

Comprehensive Environmental Response, Compensation, and Liability Act, as amended (“Superfund”)* 42 U.S.C. §§9601-9675

Notification and Recordkeeping

The statute imposes **notification** requirements on persons who handle, store, or dispose of hazardous substances.

Response authorities

When a hazardous substance or a pollutant that may present an **imminent and substantial danger** to the public health or welfare is released or about to be released, the President may **remove** such substance, provide for long-term **remedial action**, or take any other action necessary to protect the public health or welfare or the environment. The President may under such circumstances allow the responsible party to carry out the response action.

The statute establishes the amount of money available from the **Hazardous Substance Superfund** for response actions, and provides for federal and state **cost sharing** of response costs.

A state, political subdivision, or Indian tribe under certain circumstances may be permitted to enter into a **cooperative agreement** with the President to carry out response actions and to be reimbursed for reasonable costs.

Federal or state (states with cooperative agreements) representatives may require persons who handle hazardous substances to furnish information concerning the ability of such persons to pay for or perform a cleanup. If there is reasonable basis to believe that there may be a release or threatened release of a hazardous substance, the governmental representative is authorized to enter the facility in question for **inspection and sampling**.

National Contingency Plan

The President shall publish a **National Contingency Plan** (NCP) to provide for efficient and coordinated action to minimize damage from oil and hazardous substance discharges. The NCP shall contain a national hazardous substance response plan, which shall establish procedures and standards for responding to releases of hazardous substances.

The statute establishes the minimum requirements of the hazardous substance response plan, including methods of determining priorities among releases. Priorities shall be based upon relative risk or danger to public health or welfare or the environment. The President shall list releases in order of their priority (the **National Priorities List**, or NPL).

Any person affected by a release may petition the

President to conduct a preliminary assessment of the release’s hazards. If the release may pose a threat to human health or the environment, the President shall determine the national priority of the release.

Abatement actions

When the President determines that there may be an **imminent and substantial endangerment** to the public health or welfare or the environment because of an actual or threatened release, he may require the Attorney General to secure such relief necessary to abate the danger. The President may also take other action, such as issuing such orders as necessary to protect the public health and welfare and the environment.

Persons complying with abatement orders may petition for reimbursement from the Fund.

Liability

Owners and operators of facilities at which hazardous substances are located, persons who **arrange for the disposal** of hazardous substances, and persons who accept hazardous substances for **transport** to disposal and treatment facilities shall be **liable for response costs** incurred by the government consistent with the NCP.

Such persons shall also be liable for any other necessary response costs incurred by any other person consistent with the NCP, damages for injury to natural resources (liability shall be to the government), and the costs of certain **health assessments** or studies.

The statute establishes **defenses** and limits to liability.

Financial Responsibility

The statute requires that handlers of hazardous substances maintain certain levels of financial responsibility.

Civil and criminal penalties

The statute establishes administrative and judicial penalties for various violations.

Uses of Fund

Authorized uses of the Fund include payment of government response costs and payment of necessary and approved response costs incurred by other persons carrying out the NCP. (The statute also provides for reimbursement from the Fund for certain natural resource damage claims. However, because Congress has appropriated no Fund monies for such reimbursement, as a practical matter natural resource damages are not

payable out of the Fund. *See* the Superfund Revenue Act of 1986, Pub. L. No. 99-499, §§501-531, 100 Stat. 1613 (1986).

Claims procedure

No claim may be asserted against the Fund unless it is first presented to the person, such as the owner of the facility, who may be responsible for the release (potentially responsible party, or PRP).

The statute establishes procedural rules governing claims against the Fund, including a **statute of limitations** of six years from the completion of all response action.

Civil proceedings

The statute provides jurisdictional and procedural rules governing civil actions.

Judicial review of abatement actions and response actions is limited.

The President shall establish a **record of decision** (ROD) on which the selection of a response action is based.

The President shall provide for the participation of interested persons, including PRPs, in the development of the ROD.

Relationship to other law

States may impose additional liability or requirements concerning the release of hazardous substances.

No one may receive compensation for the same damage from the Fund and pursuant to any other state or federal law.

Response action contractors

A response action **contractor** with respect to a release shall **not be liable** for damages from such release where the contractor is not negligent or does not engage in intentional misconduct.

Federal facilities

The statute contains provisions for the inclusion of **federally owned sites** on the NPL and procedures for their cleanup.

Cleanup standards

Remedial actions must assure **protection of human health and the environment**, be as consistent with the NCP as practicable, be **cost-effective**, and give preference to **permanent** treatment.

Remedial actions must also attain a level of control that equals the standard required by any **applicable or relevant and appropriate requirements** (ARARs) of other federal or state environmental laws.

Settlement

The statute establishes procedures that the government may follow in entering into settlements with PRPs.

Fund revenue

The Fund receives part of its **revenue** from petroleum and chemical feedstock taxes, a tax on imported chemical derivatives, and an environmental tax; and part from general revenues. *See* Pub. L. No. 99-499, §§501-531, 100 Stat. 1613 (1986).

Citizen suits

Any person may bring a **citizen suit** against alleged violators or the President.