

§ 303.21

40 CFR Ch. I (7-1-02 Edition)

(c) To be eligible for an award, the informant must disclose the identity of person(s) [or other pertinent information that leads to the expeditious disclosure of the identity of said person(s)] criminally culpable for the violations set forth in § 303.12 of subpart A. Disclosure of such pertinent information must be made to an employee, agent or representative of the United States Environmental Protection Agency.

§ 303.21 Determination of eligibility and amount of award.

The Agency's determinations as to eligibility and award amount shall constitute final Agency action as to either amount or eligibility. These determinations, consistent with the need to preserve from disclosure the identity of confidential informants (as noted in § 303.31) as well as to preserve from disclosure methods of Agency investigation, shall not be subject to administrative challenge by any person not making a claim to that award.

NOTE: It is the Environmental Protection Agency's view that such determinations also would not be subject to judicial challenge by such person.

Subpart C—Criteria for Payment of Award

§ 303.30 Criteria for payment of award.

Upon the filing of an eligible claim in accordance with the procedures as set forth in § 303.33, the Agency's Assistant Administrator for Enforcement and Compliance Monitoring, or his Deputy for Criminal Enforcement, in making the decision to grant an award, and if so, in what amount, shall consider all relevant criteria, giving such weight and importance to each separate criterion as appears warranted in his judgment alone. Relevant criteria include one or more of the following:

(a) Whether the claimant's information constituted the initial, unsolicited notice to the Government of the violation;

(b) Whether the Government would readily have obtained knowledge of the violation in a timely manner absent claimant's information;

(c) Importance of the case, egregiousness of the violation, potential for or existence of environmental harm;

(d) Concealment of a person criminally culpable or existence of an organized criminal conspiracy to conceal the offense(s) committed by the named defendant(s);

(e) Willingness of the claimant to assist the Government's prosecution of the offense(s), which assistance includes providing further information and grand jury testimony, participating in trial preparation, and trial testimony if consistent with the limits on claimant identity disclosure as set forth in § 303.31.

(f) Value of the claimant's assistance in comparison to that given by all other sources of information and evidence which led to arrest and conviction.

§ 303.31 Assurance of claimant confidentiality.

No person, except as authorized by the Agency's Office of Enforcement and Compliance Monitoring to have this knowledge, shall be given access to the identity of, or information that would lead to the identity of, a claimant who has requested anonymity prior to disclosing information to the Agency.

§ 303.32 Pre-payment offers.

Prior to the actual payment of an award, no employee of the United States Government, including any person purporting to act on behalf of the United States Environmental Protection Agency, is authorized by these regulations to make any promise, offer, or representation with respect to the Agency's grant of an award in exchange for information.

§ 303.33 Filing a claim.

(a) Any individual seeking an award under this regulation is required to file a claim for such an award with the Deputy Assistant Administrator for Criminal Enforcement not later than 45 days after the conviction of the person(s) involved in the prosecution in which the information was provided.

(b) The claim submission must provide, at a minimum, a summary of the