

Environmental Protection Agency

§ 307.42

however, notify EPA of the location of the records, and allow EPA the opportunity to take possession of the records before they are destroyed. The claimant shall cause to be inserted in all agreements between itself and contractors performing work at the site a clause providing for the same requirement to maintain records and to provide access to records as that required of the claimant.

Subpart D—Payments and Subrogation

§ 307.40 Payment of approved claims.

(a) Payment of claims will be made, as applicable, within:

(1) 50 days of EPA's decision to make an award, if the claimant does not request an administrative hearing;

(2) 50 days of an award by an administrative tribunal if no appeal of such award is taken; or

(3) 20 days of the final judicial decision of any appeal taken.

(b) Payment of a claim shall not be seen as EPA's final acceptance of the claimant's response action. Final acceptance shall await EPA's determination that the response action was conducted in accordance with the terms and conditions of the PDD or the consent order or decree, as applicable.

§ 307.41 Subrogation of claimants' rights to the Fund.

(a) The United States acquires by subrogation all rights of the claimant to recover the amount of the claim paid by the Fund from the person or persons liable under section 107 of CERCLA for the release giving rise to the response action.

(b) Claimants shall assist in any cost recovery action that may be initiated by the United States. The claimant and the claimant's contractors shall furnish the personnel, services, docu-

ments, and materials needed to assist EPA in the collection of evidence to document work performed and costs expended by the claimant or the claimant's contractors at the particular site in order to aid in cost recovery efforts. The claimant and the claimant's contractors shall also provide all requested assistance in the interpretation of documents detailing work and costs that may be needed as evidence, and shall testify on behalf of the United States in any judicial or administrative cost recovery proceeding regarding the response costs claimed. All of the claimant's contracts for implementing the PDD shall expressly require their contractors to provide this cost recovery assistance.

§ 307.42 Fund's obligation in the event of failure of remedial actions taken pursuant to CERCLA section 122.

(a) In the case of the failure of a completed remedial action taken by a potentially responsible party pursuant to a remedial action preauthorized in connection with a settlement under section 122(b)(1) of CERCLA, the Fund shall be available for the costs of any new cleanup required, but shall not be obligated to a proportion exceeding that proportion contributed by the Fund for the original remedial action.

(b) The Fund is not obligated by preauthorization of a response action to reimburse the claimant for subsequent remedial actions if those subsequent remedial actions are necessary as a result of the failure of the claimant, his employees or agents, or any third party having a contractual relationship with the claimant to properly perform authorized activities or otherwise comply with the terms and conditions of the PDD, and the Consent Decree or order regarding the site cleanup entered into by EPA and the claimant.