



INSTRUCTIONS & APPLICATION FOR PARTIES SEEKING VOLUME REVIEW OPERATING INDUSTRIES, INC. SUPERFUND SITE

De minimis parties who in principle agree to settle, but who in good faith believe their assessed volume is in error, may request a review of their volume assessment by submitting a completed Application for Volume Review form, together with the appropriate supporting documentation described in the attached Instructions, along with the Consent and Authorization Signature Page for the settlement. The executed signature page, completed Application for Volume Review form, and all required supporting documentation must be submitted in time to be received by the U.S. EPA at the address noted in the offer letter **no later than 5:00 p.m. on Friday, May 7, 2010**. Parties who are subsequently informed by the U.S. EPA that their volume assessment was incorrect will be allowed to settle by making a revised payment specified by the U.S. EPA and these companies will be eligible for the 5% expedited settlement discount. If the U.S. EPA determines that your company's or organization's original volume assessment was correct, your company or organization will have the opportunity to participate in a *de minimis* settlement by making the full settlement payment and will not be given the 5% settlement discount due to the time required to conduct the review. In either event, your company or organization can withdraw its signature page within fourteen (14) days after it receives notification of the U.S. EPA's volume review decision.

Please read the enclosed "Operating Industries, Inc. Site *De Minimis* Settlement Information" memorandum, the Manifest and Volume Database Information memorandum, and all of the instructions before completing this application. **Incomplete applications will not be accepted for review.** Please note that it will take the U.S. EPA some time to review your application, and that the U.S. EPA may request additional information to complete the review. **In this volume review process, the U.S. EPA will only consider information bearing on the volume of the shipments sent to the OII Site.** Other issues, such as your company's or organization's legal responsibility for the wastes, the relative toxicity of the wastes, or whether the wastes included hazardous substances **will not** be addressed in the volume review process. Inclusion of such arguments in your volume review request may slow the volume review process and make it more difficult for the U.S. EPA to consider volumetric issues raised by your company or organization.

General Information About the Volume Review Process

To successfully challenge the volume assigned to a manifest, your company or organization must provide clear and convincing evidence satisfactory to the U.S. EPA that a different volume for that manifest is correct. Participation in the volume review process does not require your company or organization to make any admission of liability. In order to avoid penalizing companies and organizations who participate in good faith in the volume review process, the U.S. EPA will not increase a company's or organization's volume solely as a result of information it provides during the volume review process.

In conducting its volume review, the U.S. EPA will first examine the manifest in question, and then review the supporting evidence provided. The U.S. EPA gives deference to the section of the manifest which, in the U.S. EPA's experience, was most often filled out correctly with regard to the specific information at issue. The U.S. EPA has found that the waste generators generally were most precise about waste volume, but tended to be least correct with regard to the ultimate disposal site. The disposal site (sometimes referred to as the treatment, storage, or disposal ("TSD") facility), the last entity in the chain to enter information on the manifest, generally ensured that it was identified correctly on the manifest, but did not always adequately measure the waste volume. As a result, the U.S. EPA considers the generator or producer section of the manifest to carry the most weight in establishing the volume represented by a manifest, followed by the hauler section and then the disposal site section. In order to establish the disposal site location, however, the ranking is reversed; the U.S. EPA considers the TSD section most reliable, the hauler section second, and the generator section third.

Supporting evidence from the same time period as the manifest (referred to as "documents contemporaneous with the manifest"), such as logs, receipts, invoices, or other business records, may also be helpful, but will only be given more weight than the manifest if the manifest appears to the U.S. EPA to have been altered, or if the U.S. EPA agrees that manifest was completed in an ambiguous fashion. Affidavits that are not contemporaneous with the manifest will only be considered if they are executed by persons with personal knowledge of the events or circumstances described in the affidavit. The affidavit also must provide a detailed explanation as to why the volume assigned to the manifest in the U.S. EPA's database is incorrect.

INSTRUCTIONS

1. Complete all of the information required on the first page of the form, providing the name of your company or organization and the requested contact information. The contact name for purposes of this volume review process need not be the same person as your company or organization designated as its Primary Contact for other purposes.

2. To help the U.S. EPA complete its review more quickly, please check the box adjacent to the description of every category of error type that fits any of your company's or organization's manifests. The applicable error types are defined in the attached Application Form for Volume Review.

