

**FOR FURTHER INFORMATION CONTACT:** Policy and Guidance Branch, Policy and Program Evaluation Division, Office of Site Remediation Enforcement, 401 M St., SW, 2273A, Washington, D.C. 20460. Phone: (202) 564-5115. The policy is available electronically at <http://www.epa.gov/envirosense/oeca/osre/osredoc.html>. Copies of the policy can be ordered from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Each order must reference the NTIS item number, PB97-199731. For telephone orders or further information on placing an order, call NTIS at (703) 487-4650 or (800) 553-NTIS. For orders via E-mail/Internet, send to the following address: [orders@ntis.fedworld.gov](mailto:orders@ntis.fedworld.gov).

Dated: September 30, 1997.

**Barry Breen,**

*Director, Office of Site Remediation Enforcement.*

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Branch, Policy and Program Evaluation Division, Office of Site Remediation Enforcement, 401 M St., SW, 2273A, Washington, D.C. 20460. Phone: (202) 564-5115. The guidance document is also available electronically at <http://www.epa.gov/envirosense/oeca/osre/osredoc.html>. Copies of the policy can be ordered from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Each order must reference the NTIS item number, PB98-103146. For telephone orders or further information on placing an order, call NTIS at (703) 487-4650 or (800) 553-NTIS. For orders via E-mail/Internet, send to the following address: [orders@ntis.fedworld.gov](mailto:orders@ntis.fedworld.gov).

Dated: September 30, 1997.

**Steven A. Herman,**

*Assistant Administrator, Office of Enforcement and Compliance Assurance.*

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Remediation Enforcement, 401 M St., SW, 2273A, Washington, D.C. 20460 or Bob Brook in the Environmental Enforcement Section of the Department of Justice at (202) 514-2738. This addendum is available electronically at <http://www.epa.gov/envirosense/oeca/osre/osredoc.html>. Copies of this document can be ordered from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Each order must reference the NTIS item number, PB98-103138. For telephone orders or further information on placing an order, call NTIS at (703) 487-4650 or (800) 553-NTIS. For orders via E-mail/Internet, send to the following address: [orders@ntis.fedworld.gov](mailto:orders@ntis.fedworld.gov).

Dated: September 30, 1997.

**Steven A. Herman,**

*Assistant Administrator, Office of Enforcement and Compliance Assurance Environmental Protection Agency.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5921-6]

### Announcement and Notice of Availability of the Guidance on EPA Participation in Bankruptcy Cases

**SUMMARY:** The purpose of this guidance is to identify the factors to be considered by the Environmental Protection Agency in determining whether to participate in a bankruptcy case, including whether to pursue collection of costs or penalties against debtors who have liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or other environmental statutes. This guidance also addresses issues in bankruptcy cases relating to the abandonment of contaminated property, cleanup activities under CERCLA on property included in the bankruptcy estate, and the impact of the automatic stay on different types of administrative and judicial enforcement activities. It supersedes the "Guidance Regarding CERCLA Enforcement Against Bankrupt Parties," OSWER Directive #9832.7 (May 24, 1984) and the "Revised Hazardous Waste Bankruptcy Guidance," OSWER Directive #9832.8 (May 23, 1986).

**FURTHER INFORMATION CONTACT:** Andrea Madigan, USEPA Region IV, 61 Forsyth Street, Atlanta, GA 30303. Phone: (404) 562-9518. Copies of the document are available from the Policy and Guidance

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5921-8]

### Announcement and Notice of Availability of an Addendum to the "Interim CERCLA Settlement Policy" Issued on December 5, 1984

**SUMMARY:** This memorandum is an addendum to the "Interim CERCLA Settlement Policy" which was issued by the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) on December 5, 1984 (50 FR 5024, February 5, 1985). That policy sets forth the general principles governing settlements with potentially responsible parties under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). On June 3, 1996, EPA issued an "Interim Guidance on Orphan Share Compensation for Settlers of Remedial Design/Remedial Action and Non-Time-Critical Removals." Because that guidance document does not apply to CERCLA cost recovery settlements in which the parties are not agreeing to perform remedial design/remedial action work or a non-time critical removal, EPA and DOJ are issuing the addendum to provide the Regions with direction for addressing potential compromises of CERCLA cost recovery claims due to the existence of a significant orphan share.

