

**ENVIRONMENTAL PROTECTION
AGENCY**

[FRL-5870-6]

**Notice of Proposed Prospective
Purchaser Agreement Pursuant to the
Comprehensive Environmental
Response, Compensation and Liability
Act of 1980, as Amended by the
Superfund Amendments and
Reauthorization Act**

AGENCY: Environmental Protection Agency.

ACTION: Request for Public Comment.

SUMMARY: On July 9, 1997 the U.S. Environmental Protection Agency ("EPA") entered into a Prospective Purchaser Agreement ("Agreement") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9607 *et seq.*, in connection with the Raymark (Jacksonville Road) Superfund Site (the "Site") located in Hatboro, Pennsylvania. The Prospective Purchaser Agreement was approved by the Assistant Attorney General of the United States Department of Justice on November 26, 1996. On December 6, 1996, the Pennsylvania Department of Environmental Protection ("PADEP" or "Commonwealth of Pennsylvania") signed the Agreement. The Agreement is subject to a public comment period, after which the United States and PADEP may withdraw their consent to the Agreement if comments received disclose facts or considerations which indicate that the Agreement is inappropriate, improper or inadequate.

DATES: Comments must be submitted on or before October 6, 1997.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, and should refer to: *In Re Raymark (Jacksonville Road) Superfund Site*, Hatboro Borough, Montgomery County, Pennsylvania, U.S. EPA Docket No. III-96-14-DC.

FOR FURTHER INFORMATION CONTACT: Yvette Hamilton-Taylor (3RC32), 215/566-2636, U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania 19107.

AVAILABILITY: The proposed Agreement and additional background information relating to the Agreement are available for public inspection at the offices of the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. A copy of the Agreement may be obtained from Suzanne Canning, U.S. Environmental

Protection Agency, Regional Docket Clerk (3RC00), 841 Chestnut Building, Philadelphia, PA 19107. Comments should reference the "Raymark (Jacksonville Road) Superfund Site" EPA Docket No. III-96-14-DC.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the execution of a Prospective Purchaser Agreement between the United States, the Commonwealth of Pennsylvania and the Philadelphia Suburban Water Company ("PSWC") concerning the Raymark (Jacksonville Road) Superfund Site in Hatboro, Pennsylvania. The Agreement would resolve, among other things, certain potential claims of the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, against PSWC.

In late 1994, PSWC proposed to purchase from the Hatboro Borough Authority ("Hatboro"), located in Hatboro, Pennsylvania, certain assets which comprised Hatboro's municipal water distribution system (the "Distribution System" or "System"). At that time, the System was being used by Hatboro to treat and distribute groundwater to the public in its service territory in and around Hatboro, Pennsylvania. A portion of the System also was being used to implement the remedy described in EPA's September 28, 1990, Record of Decision ("ROD") (Operable Units 2 and 3) for the Site. Because the property in issue was impacted by groundwater contamination, PSWC was concerned that, under certain circumstances, buying the property could subject PSWC to liability under CERCLA or under the Resource Conservation and Recovery Act ("RCRA"). Concurrent with PSWC's proposal to Hatboro to acquire the System, it requested that EPA and PADEP enter into a prospective purchaser agreement. In March 1995, EPA, PADEP and PSWC began negotiations which resulted in an agreement in principle being reached in the early part of October 1996.

Under the proposed Agreement, PSWC agreed to pay \$60,000 to the United States to cover the costs associated with the monitoring and sampling of three Hatboro wells which are currently being used to implement the ground water remedy described in EPA's ROD for Operable Units 2 and 3. PSWC also agreed to operate, maintain, monitor, and convert to monitoring wells certain drinking water wells it proposed to purchase from Hatboro. The estimated cost of this activity is \$40,000. Additionally, PSWC agreed to provide to EPA unrestricted access to these wells, to exercise due care to protect the

public health and safety at the Site and not to interfere with remedial activities currently being implemented in connection with the System and at the Site. In exchange for these commitments from PSWC, the United States agreed to grant a limited Covenant Not to Sue to PSWC and to its successors in interest and assigns for CERCLA or RCRA liability arising from existing contamination contained within the System or for the recovery of natural resource damages pursuant to Sections 106, 107(a), 107(f), 113(f) or 113(g)(2) of CERCLA, 42 U.S.C. 9606, 9607(a), 9607(f), 9613(f) or 9613(g)(2).¹

Under the proposed Agreement, PSWC also agreed to pay PADEP \$12,000, a portion of which will be used to defray its costs of performing certain future obligations with respect to the remedy currently being implemented at the Site. In exchange for this payment, PADEP agreed to grant a limited Covenant Not to Sue to PSWC and to its successors in interest and assigns for liability arising from existing contamination contained within the System and a natural resources damage waiver pursuant to Section 507 of the Hazardous Substances Cleanup Act, 35 P.S. § 6020.507.

PSWC signed the Agreement on October 22, 1996. However, on October 31, 1996, prior to execution of the Agreement by EPA and PADEP, a Bill of Sale and Assignment was executed by and between Hatboro and PSWC in which Hatboro transferred to PSWC title to the System. As a consequence, PSWC became the owner of the System prior to execution of the Agreement by EPA and PADEP. The Regional Administrator of EPA Region III has determined that PSWC's acquisition of the System prior to execution of the Agreement by EPA and PADEP should not alter the rights, obligations and covenants previously agreed to in principle by the parties to the Agreement. The Regional Administrator has determined further that it continues to be in the public interest to proceed with the execution of the Agreement.

