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Title 40 —Protection of Environment

Chapter I —Environmental Protection Agency

Subchapter J —Superfund, Emergency Planning, and Community Right-to-Know Programs

Part 303 Citizen Awards for Information on Criminal Violations Under Superfund

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PART 303—CITIZEN AWARDS FOR INFORMATION ON CRIMINAL VIOLATIONS UNDER SUPERFUND

Authority: 42 U.S.C. 9609(d), Executive Order No. 12580.

Source: 54 FR 26143, June 21, 1989, unless otherwise noted.

Subpart A—General

§ 303.10 Purpose.

This regulation implements the “citizen award” authority granted by Congress to the President in the 1986 Amendments to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), section 109(d). As authorized in the Superfund Amendments and Reauthorization Act of 1986 (SARA) section 109(c) and Executive Order No. 12580 (issued by the President on January 23, 1987), the Environmental Protection Agency is empowered to pay up to \$10,000.00 from the Superfund to any individual who provides information leading to the arrest and conviction of any person for a violation subject to a criminal penalty under CERCLA as amended.

§ 303.11 Definitions.

- (a) Arrest. Restraint of an arrestee's liberty or the equivalent through the service of judicial process compelling such a person to respond to a criminal accusation.

- (b) Conviction. A judgment of guilt entered in U.S. District Court, upon a verdict rendered by the court or petit jury or by a plea of guilty, including a plea of *nolo contendere*.
- (c) Individual. A natural person, not a corporation or other legal entity nor an association of persons.

§ 303.12 Criminal violations covered by this award authority.

- (a) Failure to Give Required Notice of a Release of a Reportable Quantity of a Hazardous Substance, 42 U.S.C. 9603(a);
- (b) Destruction or Concealment of Records Required under CERCLA to have been Retained, 42 U.S.C. 9603(d).

Subpart B—Eligibility To File a Claim for Award and Determination of Eligibility and Amount of Award

§ 303.20 Eligibility to file a claim for award.

- (a) Any individual, except law enforcement officers and persons convicted in the case giving rise to the award claim and any persons identified in § 303.20(b) shall be eligible to file a claim for an award as provided for in § 303.33 of this subpart.
- (b) No person who was an employee of or contractor for the United States Environmental Protection Agency at the time he or she came into possession of the information disclosed to other Agency officials (or is so employed at the time of disclosure), which information constitutes in whole or part the basis for an award claim, shall be eligible to file a claim for an award.
- (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 information provided, the date the information was provided, and the name and title of the person to whom the information was provided.
- (c) All claim submissions must be submitted to the Office of Criminal Enforcement Counsel (LE-134X), United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460. The claim envelope should also specify whether the information was submitted under a request for anonymity and whether such request is still in effect. All such externally identified claims shall be handled in accordance with the Agency procedures for maintaining informant confidentiality, as referenced in § 303.31 of this subpart.