

**§ 310.23 How will EPA rank approved requests?**

(a) If necessary, EPA will rank approved reimbursement requests according to the financial burden the response costs impose on the local governments. We will estimate your financial burden by calculating the ratio of your allowable response costs to your annual per capita income adjusted for population. We will make adjustments for population so that a large city with a low per capita income will not necessarily receive a higher rank than a small town with a slightly higher per capita income. We will also consider other relevant financial information you may supply.

(b) We will use the per capita income and population statistics published by the U.S. Department of Commerce, Bureau of the Census, in Current Population Reports, Local Population Estimates, Series P-26, "1988 Population and 1987 Per Capita Income Estimates for Counties and Incorporated Places," Vols. 88-S-SC, 88-ENC-SC, 88-NE-SC, 88-W-SC, 88-WNC-SC, March 1990. The Director of the Federal Register has approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies are available from the Bureau of the Census, Office of Public Affairs, Department of Commerce, Constitution Avenue, NE., Washington, DC 20230 (1-202-763-4040). You may review a copy at the U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) Larger ratios receive a higher rank. We will reimburse requests with the highest ranks first. Once we rank your request, we will either:

- (1) Reimburse the request; or
  - (2) Hold the request for reconsideration once additional funding is available.
- (d) The EPA reimbursement official will give you a written decision on

whether the request will be reimbursed or held for future reconsideration.

[63 FR 8286, Feb. 18, 1998, as amended at 69 FR 18803, Apr. 9, 2004]

**§ 310.24 What happens if I provide incorrect or false information?**

(a) You must not knowingly or recklessly make any statement or provide any information in your reimbursement application that is false, misleading, misrepresented, or misstated. If you do provide incorrect or false information, and EPA relies on that information in making a reimbursement decision, we may deny your application and withdraw or recover the full amount of your award. In such a case, we would give you written notice of our intentions.

(b) If you, as a reimbursement applicant or someone providing information to the applicant, knowingly give any false statement or claim as part of any application for reimbursement under section 123 of CERCLA, you may be subject to criminal, civil, or administrative liability under the False Statement Act (Pub. L. 97-398, 18 U.S.C. 1001) the False Claims Act (Pub. L. 99-562, 31 U.S.C. 3729), and the Program Fraud and Civil Remedies Act (Pub. L. 99-509, 31 U.S.C. 3801).

## APPENDIX I TO PART 310—FREQUENTLY ASKED QUESTIONS

(1) Can I be reimbursed for hazmat team salaries?

Generally, no; only unbudgeted overtime and/or extra time can be considered for reimbursement. (§310.11(b)(2))

(2) Will I be reimbursed for the cost of a destroyed fire truck?

Up to \$25,000 of the cost of a lost fire truck can be considered an allowable cost and therefore, reimbursable. However, if the local government has insurance covering such losses, then we would not reimburse you for a destroyed fire truck. (§§310.11(b)(4) and 310.14)

(3) If I have a release in an elementary school, can the school district apply for reimbursement?

No, for purposes of the regulation in this part, a school district is considered a special purpose district of local government and therefore not eligible for reimbursement. The county or city where the incident happened may apply for reimbursement on behalf of the school district. (§§310.03(e) and 310.05)

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**40 CFR Ch. I (7-1-04 Edition)**

(4) Why are incidents that involve a release of petroleum not eligible?

Because this program is authorized under CERCLA, and petroleum is excluded under CERCLA, we can't reimburse you for response to releases involving only petroleum. If, however, some hazardous substances are also involved, your incident may be reimbursed. (§310.03(f))

(5) Can I be reimbursed for laying water lines to a community whose drinking water is affected by a release?

No, laying water lines doesn't fall within the definition of temporary emergency measures. Providing bottled water on a temporary emergency basis is reimbursable. (§310.10(a))

(6) What if EPA gets too many applications in one year?

In the beginning of the program, there was a statutory limitation on the amount of the Superfund that could be used for reimbursements. That limitation was approximately \$1,000,000. The limitation has expired, and EPA has only reimbursed slightly over \$1,000,000 in ten years. There has not been a year where we received too many applications.

(7) If I incur significant costs trying to recover from the PRP, can I be reimbursed by EPA for those costs?

No, legal expenses are not allowable costs. (§310.12(b)(7)).

