

US EPA ARCHIVE DOCUMENT



Background for Group Exercise

§3007 - Information Authority

- Information gathering authority
- Can be used to inform Corrective Action decisions
- Applies to handlers of hazardous waste

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Notes:

For purposes of enforcing RCRA requirements, EPA may obtain information from “any person” who handles hazardous waste, including generators and transporters.

Authority allows inspection and sampling related to the hazardous waste handling activities.

§3013 - Information and Investigation Authority

- When the presence or release of hazardous waste may present a substantial threat to human health or the environment, the following can be required:
 - Monitoring
 - Testing
 - Analysis
 - Reporting

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Notes:

§3013 provides EPA with the authority to require investigation where the presence or release of hazardous waste may present a substantial hazard to human health or the environment.

§3013 may be used at either RCRA generator sites or RCRA TSDFs. It is not a full blown “remediation” authority - a §3013 Order can require monitoring, testing, analysis, and reporting, but not actual cleanup. Nonetheless, it is an important tool for investigations and studies.

§3013 - Information and Investigation Authority (Cont.)

- Order may be issued to a past or present owner/operator of a facility or site
- EPA investigation costs recoverable
- Civil penalties for noncompliance available

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Notes:

§3013 is a convenient tool to require confirmatory sampling/analysis to determine if environmental indicators have been met.

Either the EPA or the facility can perform the investigation study, although a past or present facility owner/operator should be provided the opportunity to perform the work before EPA undertakes the work. If EPA performs, §3013 can be used to seek recovery of such costs from the respondent.

References: EPA issued guidance entitled “Issuance of Administrative Orders Under Section 3013 of the Resource Conservation and Recovery Act.” [September 26, 1984. EPA Memorandum from Courtney M. Price (Assistant Administrator for Enforcement and Compliance Monitoring) and Lee M. Thomas (Assistant Administrator, Office of Solid Waste and Emergency Response).]

Subpart F and 3004(u) and (v) - Cleanup Authorities

Subpart F Regulations

- Regulated Units (40 CFR 264.90-100; 265.90-.94)
- Solid Waste Management Units (SWMUs) - permitted facilities only (40 CFR 264.101)

RCRA Section 3004(u) and (v)

- Statutory authority for 40 CFR 264.101

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Notes:

The majority of 40 CFR Part 264 Subpart F applies only to surface impoundments, waste piles, land treatment units or landfills that received hazardous waste after July 26, 1982 and require groundwater monitoring and remediation (if necessary).

All permitted TSDFs must perform Corrective Action to address any releases from SWMUs (regardless of when the waste was placed in SWMUs). SWMUs include regulated units. See 40 CFR Section 264.101.

Sections 3004(u) & (v) require permitted facilities to remediate releases of hazardous waste or hazardous constituents from SWMUs regardless of when waste was placed in the units and remediation may be required within (u) or beyond (v) the facility boundaries.

RCRA Subtitle C permits must require Corrective Action “as necessary to protect human health and the environment.” Additionally, remediation may be required pursuant to EPA’s “omnibus” permit authority. See RCRA Section 3005(c)(3).

Interim status (Part 265) Subpart F regulations apply to any surface impoundment, land treatment unit, or landfill that is either seeking a permit or is operating under interim status or intends to close under interim status.

§3008(a) - Enforcement/Cleanup Authority

- Administrative order or judicial actions
- Violations of RCRA Subtitle C, RCRA regulations, authorized State regulations, or permit conditions
- Civil penalties for noncompliance

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Notes:

When RCRA has been violated, §3008(a) provides EPA with the authority to issue an administrative order requiring compliance, including compliance with Corrective Action regulatory requirements, authorized states' RCRA regulations, and Corrective Action permit conditions. In the alternative, EPA can initiate a court action seeking a court order requiring compliance with applicable Corrective Action requirements.

States may use analogous authorities to take enforcement actions for violations of Corrective Action requirements, including Subpart F.

§3008(h) - Cleanup Authority

- Administrative order or judicial action for remediation of releases:
 - Of hazardous wastes or hazardous constituents
 - From facilities that have, should have had, and some facilities that had interim status
- Authorizes civil penalties for non-compliance

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Notes:

Where there is or has been a release of hazardous waste or hazardous constituents, §3008(h) provides EPA with the authority to issue an administrative order, or initiate a court action to require an owner/operator to perform a Corrective Action or take other measures EPA deems necessary to protect human health or the environment.

§3008(h) Orders may be issued to Loss of Interim Status (LOIS) facilities.

§3008(h) is the most commonly used RCRA Corrective Action enforcement authority.

References: EPA issued a final RCRA §3008(h) Model Consent Order on December 15, 1993 (OSWER Directive #9902.5A) and an Interim Final Model 3008(h) unilateral order on January 23, 1989 (OSWER Directive #9902.5).

§7003 - Cleanup Authority

- Administrative order or judicial action
- Solid or hazardous waste
- Past or present handling “may present an imminent and substantial endangerment to health or the environment”
- Any handler of these wastes

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Notes:

Section 7003 provides the enforcement authority to issue an administrative order, or initiate a court action, where past or present solid or hazardous waste handling practices may present an imminent and substantial endangerment to human health or the environment.

The authority is broader in scope than other RCRA enforcement options because it can be used to require Corrective Action by RCRA generators and transporters as well as at RCRA treatment, storage or disposal facilities, and can address solid waste (not just hazardous waste).

References: A comprehensive §7003 guidance document is available for additional information on this authority. The guidance was issued on October 20, 1997 from the Office of Enforcement and Compliance Assurance.

“Guidance on the Use of Section 7003 of RCRA,” U.S. EPA, October 1997.

Facility-Lead Corrective Action Agreements

- May be used at any amenable facility
- Can be implemented very quickly

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Notes:

Facility Lead Agreements are a convenient tool for rapidly implementing Corrective Action at self-motivated, technically capable facilities.

Analogous State Programs

- Many States have cleanup programs with goals similar to Corrective Action and structural differences from Corrective Action which may offer specific advantages or disadvantages in achieving Corrective Action goals at a given facility



Analogous State Programs

- The questions we need to ask at every site include:
- Which partner in the State/EPA partnership should manage Corrective Action at this site?
- Which of the tools available to the partnership should we use?

