
40 C.F.R. § 300.700

Activities by other persons.

(a) *General.* Except as provided (e.g., in CWA section 311(c)), any person may undertake a response action to reduce or eliminate a release of a hazardous substance, pollutant, or contaminant.

(b) *Summary of CERCLA authorities.* The mechanisms available to recover the costs of response actions under CERCLA are, in summary:

(1) Section 107(a), wherein any person may receive a court award of his or her response costs, plus interest, from the party or parties found to be liable;

(2) Section 111(a)(2), wherein a private party, a PRP pursuant to a settlement agreement, or certain foreign entities may file a claim against the Fund for reimbursement of response costs;

(3) Section 106(b), wherein any person who has complied with a section 106(a) order may petition the Fund for reimbursement of reasonable costs, plus interest; and

(4) Section 123, wherein a general purpose unit of local government may apply to the Fund under 40 CFR part 310 for reimbursement of the costs of temporary emergency measures that are necessary to prevent or mitigate injury to human health or the environment associated with a release.

(c) *Section 107(a) cost recovery actions.* (1) Responsible parties shall be liable for all response costs incurred by the United States government or a state or an Indian tribe not inconsistent with the NCP.

(2) Responsible parties shall be liable for necessary costs of response actions to releases of hazardous substances incurred by any other person consistent with the NCP.

(3) For the purpose of cost recovery under section 107(a)(4)(B) of CERCLA:

(i) A private party response action will be considered “consistent with the NCP” if the action, when evaluated as a whole, is in substantial compliance with the applicable requirements in paragraphs (5) and (6) of this section, and results in a CERCLA-quality cleanup; and

(ii) Any response action carried out in compliance with the terms of an order issued by EPA pursuant to section 106 of CERCLA, or a consent decree entered into pursuant to section 122 of CERCLA, will be considered “consistent with the NCP.”

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