



INSTRUCTIONS FOR APPLYING FOR FINANCIAL REVIEW CASMALIA DISPOSAL SITE

Parties that wish to join this settlement, but who cannot make the full settlement payment without jeopardizing their ability to conduct their business or maintain their basic living expenses, may ask the U.S. EPA to review their financial conditions to determine if they qualify for a reduced settlement payment. Applicants must follow all of the instructions, use the forms provided, and supply all of the required financial information, including tax returns, specified below, to enable the U.S. EPA to perform the financial review.

CRITERIA

The U.S. EPA will consider a reduced settlement payment for parties that demonstrate to the U.S. EPA's satisfaction that payment of the full settlement amount would create undue financial hardship as explained more fully in the **Summary of U.S. EPA's Ability To Pay Policies**. Alternatively, the guidelines followed by U.S. EPA in its financial review may be accessed at: www.epa.gov/compliance/resources/policies/cleanup/superfund/genpol-atp-rpt.pdf.

REVIEW PROCESS

Parties submitting a **Financial Review Application** must ensure that a signed original **Signature Page** for this settlement, as well as all the applicable information required in these instructions are received by the U.S. EPA no later than thirty (30) days after your receipt of the settlement offer.

The U.S. EPA's ability to pay determination procedure involves several steps. The process described below is consistent with the U.S. EPA's ability to pay policy, summarized in the **Summary of U.S. EPA's Ability to Pay Policies**.

Step One: Initial Screening

Your company or organization must provide specific financial information to support your claim that paying the full settlement amount would create an undue financial hardship. The U.S. EPA will then conduct an initial screening. The claim may be accepted or rejected, or the U.S. EPA may require you to submit additional information. If the claim is accepted, the U.S. EPA will conduct a thorough analysis of the information submitted to support the claim.

Step Two: Ability to Pay Analysis

For step two, the U.S. EPA will perform a two-part analysis including:

- C Balance Sheet Analysis. This component considers assets, liabilities, and owners' equity, calculating the amount of money available for paying the total settlement amount from available cash or other liquid assets, the sale of assets that are not ordinary and necessary, or borrowing against assets and owners' equity.
- C Income and Cash Flow Analysis. This component considers past annual income and expenses and, based on this past performance, projects future annual "available income." In general, the U.S. EPA considers five years of this annual amount to be available to pay your company or organization's share of the site cleanup cost.

U.S. EPA'S DETERMINATION

After completing an analysis of your company or organization's financial condition, the U.S. EPA will notify you of its determination regarding your company's or organization's ability to pay the settlement amount. Only those parties that submit complete and timely applications, and are informed by the U.S. EPA that they qualify, may participate in the de minimis settlement for a reduced settlement payment. Parties that do not qualify for reduced settlement payment will be given the opportunity to participate in the de minimis settlement by making the full settlement payment. In either event, parties that submit a **Financial Review Application** will have thirty (30) days after they receive notification of the U.S. EPA's ability to pay determination to either settle for the settlement amount calculated by U.S. EPA or withdraw their signature page for the settlement.

INSTRUCTIONS

The U.S. EPA must receive your application, including all the information described below, as well as your signed, original signature page for this settlement, within thirty (30) days of your receipt of the settlement offer. All information request forms necessary to complete the U.S. EPA's initial screening are attached. Please follow the instructions in the enclosed document entitled **Instructions for Completing Financial Statements**. Please note that the U.S. EPA may contact you again if further clarification is required.

If you have questions regarding the U.S. EPA's financial review process or your application, please direct those questions to:

Karen Goldberg, Esq.
Office of Regional Counsel
U.S. EPA Region IX
75 Hawthorne Street (ORC-3)
San Francisco, CA 94105-3901
(415) 972-3951

All Requests Must Include the Following:

- C **Completed Point of Contact for Financial Review**. This form indicates whom to contact for further information relating to your company or organization's **Financial**

Review Application. Please complete and return the form even if the contact person is identical to the one on the **Primary Contact Designation Form**.

- C **Completed IRS Form 8821.** This document authorizes the U.S. EPA to verify federal tax return information with the Internal Revenue Service. Complete the sections required depending on what type of entity your company or organization is (see instructions below).

