

Environmental Protection Agency

§ 310.18

established response communication channel, but it is not a requirement for reimbursement. Telephone numbers for EPA regional offices and the NRC are in Appendix II to this part.

§ 310.14 Must I try to recover my costs from those potentially responsible for the emergency?

Yes. Before applying for reimbursement from EPA, you must try to recover your costs from all known potentially responsible parties (PRPs). After you ask them for payment, you should give PRPs 60 days either to pay you, express their intent to pay you, or indicate willingness to negotiate. You must also try to get reimbursed by other sources (for example, your insurance company or your state). If you are not successful, you must certify on your reimbursement application that you made a good-faith, reasonable effort to recover your costs from other sources before applying to EPA. If you recover any portion of the costs from these sources after you receive reimbursement from us, you must return the recovered amount to EPA.

§ 310.15 How do I apply for reimbursement?

(a) You must apply for reimbursement on EPA Form 9310-1, shown in Appendix III to this part.

(b) You must submit your request within one year of the date you complete the response for which you request reimbursement. If you submit your application late, you must include an explanation for the delay. We will consider late applications on a case-by-case basis.

(c) Your application must be signed by the highest ranking official of your local government (for example, mayor or county executive), or you must include a letter of delegation authorizing a delegate to act on his or her behalf.

(d) Mail your completed application and supporting data to the LGR Project Officer, (5401A), Office of Emergency Management, Office of Solid Waste and Emergency Response, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

[63 FR 8286, Feb. 18, 1998, as amended at 70 FR 56577, Sept. 28, 2005]

§ 310.16 What kind of cost documentation is necessary?

Cost documentation must be adequate for an audit. At a minimum, you must:

(a) Include a description of the temporary emergency measures for which you request reimbursement;

(b) Specify the local agency that incurred the cost, (such as, the Town Fire Department, the County Health Department, or the City Department of Public Works);

(c) Include invoices, sales receipts, rental or leasing agreements, or other proof of costs you incurred; and

(d) Certify that all costs are accurate and that you incurred them specifically for the response for which you are requesting reimbursement.

§ 310.17 Are there any other requirements?

(a) You must certify that reimbursement under this regulation does not supplant local funds that you normally provide for emergency response. This means that the reimbursement you request is for costs you would not normally incur; rather, they are for significant, unanticipated costs related to a specific incident beyond what you normally respond to.

(b) You must also certify that your response actions are not in conflict with CERCLA, the National Contingency Plan (NCP), and the local emergency response plan prepared by your Local Emergency Planning Committee, if there is one. If you need help with this requirement, contact the LGR Help line (800-431-9209) or your EPA regional office.

(c) You, as a local government, should be included in the local emergency response plan completed by your LEPC, as section 303(a) of EPCRA requires. This does not apply if your State Emergency Response Commission (SERC) has not established an LEPC responsible for the emergency planning district(s) that encompasses your geographic boundaries.

§ 310.18 How will EPA evaluate my application?

(a) When we receive your application, we will make sure it meets all requirements of this section. If your request is

§ 310.19

incomplete or has significant defects, we will contact you for additional information. You should provide any additional information within 90 days. If you don't provide requested information within a year, we may deny your application.

(b) If your application meets all requirements, we will consider whether the costs claimed are allowable and reasonable. We will then send you written notification of our decision to award or deny reimbursement in full or in part.

§ 310.19 Under what conditions would EPA deny my request?

We may deny your reimbursement request in full or in part if:

(a) Your records, documents, or other evidence are not maintained according to generally accepted accounting principles and practices consistently applied;

(b) The costs you claim are NOT reasonable or allowable, that is, they are higher than what a careful person would spend for similar products or services in your area; or

(c) You do not supply additional information within one year from when we request it; and

(d) Reimbursement would be inconsistent with CERCLA section 123, or the regulations in this part.

§ 310.20 What are my options if EPA denies my request?

If we deny your request because you failed to meet a requirement in this regulation, you may request, in writing, that EPA grant an exception. You may also file a request for an exception with your initial application. In your request for an exception, you must state the requirement you cannot comply with and the reasons why EPA should grant an exception. We will grant exceptions only if you establish good cause for the exception and if granting the exception would be consistent with section 123 of CERCLA.

§ 310.21 How does EPA resolve disputes?

(a) The EPA reimbursement official's decision is final EPA action unless you file a request for review by registered or certified mail within 60 calendar

40 CFR Ch. I (7-1-07 Edition)

days of the date you receive our decision. Send your request for review to the address given in § 310.15(d).

(b) You must file your request for review with the disputes decision official identified in the final written decision.

(c) Your request for review must include:

(1) A statement of the amount you dispute;

(2) A description of the issues involved;

(3) A statement of your objection to the final decision; and

(4) Any additional information relevant to your objection to EPA's decision.

(d) After filing for review:

(1) You may request an informal conference with the EPA disputes decision official;

(2) You may be represented by counsel and may submit documentary evidence and briefs to be included in a written record; and

(3) You will receive a written decision by the disputes decision official within 45 days after we receive your final submission of information unless the official extends this period for good cause.

OTHER THINGS YOU NEED TO KNOW

§ 310.22 What records must I keep?

(a) If you receive reimbursement under the regulations in this part, for three years you must keep all cost documentation and any other records related to your application. You must also provide EPA access to those records if we need them.

(b) After three years from the date of your reimbursement, if we have NOT begun a cost recovery action against a potentially responsible party, you may dispose of the records. You must notify EPA of your intent to dispose of the records 60 days before you do so, and allow us to take possession of these records beforehand.