3. Using the Manifest Review List, list all of the manifests you would like the U.S. EPA to review in chronological order. For each manifest, enter the Manifest Date, Bates # and the code(s) for the applicable error type(s). Please also supply a brief description of the problem(s) affecting the manifest. If you need additional room for descriptions, please attach a separate piece of paper. If you would like the U.S. EPA to review more manifests than you can list on the enclosed Manifest Review List form, please make additional copies of the form. The U.S. EPA cannot adequately review manifests that are not appropriately identified on the Manifest Review List. **Note:** if you believe more than one error type is applicable to a given manifest, only one copy of that manifest need be attached, unless attaching more than one copy will assist you in identifying for the U.S. EPA the alleged problem(s) affecting the manifest.

4. Attach copies of the manifests in chronological order (using the same order as you have listed the manifests on the Manifest Review List). Attach all of the documentation related to each individual manifest directly behind the copy of that manifest. The descriptions of potential error types provided on the application include suggestions for documentation generally relevant to such error types.

5. Complete the certification attesting to the veracity of the representations you have made in the application, under threat of penalty for having made false statements to the U.S. Government.

6. Submit the completed Application for Volume Review, along with the executed Consent and Authorization signature page for the settlement, in time to be received by the U.S. EPA at the address noted in the offer letter **no later than 5:00 p.m. on Friday, May 7, 2010.**

Application Form for Volume Review

If your company or organization wishes to request a volume review, it must complete this form in accordance with the attached instructions and submit it, **accompanied by your company's or organization's executed Consent and Authorization signature page**, in time for it to be received by the U.S. EPA at the address noted in the offer letter **no later than 5:00 p.m. on Friday, May 7, 2010**.

Company Name:	
Contact Name:	
Contact Title:	
Law/Consulting Firm Name (if applicable):	
Street Address:	
City, State & Zip:	
Telephone Number:	
Fax Number:	
E-Mail Address:	

Error Types. On the attached Manifest Review List, please list every error type that is applicable to any manifest you would like the U.S. EPA to review. Please list each manifest you submit for review on the Manifest Review List, using the letter code(s) adjacent to the applicable error type description in the column on the Manifest Review List labeled "Error Type(s)."

A Data Input Error. The quantity, unit, or number of loads on one or more manifest(s) do(es) not match the data on the Manifest Summary Report. Please describe the problem for each affected manifest on the Manifest Review List, enter the letter code "A" in the Error Type(s) column, and attach a copy of each manifest with the relevant portion(s) of the manifest highlighted.

B Generator Identification Error. One or more manifest(s) was or were attributed to the wrong generator (i.e., it does not belong to your company or organization). Please describe the problem for each affected manifest on the Manifest Review List, enter the letter code "B" in the Error Type(s) column, and attach a copy of each manifest.

C Disposal Site Error. The waste represented on one or more manifest(s) was not disposed of at the OII Site. Please note, however, that some manifests found at the Operating Industries, Inc. Site business offices incorrectly named other disposal sites, when the wastes were clearly disposed of at the OII Site. If the enclosed manifests for your company or organization indicate a different disposal site, the U.S. EPA used other information to determine that the OII Site was used for disposal of the wastes. If your company or organization still believes that the waste represented on one or more manifest(s) was not disposed of at the OII Site, please describe the problem for each affected manifest on the Manifest Review List, enter the letter code “C” in the Error Type(s) column, and attach a copy of each manifest.

D Duplicate Manifest Error. Two or more manifest(s) are exact duplicates (excluding **only** the Bates # and/or the SDMS # information). Please describe the problem for each affected manifest on the Manifest Review List, enter the letter code “D” in the Error Type(s) column, and attach copies of all duplicate manifests.

E Unit Error. One or manifest(s) was or were incorrectly filled out, resulting in the selection of the wrong unit of measurement (e.g., the manifest shows 1,000 barrels, when the actual volume was 1,000 gallons). Please describe the problem for each affected manifest on the Manifest Review List, enter the letter code “E” in the Error Type(s) column, attach invoices (or other documentation contemporaneous with the manifest) that clearly show the correct volume, and attach a copy of each manifest.

F Other Error. The volume assigned to one or more manifest(s) is in error for a reason not covered in one of the above categories. Please describe the problem for each affected manifest on the Manifest Review List, enter the letter code “F” in the Error Type(s) column, attach invoices (or other documentation contemporaneous with the manifest) that clearly show the correct volume, and attach a copy of each manifest. Please note that, while the U.S. EPA will consider replacing default volumes with specific volumes if sufficient evidence is presented, it **will not** consider arguments regarding the derivation of the default volume value, nor will it entertain arguments regarding the nature of the waste disposed as part of this volume review process.

CERTIFICATION

I hereby certify, under threat of penalty for having made false statements to the United States Government, that the foregoing representations in this Application for Volume Review are true and correct to the best of my information and belief.

Dated: _____, 2010

(Signature)

(Printed Name)

(Title)

(Title and/or Relationship to company
or organization)