¹ On January 9, 1996, the United States Department of the Interior ("DOI") granted a natural resources damage waiver to PSWC provided that DOI's right to institute a claim against PSWC regarding the injury to, destruction of, or loss of natural resources resulting from any hazardous substance, pollutant or contaminant not present at the Site as of the effective date of the agreement or resulting from the exacerbation of Existing Contamination was preserved. Under Section 122(j) of CERCLA, 42 U.S.C. 9622(j), DOI may grant a covenant not to sue for natural resource damages provided that the party agrees to take appropriate action to protect and restore natural resources damaged or destroyed by a release or threatened release of a hazardous substance.

EPA will accept written comments relating to this Agreement for sixty (60) days from the date of publication of this Notice. As noted above, the United States and PADEP may withdraw their consent to the Agreement if comments received during this period disclose facts or considerations which indicate that the Agreement is inappropriate, improper or inadequate. In addition, pursuant to Section 7003(d) of the Solid Waste Disposal Act, 42 U.S.C. 6973(d), any person may request a public meeting in the area affected by the Agreement. EPA's response to any comments received will be available for public inspection at the offices of the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Yvette Hamilton-Taylor (3RC32), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566-2636.

Dated: July 18, 1997.

Thomas Voltaggio,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.
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ENVIRONMENTAL PROTECTION AGENCY

[FRL-5871-5]

Extension of Comment Period for Waste Minimization Software and Documents

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period for a draft software package and other draft documents pertaining to priorities for waste minimization.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for a draft software package and other draft documents pertaining to priorities for waste minimization. The notice of availability for these materials appeared in the **Federal Register** on June 23, 1997 (62 FR 33868). This extension is necessary to allow commenters time to review additional materials placed in the docket after the comment period began and to provide adequate opportunity for commenters to fully evaluate and prepare comments on the draft software package and other draft documents.

DATES: EPA will continue to accept written comments on the draft software package and other draft documents

pertaining to priorities for waste minimization until October 7, 1997.

ADDRESSES: To obtain copies: Copies of the software package and the documents cited in this notice can be obtained by calling the RCRA/Superfund/CERCLA Hotline at (800) 424-9346, TDD (800) 553-7672 (hearing impaired), or (703) 412-9810 in the Washington, DC metropolitan area, from 9 a.m. until 6 p.m. Eastern time.

The software package and documents are also available in electronic format on the Internet, and can be obtained by accessing:

WWW: <http://www.epa.gov/epaoswer/hazwaste/minimize>.

FTP: <ftp://ftp.epa.gov>

Login: anonymous

Password: your Internet address

Files are located in /pub/gopher/OSWRCRA.

TO SUBMIT COMMENTS: Please send an original and two copies of comments, referencing docket number F-97-MPCA-FFFFF, to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-97-MPCA-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, S.W., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page.

FOR FURTHER INFORMATION CONTACT: For general questions pertaining to waste minimization, or questions pertaining to specific aspects of this notice, contact

the RCRA/Superfund/EPCRA Hotline at the telephone numbers cited above, or U.S. Environmental Protection Agency, Office of Solid Waste, Waste Minimization Branch, 401 M Street, S.W.(5302W), Washington, DC 20460; telephone: (703) 308-8402, fax: (703) 308-8433.

SUPPLEMENTARY INFORMATION:

I. Background

On June 23, 1997, EPA announced the availability of a beta-test version of a software package which will prioritize chemicals according to their persistence, bioaccumulation, toxicity, and quantity; a draft list of chemicals derived from the software and ranked according to persistence, bioaccumulation, and toxicity; and a crosswalk identifying which RCRA waste codes are likely to contain these chemicals. These materials have been prepared in order to assist hazardous waste generators, government agencies, technical assistance centers, and others involved in waste minimization in making progress towards the goals of EPA's 1994 Waste Minimization National Plan, which calls for a fifty percent reduction in the presence of the most persistent, bioaccumulative, and toxic chemicals in hazardous wastes by the year 2005. See 62 FR 33868 (June 23, 1997) for a more detailed explanation of the materials which were made available.

II. Extension of the Comment Period

EPA has received at least six written requests to extend the comment period by 60 days or more to allow adequate time for commenters to fully evaluate and prepare comments on the software and accompanying written materials. In requesting an extension, the requestors generally cite the complexity of the technical issues associated with EPA's screening methodology, the difficulty of determining the sources of information used to evaluate specific chemicals, and the quantity of information and materials to be reviewed. Requestors also pointed out that certain materials provided in the docket were incomplete and therefore could not be reviewed at the beginning of the comment period.

EPA has examined the materials in the docket and has determined that two documents, the *Waste Minimization National Plan* and the *Chemical Use Clusters Scoring Methodology*, were incomplete or partially illegible. As of July 29, 1997, EPA replaced both documents with complete, fully legible versions. EPA points out that Appendix D of the *Chemical Use Clusters Scoring*