

Act, as amended (CERCLA), notice is hereby given of a proposed settlement agreement under section 122(g)(4) and (h)(1) concerning the Denver Radium/Operable Unit VIII Site in Denver County, Colorado (the Site). The proposed Administrative Order on Consent (AOC) requires a potentially responsible party (PRP), Burlington Northern and Santa Fe Railway Company, to pay a total of \$75,000 to resolve its liability to the U.S. EPA related to response actions taken or to be taken at the Site.

**DATES:** Comments must be submitted on or before October 20, 1997.

**ADDRESSES:** Comments should be addressed to Wendy Silver, (8ENF-L), Legal Enforcement Program Attorney, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, and should refer to: In the Matter of: Denver Radium/Operable Unit VIII Site Administrative Settlement Agreement No. CERCLA VIII-97-70.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Thomas (8EPR-SR), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202-2466, (303) 312-6552.

**SUPPLEMENTARY INFORMATION:** Notice of section 122(g)(4) and (h)(1) Administrative Order on Consent Settlement: in accordance with section 122(g)(4) and (h)(1) of CERCLA, notice is hereby given that the terms of an Administrative Order on Consent (AOC) for a Settlement Agreement have been agreed to by the settling parties.

By the terms of the proposed AOC, the settling party will pay \$75,000 to the EPA Hazardous Substance Superfund. In exchange for payment, U.S. EPA will provide the settling party a covenant not to sue for liability under sections 106 and 107(a) of CERCLA.

The Burlington Northern and Santa Fe Railway Company is the owner of the railroad right-of-way. The Respondent represents, and for the purposes of the settlement agreement, EPA accepts, that the Respondent's involvement with the Site is limited to ownership of the approximately 4.3 acre railroad right-of-way from 1887 until the present. The respondent did not conduct or permit the generation, storage, treatment, or disposal of any hazardous substance at Operable Unit VIII, and did not contribute to the release or threat of release of a hazardous substance at Operable Unit VIII through any act or omission. The amount that the settling party will pay was determined by allocating a percentage of response costs for the Denver Radium/Operable Unit

VIII Site. All clean-up work on the Burlington Northern and Santa Fe Railway Company property was completed by August 1993. Approximately, 5% of the volume of Operable Unit VIII contamination and .8% of sitewide contamination was found on the property owned by the Burlington Northern and Santa Fe Railway Company (formerly Atchison, Topeka, and Santa Fe Railroad Company). The Denver Radium Operable Unit VIII costs were calculated based on cost documentation and cost allocation performed by Region VIII's Cost Recovery staff.

U.S. EPA will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed administrative settlement agreement.

A copy of the proposed AOC may be obtained in person or by mail from Sharon Abendschan, Enforcement Specialist (ENF-T), Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202-2466, (303) 312-6957. Additional background information relating to the administrative settlement agreement is available for review at the Superfund Records Center at the above address.

Dated: September 9, 1997.

**Martin Hestmark,**

*Acting Assistant Regional Administrator,  
Office of Enforcement, Compliance and  
Environmental Justice.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5893-7]

### Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding Wallace W. Stone, Lake of the Ozarks, MO

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed administrative penalty assessment and opportunity to comment regarding Wallace W. Stone, Lake of the Ozarks, Missouri.

**SUMMARY:** EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a

Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public notice.

On August 11, 1997, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7630, the following Complaint:

In the Matter of Wallace W. Stone, CWA Docket No. VII-97-W-0024.

The Complaint proposes a penalty of Forty Thousand Five Hundred Eighteen (\$40,518) Dollars for discharging pollutants into waters of the United States without a permit as required by Section 404 of the Clean Water Act.

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by Wallace W. Stone is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this notice.

Dated: September 4, 1997.

**William Rice,**

*Acting Regional Administrator.*

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