



Summary of "Guidance on Documenting Decisions not to Take Cost Recovery Actions"

Office of Waste Programs Enforcement
CERCLA Enforcement Division/GEB/OS-510

Quick Reference Fact Sheet

CERCLA Section 107 provides for recovery of response costs incurred by the Superfund Trust Fund. In some cases, EPA does not intend to pursue cost recovery actions. In these cases, close-out memoranda should be written for each site.

This summary is intended for use only as a supplement, not a replacement, to the official Agency "Guidance on Documenting Decisions not to Take Cost Recovery Actions," OSWER Directive #9832.11, issued June 7, 1987.

Decision not to Pursue

Regions may decide not to pursue cost recovery on the basis of information collected during the potentially responsible party (PRP) search. They may also base decisions on pending statute of limitations or decisions not to pursue remaining costs.

Timing of the Memorandum

The memorandum must be prepared prior to the expiration of the statute of limitations established by CERCLA Section 113.

Content of the Memorandum

The memorandum should include the following four sections:

- site description;
- work authorized and conducted and associated costs;
- discussion of basis not to pursue cost recovery; and
- conclusion.

Possible reasons not to pursue cost recovery include:

- No PRPs were identified for the site;
- The identified PRPs are not financially viable;
- Evidence linking PRPs to the site is weak; and
- The Agency lacks the resources to pursue the case.

New Information

If new information comes to light after a cost recovery close-out memorandum has been signed, the case may be re-opened for examination.

For further information or questions, please contact the Cost Recovery Branch in OWPE, at FTS 398-8454.