

US EPA ARCHIVE DOCUMENT

THE FOLLOWING TABLE IS FROM THE OCTOBER 1997 “GUIDANCE ON THE USE OF SECTION 7003 OF RCRA” ISSUED BY OECA

ATTACHMENT 2

Comparison of RCRA § 7003 to Other Enforcement and Response Authorities

This table does not provide an exhaustive list or description of every statutory authority that may be available to EPA to address endangerments, hazards, releases, etc. Rather, it summarizes significant aspects of several authorities that are similar to RCRA § 7003.

	General Purpose	Triggering Activity	Materials Covered	Persons Covered	Response Authority	Additional Notes
RCRA § 7003(a)	Abate conditions that may present an imminent and substantial endangerment to health or the environment	Handling, storage, treatment, transportation, or disposal of solid or hazardous waste that may present an imminent and substantial endangerment	Any solid waste as defined in RCRA § 1004(27), including petroleum, or hazardous waste as defined in RCRA § 1004(5)	Any person (including any past or present generator, transporter, owner, or operator) who has contributed or is contributing to any triggering activity	Commence a civil action to restrain from handling, storage, treatment, transportation or disposal, or to take other necessary action  Take other action, such as issuing an administrative order, necessary to protect public health and the environment	
RCRA § 3008(h)	Require corrective action or other response measure at any unpermitted treatment, storage, or disposal facility that has or should have had interim status, and some facilities that had interim status but no longer do	Release of hazardous waste into the environment from a facility covered by RCRA § 3008(h)	Hazardous waste as defined in RCRA § 1004(5)  EPA interprets to cover hazardous constituents	EPA interprets to include the owner or operator of the facility	Issue an administrative order to require corrective action, suspend or revoke interim status authorization, or require other necessary response measure  Commence a civil action for appropriate relief	

	<b>General Purpose</b>	<b>Triggering Activity</b>	<b>Materials Covered</b>	<b>Persons Covered</b>	<b>Response Authority</b>	<b>Additional Notes</b>
<p><b>RCRA</b> <b>§ 3013</b></p>	<p>Require monitoring, testing, analysis, and reporting at hazardous waste treatment, storage, or disposal facility or site to address substantial hazard to human health or the environment</p>	<p>Presence or release of hazardous waste that may present a substantial hazard</p>	<p>Hazardous waste as defined in RCRA § 1004(5)</p>	<p>Current owner or operator</p> <p>Most recent previous owner or operator who could be expected to know about the presence and potential release of the hazardous waste, but only if the current owner or operator could not be expected to know</p>	<p>Issue an administrative order to require monitoring, testing, analysis, and reporting</p>	<p>Legislative history indicates that the standard for substantial hazard is lower than the standard for imminent and substantial endangerment</p> <p>If EPA conducts monitoring, testing, analysis, or reporting, it may order the owner or operator to reimburse it for its costs</p>
<p><b>RCRA</b> <b>§ 9003(h)</b></p>	<p>Require corrective action with respect to any release of petroleum from an underground storage tank (UST)</p>	<p>Actual release of petroleum from an UST</p>	<p>Petroleum as defined in RCRA § 9001(8)</p>	<p>Operator of the UST</p> <p>In the case of an UST in use on 11/8/84 or brought into use after that date, the owner of the UST</p> <p>In the case of an UST in use before 11/8/84 but no longer in use on that date, the owner of the UST immediately before the discontinuation of its use</p>	<p>Issue an administrative order or commence a civil action to require corrective action</p>	<p>Owner/operator is liable for the costs of EPA's enforcement action</p>

	<b>General Purpose</b>	<b>Triggering Activity</b>	<b>Materials Covered</b>	<b>Persons Covered</b>	<b>Response Authority</b>	<b>Additional Notes</b>
<b>CERCLA § 104(a)</b>	<p>Respond to actual or substantial threat of release of hazardous substance</p> <p>Respond to actual or substantial threat of release of pollutant or contaminant which may present an imminent and substantial danger to public health or welfare</p>	<p>Actual or substantial threat of release of hazardous substance</p> <p>Actual or substantial threat of release of pollutant or contaminant which may present an imminent and substantial danger</p>	<p>Hazardous substance as defined in CERCLA § 101(14), including hazardous waste under RCRA § 3001, but not petroleum</p> <p>Pollutant or contaminant as defined in CERCLA § 101(33), but not petroleum</p>	Current owners or operators, owners or operators at time of disposal, generators, and transporters	Perform or require removal or remedial action or any other response measure consistent with the National Contingency Plan	EPA can seek reimbursement of response costs under CERCLA § 107
<b>CERCLA § 106(a)</b>	Abate imminent and substantial endangerment to public health or welfare or the environment	Actual or threatened release of hazardous substance that may present an imminent and substantial endangerment	Hazardous substance as defined in CERCLA § 101(14), including hazardous waste under RCRA § 3001, but not petroleum	Current owners or operators, owners or operators at time of disposal, generators, and transporters	<p>Commence a civil action to obtain such relief as may be necessary to abate the danger or threat</p> <p>Take other action, such as issuing an administrative order, to protect public health and welfare and the environment</p>	<p>EPA risks a claim against the Hazardous Substance Superfund if the PRPs believe that they are not liable or that EPA was arbitrary and capricious</p> <p>EPA can seek reimbursement of response costs under CERCLA § 107</p>

	General Purpose	Triggering Activity	Materials Covered	Persons Covered	Response Authority	Additional Notes
CWA § 311(c)	Ensure removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance	Discharge or substantial threat of discharge of oil or hazardous substance	Oil as defined in CWA § 311(a)(1) or hazardous substance as defined in CWA § 311(a)(14)	Includes owners and operators	Perform or direct actions to remove the discharge or to mitigate or prevent the threat of a discharge  Remove and, if necessary, destroy a discharging vessel	
CWA § 311(e)	Require action to abate an imminent and substantial threat to public health or welfare	Actual or threatened discharge of reportable quantity of oil or hazardous substance that may present an imminent and substantial threat	Oil as defined in CWA § 311(a)(1) or hazardous substance as defined in CWA § 311(a)(14)	Includes owners and operators	Commence a civil action to secure any relief necessary to abate the endangerment  Take any other action, such as issuing an administrative order, necessary to protect public health and welfare	
CWA § 504	Abate imminent and substantial endangerment to the health or welfare of persons	Pollution source that is presenting an imminent and substantial endangerment	Pollution source or a combination of sources	Any person causing or contributing to the pollution	Commence a civil action to restrain any person causing or contributing to the pollution to stop the discharge of pollutants or to take  other necessary action	"Welfare of persons" means the livelihood of such persons
SDWA § 1431	Abate conditions that may present an imminent and substantial endangerment to the health of persons	Contaminant that is present in, or likely to enter, a public water system or underground drinking water source, and that may present an imminent and substantial endangerment	Contaminant as defined in SDWA § 1401(6)	Includes persons causing or contributing to the endangerment	Take action, such as issuing an administrative order, necessary to protect human health,  or commencing a civil action for appropriate relief	EPA may act if the appropriate state and local authorities have not acted to protect human health