All C Corporations, S Corporations, or Limited Liability Companies (LLC's) Must Include the Following:

- C Copies of the five most recent years of the company's federal income tax returns (IRS Form 1120 or 1120S), as filed with the IRS, signed and complete with all schedules and attachments, including all Schedules K-1 for S-Corporations. If any of the five most recent years of tax returns were amended or audited, please provide complete copies of the amended returns in addition to the original returns.
- C Copies of the five most recent years of audited financial statements, including auditor's opinion, balance sheet, income statement, statement of cash flows and supporting notes and schedules. If audited statements are not available, please submit unaudited financial statements, including balance sheet, income statement, statement of cash flows and supporting notes and schedules.
- C Completed and signed **Financial Statement for Businesses.**
- C If applicable, provide a copy of the Limited Liability Company's (LLC's) operating agreement complete with all attachments, amendments, and updates.
- C A statement of the maximum amount that your company or organization is financially able to pay to resolve its liability.
- C Completed **IRS Form 8821.** Fill in the company information and sign **IRS Form 8821.** Please be sure that items 1, 3, 6 and 7 are completed.

All Partnerships Must Include the Following:

- C Copies of the five most recent years of the partnership's federal income tax returns (IRS Form 1065), as filed with the IRS, complete with all schedules and attachments.
- C Copies of the five most recent years of financial statements, complete with auditor's opinion, balance sheet, income statement, statement of cash flows and all notes. If audited statements are not available, please submit unaudited financial statements, including balance sheet, income statement, statement of cash flows and supporting notes and schedules.
- C If applicable, copies of the five most recent years of the managing partner's federal

income tax returns, as filed with the IRS, completed and signed with all schedules and attachments.

- C Completed IRS Form 8821. Note that for partnerships, it is necessary to complete **IRS Form 8821** for both the managing partner(s) and the partnership. Be sure that items 1, 3, 6 and 7 are completed.
- C A statement of the maximum amount that the partnership is financially able to pay to resolve its liability.

All Sole Proprietorships and Private Individuals Must Include the Following:

- C Copies of the five most recent years of personal federal income tax returns (IRS Form 1040), as filed with the IRS, complete with all schedules and attachments.
- C For sole proprietorships, copies of the five most recent years of financial statements, complete with auditor's opinion, balance sheet, income statement, statement of cash flows and all notes. If audited statements are not available, please submit unaudited financial statements, including balance sheet, income statement, statement of cash flows and supporting notes and schedules.
- C Completed and signed **Financial Statement for Individuals.**
- C A statement of the maximum amount that you believe you are financially able to pay to resolve your liability.
- C Completed **IRS Form 8821.** Please fill in the address and sign **IRS Form 8821.** Be sure that items 1, 3, 6 and 7 are completed.

All Municipalities and Other Government Entities Must Include the Following:

- C Copies of the annual operating budget for each of the three most recent years, complete with all appendices and any amendments.
- C Copies of the three most recent years of audited financial statements, complete with all notes and schedules. If audited statements are not available, please submit unaudited financial statements, complete with all notes and schedules.
- C A copy of the most recent General Obligation Bond Prospectus.
- C A statement of the maximum amount that the municipality or other government entity is financially able to pay to resolve its liability.

All Not-for-Profit Corporations (excluding municipalities and other government entities) Must Include the Following:

- C Copies of the five most recent years of federal income tax returns if required for any part of your organization or income, as filed with the IRS, complete with all schedules and attachments. If you are not required to file federal income tax returns, please provide a signed statement identifying your IRS exemption (e.g., IRS code 501(c)(a)).
- C Copies of the annual budget for each of the five most recent years, complete with all appendices and any amendments.
- C Copies of the five most recent years of audited financial statements, complete with all notes and schedules. If audited statements are not available, please submit unaudited financial statements, complete with all notes and schedules.
- C Completed and signed **Financial Statement for Businesses**
- C A statement of the maximum amount that your organization is financially able to pay to resolve its liability.

Confidential Business Information:

Your company or organization may assert a business confidentiality claim covering part or all of the information disclosed for the ability to pay analysis. If you assert a claim, the information will be disclosed by the U.S. EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B. If no such claim is made at the time the information is submitted to the U.S. EPA, the information may be made available to the public without further notice to you.

To make a confidentiality claim, please follow the steps outlined in the document entitled **Instructions for Claiming Confidentiality.**