

Hearing Clerk a final order as soon as practicable after the period for filing reply briefs under §305.35 has expired, but within the time allowed for issuance of a final order as prescribed by §305.4(d). The final order shall contain his findings of fact, conclusions of law, as well as the reasons therefor, and an order for an award for a sum certain, or an explanation of why no award is granted.

(b) *Costs.* If the Presiding Officer concludes in writing that the Request for a Hearing was frivolous, he may direct the Hearing Clerk to assess all or part of the costs of the proceeding against the Requestor. In such case, the Hearing Clerk shall assess such costs as directed by the Presiding Officer, and shall serve notice of such direction and the amount of such costs on all parties. No later than 5 days after receipt of notice of assessment of costs, the Requestor may move that the Presiding Officer review the assessment of costs by the Hearing Clerk. The Presiding Officer may uphold, reverse, or modify the action of the Hearing Clerk in assessing costs.

## PART 307—COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) CLAIMS PROCEDURES

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APPENDIX D TO PART 307—NOTICE OF LIMITATIONS ON THE PAYMENT OF CLAIMS FOR RESPONSE ACTIONS WHICH IS TO BE PLACED IN PUBLIC DOCKETS

AUTHORITY: 42 U.S.C. 9601 *et seq.*; sections 4 and 9, E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p. 193.

SOURCE: 58 FR 5475, Jan. 21, 1993, unless otherwise noted.

### Subpart A—General

#### § 307.10 Purpose.

This part prescribes the appropriate forms and procedures for presenting claims for necessary response costs as authorized by section 112(b)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (herein referred to as CERCLA, or the Act) (42 U.S.C. 9601 *et seq.*). Such claims may be presented to the Hazardous Substance Superfund (the Fund) established by section 9507 of the Internal Revenue Code of 1986. See section 101(11) of CERCLA.

#### § 307.11 Scope and applicability.

(a) The following may be submitted only through the procedures established by this part: claims for responses to a release or substantial threat of release of a hazardous substance into the environment; claims for responses to a release or substantial threat of release of any pollutants or contaminants into the environment, which may present an imminent and

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substantial danger to public health or welfare; and claims for response actions undertaken pursuant to settlement agreements in which the Federal Government agrees to reimburse a portion of the cost. Under this part, persons may bring claims for necessary costs incurred in carrying out the National Contingency Plan (NCP) (40 CFR part 300) developed under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) and revised pursuant to section 105 of CERCLA. Only response actions that EPA has preauthorized are eligible for reimbursement through the claims process of section 112 of CERCLA. Authority for the payment of claims for response costs is provided by section 111(a)(2) of CERCLA. Authority for the reimbursement of certain costs incurred by parties to a settlement agreement entered pursuant to section 122 of CERCLA is provided by section 122(b) of CERCLA.

(b) This part does not affect the terms and conditions contained in Preauthorization Decision Documents (PDDs) issued prior to the effective date of this part. However, a potential claimant may elect to comply with the provisions of this part, rather than the terms and conditions of a PDD issued prior to the effective date of this part, if he so chooses. Written notice of this election must be provided to EPA by the potential claimant prior to such provision taking effect, but not later than the time of the submittal of any claim to EPA. EPA will provide a written acknowledgement of the potential claimant's election and may revise the PDD as appropriate.

### § 307.12 Use of number and gender.

As used in this part, words in the singular also include the plural and vice versa, and words in the masculine gender also include the feminine, as the case may require.

### § 307.13 Computation of time.

In computing any period of time described or allowed in this part, except as otherwise provided, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included. When a stated time expires on a Saturday,

Sunday, or Federal legal holiday, the stated time period shall be extended to include the next business day.

### § 307.14 Definitions.

Terms that are not defined in this section or restated herein, shall have the meaning set forth in section 101 of CERCLA or the 1990 NCP or any final revision thereto. As used in this part, the following words and terms shall have the meanings set forth below:

*Act* or *CERCLA* both mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986.

*Administrative hearing* means an administrative adjudication required by section 112(b)(2) of CERCLA in the event a claimant contests a determination of his claim made by the U.S. Environmental Protection Agency (EPA).

*Assistance agreement* means the legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose. It is either a grant or cooperative agreement (see 40 CFR part 35) and will specify: budget and project periods; the Federal share of eligible project costs; a description of the work to be accomplished; and any special conditions.

*Claim* means a demand in writing for a sum certain presented to the Fund in accordance with sections 111 and 112 of CERCLA.

*Claimant* means any person who presents a claim to the Fund for reimbursement under section 112(b)(1) of CERCLA.

*Contractor claim* means the disputed portion of a written demand or written assertion by any contractor who has contracted with a person (i.e., the owner) for the conduct of a preauthorized response action, seeking as a matter of right, the payment of money, adjustment, or interpretation of contract terms, or other relief, arising under or related to a contract, which has been finally rejected or not acted upon by the owner and which is subsequently settled by the owner or is awarded by a third party in accordance with the disputes clause of the contract document.