

TSD to evaluate effluent and to derive WET limits or monitoring triggers.

- EPA recommends that NPDES permitting authorities calculate the facility-specific CVs using point estimate techniques to determine the need for and to derive a permit limit for WET, even if self-monitoring data are to be determined using hypothesis testing techniques, for example, to determine a "no effect concentration (NOEC)". The document describes such facility-specific calculation procedures.

#### Additional Recommendations and Guidance

This document also provides recommendations and guidance on minimizing variability in three specific areas in order to generate sound WET test results: (1) Obtaining a representative effluent sample; (2) conducting the toxicity tests properly to generate the biological endpoints; and (3) conducting the appropriate statistical analysis to determine the effect concentrations (IC25, NOEC). If these recommendations are addressed, the reliability of the test endpoint values should improve.

- Permitting authorities should design a sampling program that collects representative effluent samples to fully characterize effluent variability for a specific facility over time.

- Permitting authorities should ensure proper application of WET statistical procedures and test methods.

- EPA recommends that NPDES permitting authorities incorporate both the upper and lower bounds using the percent minimum significant difference (PMSD) to control and to minimize within-test method variability and increase test sensitivity. To achieve the PMSD upper bound, either the replication should increase or within-test method variability should decrease, or both.

- EPA recommends that WET testing laboratories maintain control charts for PMSD and the control mean and report the PMSD with all WET test results.

- NPDES permitting authorities should develop a quality control checklist to assist in evaluating and interpreting toxicity test results.

- EPA recommends that permitting authorities and laboratories participate in the National Environment Laboratory Accreditation Program and conduct routine performance audit inspections to evaluate laboratory performance.

Dated: July 12, 2000.

**Michael B. Cook,**

*Director, Office of Wastewater Management.*

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#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-6837-8]

#### Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act; Butler Mine Tunnel De Minimis Settlement

**AGENCY:** Environmental Protection Agency.

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

**SUMMARY:** In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Butler Mine Tunnel Superfund Site in Pittston Township, Luzerne County, Pennsylvania. The administrative settlement was signed by the United States Environmental Protection Agency, Region III's Regional Administrator on June 2, 2000, and is subject to review by the public pursuant to this document. The agreement has been approved by the Attorney General, United States Department of Justice or her designee.

The Environmental Protection Agency is proposing to enter into a de minimis settlement pursuant to section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. 9622(g). This proposed settlement is intended to resolve the liability under CERCLA of one de minimis party for response costs incurred by the United States Environmental Protection Agency at the Butler Mine Tunnel Superfund Site, Pittston Township, Luzerne County, Pennsylvania.

The City of College Park, a municipality, is the Settling Party who has executed binding certifications of its consent to participate in this settlement. This party has agreed to pay \$4,000 to the United States Environmental Protection Agency subject to the contingency that the Environmental Protection Agency may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this document.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

**DATES:** Comments must be provided on or before August 17, 2000.

**ADDRESSES:** Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, and should refer to: In Re: Butler Mine Tunnel Superfund Site, Pittston Township, Luzerne County, Pennsylvania, U.S. EPA Docket No. CERC-DEM-2000-01. The proposed settlement agreement is available for public inspection at the United States Environmental Protection Agency, Region III. A copy of the Administrative Order on Consent can be obtained from the Environmental Protection Agency, Region III, Office of Regional Counsel, (3RC44), 1650 Arch Street, Philadelphia, Pennsylvania, 19103 by contacting Dawnmarie Dominski, Paralegal Specialist, at (215) 814-2614.

**FOR FURTHER INFORMATION CONTACT:** Charles Hayden, Assistant Regional Counsel, (215) 814-2668, United States Environmental Protection Agency, Office of Regional Counsel, (3RC44), 1650 Arch Street, Philadelphia, Pennsylvania, 19103.

**SUPPLEMENTARY INFORMATION:** The Environmental Protection Agency is entering into this agreement under the authority of sections 122(g) and 107 of CERCLA, 42 U.S.C. 9622(g) and 9607. Section 122(g) of CERCLA, 42 U.S.C. 9622(g), authorizes early settlements with de minimis parties to allow them to resolve their liabilities under, inter alia, section 107 of CERCLA, 42 U.S.C. 9607, to reimburse the United States for response costs incurred in cleaning up Superfund sites without incurring substantial transaction costs. Under this authority the Environmental Protection Agency proposes to settle with a municipal party at the Butler Mine Tunnel Superfund Site who is responsible for less than one percent of the volume of identified hazardous substances at the Site. The de minimis party listed above will be required to pay its volumetric share of the Government's past response costs and the estimated future response costs at the Butler Mine Tunnel Superfund Site.

Dated: July 7, 2000.

**Bradley M. Campbell,**

*Regional Administrator, Region III.*

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