(8) Can I add attachments to the Application Form?

Yes, attach any additional information that you feel is necessary. EPA will review all the information that you send.

(9) Do I have to notify EPA before I send an application in, or before I take a response action?

No, you aren't required to notify EPA in either case. We do suggest that you call the National Response Center to report the hazardous substance release, or if you use other response reporting channels, use them. If

you need some help before submitting your application, we do suggest you call the LGR Help line (800-431-9209).

(10) If two incidents happen in my town, within hours of each other, do I have to submit two separate applications?

You aren't required to submit separate applications in this case, but if your total response costs are more than \$25,000, it may be in your interest to submit separate applications for each single response. (§310.9)

**APPENDIX II TO PART 310—EPA REGIONS AND NRC TELEPHONE LINES**

National Response Center .....	(800) 424-8802
EPA Regional Phone Numbers:	
Region I (ME, NH, VT, MA, RI, CT) .....	(617) 223-7265
Region II (NJ, NY, PR, VI) .....	(908) 548-8730
Region III (PA, DE, MD, DC, VA, WV) ...	(215) 597-9898
Region IV (NC, SC, TN, MS, AL, GA, FL, KY) .....	(404) 347-4062
Region V (OH, IN, IL, WI, MN, MI) .....	(312) 353-2318
Region VI (AR, LA, TX, OK, NM) .....	(215) 655-2222
Region VII (IA, MO, KS, NE) .....	(913) 236-3778
Region VIII (CO, UT, WY, MT, ND, SD) ....	(303) 293-1788
Region IX (AZ, CA, NV, AS, HI, GU, TT)	(415) 744-2000
Region X (ID, OR, WA, AK) .....	(206) 553-1263

APPENDIX III TO PART 310—FORM: APPLICATION FOR REIMBURSEMENT TO LOCAL GOVERNMENTS FOR EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASE UNDER CERCLA SEC. 123

EPA Form 9310-1, Application for Reimbursement to Local Governments

Please type or print all information

 United States Environmental Protection Agency Washington, D.C. 20460 <b>Application for Reimbursement                  to Local Government for                  Emergency Response to Hazardous                  Substance Releases Under CERCLA Sec. 123</b>		Form Approved OMB No 2050-0077 Approved expires
<b>1. Local government Identification</b>		
a. Name of Local government		b. Contact Name and Telephone Number
c. Official Address		d. Date of Application
<b>2. Release Description</b>		
a. Date and Time of Occurrence or Discovery		b. Location
c. Source or Cause of Release		
d. Hazardous Substances Released and Quantity (Petroleum, crude oil, or any unspecified fractions thereof are <u>excluded</u> )		
e. Threats to human health and Environmental		
f. Attach any additional material pertinent to the release		
<b>3. Response Description</b>		
a. Date and Time of HazMat Response Initiation		b. Was anyone notified of the response? <input type="checkbox"/> EPA <input type="checkbox"/> NCR <input type="checkbox"/> OTHER
c. EPA Region	d. Date and Time Contact Made	e. Date of Response completion (Local government has received all data, reports, and charges for response)
f. Jurisdiction in Which Response Occurred	g. Is your local government a participant in the Title III Emergency Response Plan? (Check one ) <input type="checkbox"/> Yes <input type="checkbox"/> No	
h. Responding Agencies and Jurisdictions		

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i. Summary of Response Actions	
j. Temporary Measures for Which Reimbursement is Sought	
<b>4. Cost Information</b>	
a. Total Response Cost \$	b. Total Reimbursement Requested \$
c. Complete and Attach Table 1, "Detailed Cost Breakdown"	
d. Complete and Attach Table 2, "Cost Recovery Summary"	
e. Attach Other Pertinent Financial Information	
5. Certification and Authorization (To be completed by highest ranking official of applying local government.) I hereby certify that: 1) All costs are accurate and were incurred specifically for the response for which reimbursement is being requested. 2) Reimbursement for costs incurred for response activities does not supplant local funds normally provided for response 3) Cost recovery was pursued as presented in the attached Table 2; and 4) Reimbursement funds for which costs are later recovered will be returned to EPA I further certify that I am authorized to request this reimbursement and to receive funds from the Federal Government.	
Printed or Typed Name of Highest Ranking Local Government Official or Authorized Representative	Signature of Highest Ranking Local Government Official or Authorized Representative
Title	Date
<p><b>Burden Statement:</b></p> <p>The Agency requires applicants for reimbursement to submit an application package that demonstrates consistency with program eligibility criteria and certifies compliance with the reimbursement requirements. This information collection is necessary to ensure proper use of the Superfund and appropriate distribution of reimbursement awards among applicants. EPA will receive and closely evaluate reimbursement requests in accordance with 40 CFR 310 to ensure that the most deserving cases receive awards.</p> <p>The public reporting and recordkeeping burden for this collection of information is estimated to average 9 hours per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.</p> <p>Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., S.W., Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.</p>	

