of the Agreement have been agreed to by the Settling Parties which will pay a total of \$1,312,619 to the Hazardous Substance Superfund. This payment represents 100% of the past response costs attributable to the Settling Parties incurred by the United States through the effective date of the Agreement.

Dated: May 8, 2009.

**Sharon L. Kersher,**

*Acting Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, Region 8.*

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**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-RCRA-2008-0787; FRL-8906-6]

#### Notice of Availability of RCRA Closure and Post-Closure Care Cost Estimating Software

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

**ACTION:** Notice of Availability.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the availability of a software package, referred to as CostPro, which will estimate the costs of RCRA Closure and Post-Closure care. Persons interested in obtaining a copy of the software package can contact EPA for a copy of this software.

**DATES:** This software will be available on or after May 1, 2009.

**ADDRESSES:** The official public docket is identified by Docket ID No. EPA-HQ-RCRA-2008-0737. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov>, or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding distribution of this software, contact Bob Maxey, Office of Resource Conservation and Recovery, (703) 308-7273, [maxey.bob@epa.gov](mailto:maxey.bob@epa.gov). Mail inquiries may be directed to the Office of Resource Conservation and Recovery, (5303P), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:****A. What is the regulatory basis of this software?**

Subtitle C of the Resource Conservation and Recovery Act (RCRA) establishes financial assurance requirements for owners or operators of hazardous waste treatment, storage, or disposal facilities (TSDF). The RCRA hazardous waste regulations, (40 CFR parts 264 and 265), require that the owner or operator of a TSDF which seeks a Part B permit or has interim status to prepare an estimate of the costs required to close the facility and the cost to perform post-closure care at the facility based on the costs of a third-party performing the work.

**B. How was the cost estimating method developed?**

In 1986, EPA developed a methodology to evaluate closure and post-closure cost estimates. The methodology is discussed in detail in *Cost Estimates for Closure and Post-Closure Care Plans* (EPA/530-SW-87-009). The methodology provides EPA and state permit writers with a consistent, accurate and rapid method of evaluating cost estimates for closure and post-closure care of TSDFs. The software resulting from this effort is called CostPro.

**C. How long has CostPro been used?**

EPA first issued CostPro in 1996; it has been updated four times, the last of which was completed in 2001.

**D. Does this action apply to me?**

The methods and procedures set forth in CostPro are intended primarily for the use of EPA and state personnel in evaluating the adequacy of current cost estimates for closure and post-closure care of typical hazardous waste TSDFs. EPA has received a number of inquiries about CostPro from industry. To provide industry with our basis for these estimates, EPA will provide copies of CostPro upon request, as described in this notice.

**E. What are the benefits to the update of CostPro?**

The primary benefits to the update of CostPro are that (1) it will be on a MS.NET 2.0 platform in C#, which is a contemporary software platform and (2) the program data have been updated to 2009 values.

**F. How is a CostPro estimate developed?**

CostPro's general procedure for evaluating a cost estimate for a TSDF involves:

- Identifying each facility waste management unit (e.g., container storage unit, tank, landfill, etc.) requiring closure or post-closure care;
- Identifying the closure or post-closure care activities to be conducted at each waste management unit;
- Completing inventory worksheets provided for each waste management unit;
- Completing closure or post-closure care worksheets for primary and support worksheets for each waste management unit (e.g., removal, transportation and disposal of waste, building decontamination, and sampling and analysis, etc.); and,
- Evaluating total cost summary worksheets for each waste management unit and for the facility as a whole.

**G. What are the sources of CostPro data?**

The primary sources of cost information include the 2009 R.S. Means *Means Building Construction Cost Data and Means Site Work and Landscape Cost Data* guides and the 2006 Azimuth ECHOS (Environmental Cost Handling Options and Solutions) Environmental Remediation Cost Data guide. EPA has paid a fee to these companies for the use of these data by EPA and state government personnel only. Some data, e.g., costs for geotextile netting and geomembranes for landfills have been supplied by vendors.

**H. How can the public obtain a copy of CostPro?**

Because EPA's license for use of the program data extends only to EPA and one copy for each state government, public users who want to obtain a copy of the software package (or state governments that want to obtain more than one copy of the software package) will be asked to pay a fee to R.S. Means for its use, and submit proof to EPA that appropriate permission has been obtained from the R.S. Means Company. Contact Peter Cholakakis of R.S. Means at [peter.cholakakis@reedbusiness.com](mailto:peter.cholakakis@reedbusiness.com). EPA will then mail a CD to the requester. See EPA contact information above.

Dated: May 11, 2009.

**Matt Hale,**

*Director, Office of Resource Conservation and Recovery.*

[FR Doc. E9-11741 Filed 5-19-09; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

[Docket No. EPA-RO4-SFUND-2009-0320, FRL-8907-8]

**Lilburn Mercury Spill Superfund Site; Lilburn, Gwinnett County, GA; Notice of Settlement**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of settlement.

**SUMMARY:** Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for reimbursement of past response costs concerning the Lilburn Mercury Spill Superfund Site located in Lilburn, Gwinnett County, Georgia for publication.

**DATES:** The Agency will consider public comments on the settlement until June 19, 2009. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

**ADDRESSES:** Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments, identified by Docket ID No. EPA-RO4-SFUND-2009-0320 or Site name Lilburn Mercury Spill Superfund Site by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- <http://www.epa.gov/region4/waste/sf/enforce.htm>.
- *E-mail: Painter.Paula@epa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Paula V. Painter at 404/562-8887.

Dated: May 7, 2009.

**Anita L. Davis,**

*Chief, Superfund Enforcement & Information Management Branch, Superfund Division.*

[FR Doc. E9-11829 Filed 5-19-09; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-8907-9; Docket ID No. EPA-HQ-ORD-2009-0243]

**An Approach To Using Toxicogenomic Data in U.S. EPA Human Health Risk Assessments: A Dibutyl Phthalate (DBP) Case Study**

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