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Dated: November 27, 1995.

William H. Sanders III,
Director, Office of Pollution Prevention and Toxics.

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[FRL-5340-6]

Superfund Program; Revised Model De Minimis Contributor Consent Decree and Administrative Order on Consent

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Agency is publishing today the revised "Model CERCLA Section 122(g)(4) *De Minimis* Contributor Consent Decree" and the revised "Model CERCLA Section 122(g)(4) *De Minimis* Contributor Administrative Order on Consent." These models, developed by the Agency and the U.S. Department of Justice, supersede the "Interim Model CERCLA Section 122(g)(4) *De Minimis* Waste Contributor Consent Decree and Administrative Order on Consent" issued on October 19, 1987, and published at 52 FR 43,393 (November 12, 1987). They are designed as

guidance for Agency and Department staff when negotiating CERCLA Section 122(g)(1)(A) *de minimis* contributor settlements. The Agency is publishing the models in their entirety, along with the September 29, 1995 joint memorandum of the EPA and the U.S. Department of Justice announcing their issuance, to inform affected members of the public of their existence and content.

FOR FURTHER INFORMATION CONTACT:

Janice C. Linett, Mail Code 2272, Office of Enforcement and Compliance Assurance, Regional Enforcement Division, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260-7116.

Dated: October 26, 1995.

Susan Brown,

Acting Director, Office of Site Remediation Enforcement.

September 29, 1995.

MEMORANDUM

SUBJECT: Issuance of Revised "Model CERCLA Section 122(g)(4) *De Minimis* Contributor Consent Decree and Administrative Order on Consent"
FROM: Jerry Clifford, Director, Office of Site Remediation Enforcement, U.S. Environmental Protection Agency, Bruce S. Gelber, Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice
TO: Regional Counsel, Regions I-X, Regional Waste Management Division Directors, Regions I-X, Financial Management Officers, Regions I-X, Assistant Chiefs, Environmental Enforcement Section

We are pleased to issue the revised "Model CERCLA Section 122(g)(4) *De Minimis* Contributor Consent Decree" and the revised "Model CERCLA Section 122(g)(4) *De Minimis* Contributor Administrative Order on Consent." These models supersede the "Interim Model CERCLA Section 122(g)(4) *De Minimis* Waste Contributor Consent Decree and Administrative Order on Consent" issued on October 19, 1987, and published at 52 Fed. Reg. 43,393 (1987). They represent the latest thinking on CERCLA Section 122(g)(1)(A) *de minimis* contributor settlements and are the product of years of experience gained in administering the *de minimis* settlement provisions of CERCLA. These revised models are needed to implement the early *de minimis* expedited settlement pilots that are part of the Superfund Administrative Reforms initiative and will provide valuable tools in fostering *de minimis* settlements in general.

These models are to be used as guidance by EPA and DOJ staff when negotiating *de minimis* contributor settlements. We encourage our staffs to adhere to them as closely as possible so as to conform with current settlement practices and procedures. We believe use of the models will help expedite negotiation of *de minimis* settlements, increase fairness and national consistency, and streamline review and approval of *de minimis* consent decrees and consent orders. When seeking approval of any settlement based upon one of these models, staff should identify any significant deviation from the relevant model and the basis for the departure. For DOJ staff, these models are available electronically on the Section's work product directory, EESINDEX, as N: \NET\SS52\UDD\EESINDEX\CERMODEL\122G4.CD or 122G4.AOC.

We would like to thank all EPA and DOJ staff who assisted in the development of these models. If you have any questions about the models, please contact Janice Linett of the Regional Support Division (RSD) at (703) 978-3057 or Tom Mariani of the Environmental Enforcement Section (EES) at (202) 514-4620. The EPA Regions may address questions about case-specific matters to the RSD attorney assigned to the case. DOJ staff should direct questions about case-specific matters to their senior attorneys or Assistant Chief or to Tom Mariani, Joe Hurley, or Mike Goodstein, EES' *de minimis* settlement coordinators.

Attachments

cc: Lawrence E. Starfield, Acting Associate General Counsel, Solid Waste and Emergency Response Division
Stephen D. Luftig, Director, Office of Emergency and Remedial Response
Jack L. Shipley, Director, Financial Management Division
Letitia Grishaw, Chief, Environmental Defense Section

United States Environmental Protection Agency and United States Department of Justice Model Cercla Section 122(g)(4) *De Minimis* Contributor Consent Decree and Administrative Order on Consent

These models and any internal procedures adopted for their implementation and use are intended as guidance for employees of the U.S. Department of Justice and U.S. Environmental Protection Agency. They do not constitute rulemaking by the Department or Agency and may not be relied upon to create a right or a benefit, substantive or procedural, enforceable at law or in equity, by any person. The