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\* Form 9310-1 is not considered complete unless it is signed by the highest ranking official of the local government requesting reimbursement, or signed by the authorized representative indicated in an enclosed letter delegating signature authority for this application process.

ATTACHMENT 1 TO FORM 9310-1 COST ELEMENT CODES AND COMMENTS

[Cost Element Codes for use in Table 1]

Code	Cost category	Cost element	Comments
PC .....	Personnel Compensation .....	PC1: Overtime—for services excess of the local agency's standard work day or work week. PC2: Experts and consultants—for services rendered on a per diem or fee basis or for services of an intermittent, advisory nature.	Compensation of overtime costs incurred specifically for a response will be considered only if overtime is not otherwise provided for in the applicant's operating budget.

**Environmental Protection Agency**

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**ATTACHMENT 1 TO FORM 9310-1 COST ELEMENT CODES AND COMMENTS—Continued**

[Cost Element Codes for use in Table 1]

Code	Cost category	Cost element	Comments
TR .....	Transportation .....	TR1: Passenger vehicle rental—for transportation of persons during evacuation. TR2: Nonpassenger vehicle rental—for transportation of equipment or supplies.	Passenger and nonpassenger vehicle rental costs will be considered for private vehicles not owned or operated by the applicant or other unit of local government.
RC .....	Utilities .....	RC1: Utilities—for power, water, electricity and other services exclusive of transportation and communications.	Utility costs will be considered for private utilities not owned or operated by the applicant or other unit of local government.
OS .....	Other Contractual Services ...	OS1: Contracts for technical or scientific analysis—for tasks requiring specialized hazardous substance response expertise. OS2: Decontamination services—for specialized cleaning or decontamination procedures and supplies to restore clothing, equipment or other serviceable gear to normal functioning.	May include such items as specialized laboratory analyses and sampling.
SM .....	Supplies and Materials .....	SM1: Commodities—for protective gear and clothing, cleanup tools and supplies and similar materials purchased specifically for, and expended during, the response.	May include such items as chemical foam to suppress a fire; food purchased specifically for an evacuation; air purifying canisters for breathing apparatus; disposable, protective suits and gloves; and sampling supplies.
EQ .....	Equipment .....	EQ1: Replacement—for durable equipment declared a total loss as a result of contamination during the response. EQ2: Rents—for use of equipment owned by others.	Equipment replacement costs will be considered if applicant can demonstrate total loss and proper disposal of contaminated equipment. Equipment rental costs will be considered for privately owned equipment not owned or operated by the applicant or other unit of local government.



<b>Table 2</b> <b>Cost Recovery Summary</b> <b>Note: This "Cost Recovery Summary" must accompany each request for reimbursement.</b> <b>You Must Fill Out Each Section Of This Form.</b>			
Name and Title of Source Contacted	Date(s) Contacted	Brief Summary of Response	Details Attached
Attempts to Recover Costs from Potentially Responsible Parties (Including PRP Insurance)			
Attempts to Recover Costs from State Funding Sources			
Attempts to Recover Costs from Local Government Insurance			

EPA Form 9310-1

**PART 311—WORKER PROTECTION**

SOURCE: 54 FR 26658, June 23, 1989, unless otherwise noted.

Sec.

311.1 Scope and application.

311.2 Definition of employee.

AUTHORITY: 29 U.S.C. 655, Pub. L. 99-499.

**§311.1 Scope and application.**

The substantive provisions found at 29 CFR 1910.120 on and after March 6, 1990, and before March 6, 1990, found at 54 FR 9317 (March 6, 1989), apply to