

## Environmental Protection Agency

## § 307.31

(1) The proposed action is not a response action authorized under CERCLA;

(2) There is a significant threat to the public health or the environment caused by acute threat of fire, explosion, direct human contact with a hazardous substance, or other similar hazardous situations requiring immediate action, and there is insufficient time to process an application for preauthorization;

(3) The proposed response is a remedial action and the site is not on the NPL; or

(4) The action is to be performed by a State, political subdivision, Indian Tribe through an assistance agreement with the United States, or a person operating pursuant to a contract with the United States.

(h) EPA will deny preauthorization to a person whom the Agency believes is a liable party under section 107 of CERCLA unless negotiations are underway aimed at reaching a judicial or administrative settlement. Such parties may be preauthorized under this paragraph to submit claims to the Fund for response costs up to the maximum amount specified in the PDD.

### Subpart C—Procedures for Filing and Processing Response Claims

#### § 307.30 Requesting payment from the potentially responsible party.

(a) A claimant must present all claims to any person who is known to the claimant and who may be liable under section 107 of CERCLA at least 60 days before filing a claim against the Fund. The presentation to the potentially responsible party must be a written request for payment, delivered either by certified mail (return receipt requested) or in such a manner as will establish the date of receipt. At a minimum this request must contain:

(1) The name of the claimant (commercial entity or individual);

(2) The name, title, and address of any authorized representative;

(3) The location of the release and cleanup;

(4) The date of the release, if known;

(5) The owner of the property, if other than the claimant;

(6) A description of the response action taken; and

(7) The amount of the request (in dollars);

(8) If applicable, notice of intent to file a subsequent application for preauthorization or claim against the Fund for additional operable units or for a stage of a response action.

(b) Where the potentially responsible party is unknown, the claimant must make a good-faith effort to identify the potentially responsible party prior to submitting a claim. If the potentially responsible party is identified, the claimant must then comply with the procedures of § 307.30(a). Where a potentially responsible party cannot be identified, the claimant may submit a claim to the Fund pursuant to § 307.31. Claims submitted under this paragraph must be accompanied by documentation of efforts to identify potentially responsible parties.

(c) If the claimant and the potentially responsible party agree to a settlement involving a release from liability, the claimant may submit a claim against the Fund for any costs that are not recovered provided the claimant complies with the provisions of § 307.20(c), which require EPA's prior approval of such releases from liability.

(d) If the claim is denied by the potentially responsible party, or has not been satisfied after 60 days of presentation to such party, the claimant may submit a claim to the Fund in accordance with § 307.31.

(e) If the first claim was denied by the potentially responsible party or not responded to, and EPA agrees that there is no reason to believe that subsequent claims would be honored by such potentially responsible party, the denial of the first claim, or lack of response, shall be considered denial of every subsequent claim.

#### § 307.31 Filing procedures.

(a) A response claim must be submitted on EPA Form 2075-4 and must include:

(1) Documentation showing that the claimed response activities were preauthorized by EPA;

(2) Documentation showing that the response activity was accomplished in