

§ 307.33

40 CFR Ch. I (7-1-04 Edition)

the requirements set forth in the consent order or decree.

(k) Future site-specific actions required by preauthorized potentially responsible parties, and any future obligations on the Fund, shall be governed by §307.42.

(l) Any withdrawal of preauthorization will be preceded by written notice from EPA. The application for preauthorization will be deemed invalid and no award will be made from the Fund where the claimant is determined by EPA to be liable under section 107 of CERCLA for the costs for which the claim is made, and the application for preauthorization did not disclose that the claimant may be a person described as follows:

(1) The owner and operator of a vessel or a facility;

(2) Any person, who at the time of disposal of any hazardous substance, owned or operated any facility at which such hazardous substances were disposed of;

(3) Any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substance; or

(4) Any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance.

(m) If EPA determines that it cannot complete its evaluation of a claim because of insufficient information, it will request the necessary information from the claimant. If EPA determines that it cannot complete its evaluation of a claim because the records, documents, and other evidence were not maintained in accordance with generally accepted accounting principles and practices consistently applied, or were for any reason inadequate to demonstrate that claimed costs are necessary costs, EPA will adjust the claim

accordingly. Further consideration of such amounts will depend on the adequacy of subsequent documentation. Any additional information requested by EPA must be submitted within 30 days, unless a different period of time is specified by EPA. The failure of the claimant to provide in a timely manner the requested information without reasonable cause may be cause for denial of the claim.

(n) Once the claim is perfected, EPA will proceed to:

(1) Make an award on the claim; or

(2) Decline to make an award.

(o) If the claimant is dissatisfied either with EPA's denial of a claim or with the amount of an award, the claimant may request that EPA arrange an administrative hearing in accordance with section 112(b) of CERCLA. The request for an administrative hearing must occur within 30 days of being notified of EPA's decision.

(p) Notice of an award under paragraph (f) of this section will be given by First Class Mail within five (5) days of the date of the decision. Payment of approved claims will be made according to §307.40.

§ 307.33 Records retention.

A claimant receiving an award from the Fund is required to maintain all cost documentation and any other records relating to the claim, and to provide EPA with access to such records. These records must be maintained until cost recovery is initiated by EPA. If, after ten (10) years from the date of award of the final claim, EPA has not initiated a cost recovery action, the claimant need no longer retain the records. The claimant shall, 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.