

Quick Reference: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Codified: 42 U.S.C. §§9601 *et seq.*

Regulations: 40 C.F.R. pts. 303-307

Date Enacted: 1980

Amendments: The Superfund Amendments and Reauthorization Act of 1986 (SARA)

Implementing Agency: EPA

Purpose: To provide a mechanism to clean up contaminated sites and hold potentially responsible parties accountable for clean up costs.

Scope of Application: There are four broad categories of potentially responsible parties (PRPs) that may be held liable for paying for CERCLA cleanup costs if they contributed any amount of hazardous substance to the contaminated site: (1) current owners or operators of the site at which hazardous substances were disposed; (2) past owners or operators of a site at the time hazardous substances were disposed of at the site; (3) anyone, including generators, who arranged for the disposal, transport or treatment of hazardous substances found at the site; (4) transporters or anyone who arranged for transport of hazardous wastes to the facility. The liability imposed by Section 107(a) of CERCLA is strict, joint and several, and retroactive.

Required Permit: No permit required – unlike other environmental statutes, CERCLA does not attempt to prevent pollution from occurring, but rather addresses areas that have already been contaminated.

State Implementation: None.

Enforcement: Under CERCLA, the EPA may initiate clean up actions at abandoned hazardous waste sites. The EPA can conduct a short-term removal action at any site that requires emergency action or conduct a long-term remedial action at any site on the National Priorities List. In addition to using the Superfund to clean up sites, the EPA can also compel private parties to perform response action when release or threatened release of hazardous substances present an imminent and substantial endangerment to the public health or welfare of the environment. By ordering PRPs to cleanup the site through administrative or judicial actions, the Superfund can be conserved for use when the PRPs cannot be identified or found. In addition to authorizing actions for cleanup and for response costs, CERCLA also contains a “citizen suit” provision that permits private citizens to initiate civil action against parties that violate CERCLA.

Summary of the major provisions: CERCLA authorizes the EPA to force parties that were responsible for the release of hazardous substances to finance cleanups on the contaminated site. Where the responsible party cannot be identified or has gone bankrupt, CERCLA established a \$1.6 billion Trust Fund, known as Superfund. The Superfund Amendments and Reauthorization Act of 1986 (SARA)

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appropriate another \$8.5 billion. In order to ensure that the Superfund is used to remediate the most contaminated sites, the EPA can only conduct long term remediation actions at sites that are on the National Priorities List, which ranks the sites eligible for Superfund clean up. If the EPA compels a private party to respond to a release or threatened release of a hazardous substance that may endanger the public health or welfare of the environment, the private party can only recover costs from Superfund upon proving that it was not a potentially responsible party.

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