**FOR FURTHER INFORMATION CONTACT:** Laura Bulatao (202-564-6028) or Deniz Ergener (202-564-4233), Office of Site

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5921-7]

### Announcement and Notice of Availability of the Interim Policy on Settlement of CERCLA Section 106(b)(1) Penalty Claims and Section 107(c)(3) Punitive Damages Claims for Noncompliance with Administrative Orders

**SUMMARY:** This policy is intended to make calculation of civil penalties and punitive damages under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for purposes of settlement a fair and effective process for deterring noncompliance with EPA's administrative orders. The policy contains an innovative approach toward penalty calculation which takes into account factors particularly relevant to CERCLA cases by incorporating both harm and equitable adjustment factors into a single "harm-recalcitrance" matrix. Factors such as the noncomplier's degree of responsibility for the site and ability to finance compliance with an administrative order are considered early in the calculation process to encourage companies that have greater responsibility for the creation of the CERCLA site and/or are better able to finance a cleanup to step forward and work with other viable potentially responsible parties to take responsibility

for cleanups. The policy provides for smaller penalties for noncompliance by smaller contributors to Superfund sites, companies with limited financial resources, and less sophisticated parties. This policy reserves the highest penalties for the most egregious offenders—the noncompliers who are financially capable of performing, who are most responsible for creating the Superfund site, and whose failure to perform results in actual harm to human health, the environment, or EPA's enforcement and response program, or results in serious inequities to complying parties. Consistent with the Agency's "Policy on Civil Penalties" (Feb. 16, 1984), this policy should be used only in cases where the government is settling civil penalty and punitive damages claims.

**FURTHER INFORMATION CONTACT:** Steven Rollin, Policy and Guidance Branch, Policy and Program Evaluation Division, Office of Site Remediation Enforcement, 401 M St., SW, 2273A, Washington, D.C. 20460. Phone: (202) 564-5142. The policy is available electronically at <http://www.epa.gov/envirosense/oeca/osre/osredoc.html>. Copies of this document can be ordered from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Each order must reference the NTIS item number, PB97-208086. For telephone orders or further information on placing an order, call NTIS at (703) 487-4650 or (800) 553-NTIS. For orders via E-mail/Internet, send to the following address: [orders@ntis.fedworld.gov](mailto:orders@ntis.fedworld.gov).

Dated September 30, 1997.

**Steven A. Herman,**

Assistant Administrator, Office of Enforcement and Compliance Assurance.  
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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5921-2]

**Proposed CERCLA Administrative De Minimis Settlement—Chemical Handling Corporation Site, Jefferson County, Colorado**

**AGENCY:** Environmental Protection Agency.

**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 administrative *de minimis* settlement under section 122(g) of CERCLA, 42 U.S.C. 9622(g), concerning the Chemical Handling Corporation site located at 11811 Upham Street, near the City of Broomfield, in unincorporated Jefferson County, Colorado ("Site"), with the settling parties listed in the Supplementary Information portion of this notice. The settlement, embodied in a proposed Administrative Order on Consent ("AOC"), is designed to resolve fully each settling party's liability at the Site through a covenant not to sue under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973. The proposed AOC requires the Potentially Responsible Parties ("PRPs") listed in the Supplementary Information section below to pay an aggregate total of \$131,646.24 to address their liability to the United States related to response actions taken at the Site.

**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 settlement if comments received disclose facts or considerations which indicate that the settlement is

inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Superfund Record Center, 999 18th Street, 5th Floor, in Denver, Colorado. Commenters may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

**DATES:** Comments must be submitted on or before December 15, 1997.

**ADDRESSES:** The proposed settlement and additional background information relating to the settlement are available for public inspection at the EPA Superfund Record Center, 999 18th Street, 5th Floor, in Denver, Colorado. Comments and requests for a copy of the proposed settlement should be addressed to Carol Pokorny, Enforcement Specialist (8ENF-T), Technical Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, and should reference the Chemical Handling Corporation Site, Jefferson County, Colorado and EPA Docket No. CERCLA VIII-97-05.

**FOR FURTHER INFORMATION CONTACT:** Carol Pokorny, Enforcement Specialist (8ENF-T), Technical Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, (303) 312-6970.

**SUPPLEMENTARY INFORMATION:** Notice of proposed administrative *de minimis* settlement under section 122(g) of CERCLA, 42 U.S.C. 9622(g): In accordance with Section 122(i) of CERCLA, 42 U.S.C. 9622(i), notice is hereby given that the terms of the Administrative Order on Consent ("AOC") have been agreed to by the following settling parties, for the following amounts (where the name of a party is followed by a "/" that indicates that the name following the "/" is the name of the party as it appears on the AOC signature page):

AOC CERCLA, VIII-97-05

Name of party	Settlement amount
ADK Pressure Equipment Corp/Joslyn Company, LLC	\$2,129.10
Advantage Advertising	263.72
Antique Refinisher, Inc	263.72
B.F. Pirelli's/Brad Fukui	263.72
Boyd Distributing/Boyd Investment Co	131.86
Cascade Collision/Cascade Collision, Inc	131.86
Chemcraft Sadolin International/Robert Schwartz	5,221.61
Coat Rite/Coats and Colors, Inc	145.04
Don's Auto Body	580.66
E/M Corporation/West Lafayette Corporation	8,148.88
E.T.I. Tank Cleaners/Southern Tank Cleaning, Inc	725.22