

Supporting Statement
OMB Clearance for Information Requests
Under CERCLA §123 (Reimbursement to Local Governments)

A. Justification

1. Need for the Information Collection

Section 123 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, requires the Environmental Protection Agency (EPA) to promulgate rules by which any general purpose unit of local government may apply to EPA for reimbursement for costs incurred in carrying out temporary emergency measures necessary to prevent or mitigate injury to human health or the environment associated with the release or threatened release of any hazardous substance or pollutant or contaminant. The Statute limits the maximum award for a single response to \$25,000. The Local Governments Reimbursement (LGR) Program is a voluntary program aimed at alleviating burden incurred by general purpose units of local government from carrying out temporary emergency measures in response to the release of hazardous substances.

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 the promulgated final rule (63 FR 8283; Vol. 63 No. 32) to ensure that the most deserving cases receive awards.

2. Description and Practical Utility of the Information Collection Activity

Applicants must complete and submit to EPA an application package supplied by the Agency. The application package confirms that the costs were incurred for temporary emergency measures necessary to protect human health and the environment. The application submitted by the local government or agency requesting reimbursement will be reviewed by EPA to ensure compliance with all statutory and program requirements.

EPA has decided to use a standard application form because it reduces confusion about what information is to be supplied, helps ensure that all applicants are evaluated on the basis of comparable information, and enables reviewers to check applications for completeness and consistency quickly. The form requests five basic pieces of information: (1) identification of the local government requesting reimbursement; (2) information about the incident; (3) information about the response, including the specific temporary emergency measures for which reimbursement is being sought; (4) cost data; and (5) certifications and signature of the highest ranking official or authorized representative of the local government. Detailed instructions for

completing the form and example will be included in the application package provided by EPA to potential requesters.

Section 1 of the application identifies the general purpose unit seeking reimbursement and the means of contacting the applicant. This information is necessary to facilitate the exchange of information between the applicant and the Agency. Section 2 of the application describes the incident, specifically including information on the date and time of occurrence or discovery; location of the incident; source or cause of the release; identity of the hazardous substances released; and the associated threats to human health and the environment. Space is also provided for additional information pertinent to the incident. EPA requires detailed information on the nature of the incident to ensure that hazardous substances covered under CERCLA were involved and warranted temporary emergency measures.

Section 3 of the application describes the response, specifically information on the date and time of response initiation; date of response completion; response participants; response activities; and the temporary emergency measures for which reimbursement is sought. Space is also provided for additional information pertinent to the response. Information in this section is crucial for EPA's determination of whether the response was appropriate and necessary to prevent or mitigate injury to human health or the environment. The information in this section will confirm whether the response was not inconsistent with CERCLA and the NCP and meets the eligibility criteria for reimbursement established by 40 CFR 310.

Section 4 of the application contains information on the costs which were directly related to the response effort and for which reimbursement is being sought. In addition to the total reimbursement amount requested, a cost breakdown is provided. This section also requires inclusion of all supporting documentation (e.g., invoices, sales receipts, rental agreements). Cost information is necessary to determine the amount of the potential reimbursement. A cost breakdown allows the Agency to determine which costs are eligible for reimbursement.

The regulation requires that applicants certify that they first sought reimbursement from other sources before seeking reimbursement through the local governments reimbursement program. Section 4 of the application also requests applicants to certify their attempts to recover costs from other sources, including responsible parties, local government insurance funds, or the State.

The information contained in the revised application is the minimum required by EPA to make prudent reimbursement decisions. The application form has been refined to further decrease the burden on applicants while at the same time ensuring that program requirements are satisfied. The requested information demonstrates the consistency of the response for which reimbursement is being requested with the statutory requirements of §123 of CERCLA and the regulatory requirements of the NCP.

Applicants receiving reimbursement from the Superfund are required to maintain all cost documentation and any other records relating to the reimbursement request, and to provide EPA with access to such records. If, after three years from the date of reimbursement, EPA has not

initiated a cost recovery action, the applicant may dispose of the records. The applicant, however, must notify EPA and allow EPA the opportunity to take possession of the records before they are destroyed.

3. Use of Improved Information Technology to minimize Burden

Because reimbursement is sought after the completion of response activities, and response activities vary greatly depending on the nature and size of the incident, collection of the necessary information is best accomplished through a written application form. A written application allows for individual review of each request and consideration of any extenuating circumstances described in the application. The Agency realizes that some of the most deserving applicants may be small or poor communities that do not have the administrative resources to prepare a complex or burdensome application. Since the intent of the reimbursement to local governments rule is to assist those localities that have incurred the most severe financial burden from responding to a hazardous substance emergency, EPA has attempted to minimize applicant burden as much as possible in order to encourage Applications from potentially deserving communities.

The level of sophistication of local governments who apply to this program will vary greatly depending on their available resources. For those applicants who have access to the computer technology, EPA has developed an electronic application form and provides other information and assistance electronically.

The Agency has taken the following steps to minimize applicant burden:

- Allowed response notification through existing channels instead of mandating a response notification exclusively for reimbursement;
- Limited application submittal to one agency or unit of local government per response;
- Developed and revised a standard application form that is brief and straightforward;
- Allowed the local government one year (this may be waived if the applicant is pursuing cost recovery) from completion of the response during which to prepare and file an application;
- Established a toll-free telephone line for local governments to request applications and obtain guidance and assistance on the local governments reimbursement program;
- Developed an electronic application software package that is available for Windows-based computer operating systems; and

- Developing a World Wide Web internet site that local governments can download applications, can obtain instruction and guidance on the application process, and can obtain information on this and related programs.

4. Non-Duplication

During development of the local governments reimbursement rule, EPA conducted research into other EPA programs and Federal agency programs to determine if any other agency/department or EPA program office had information pertinent to the local-governments reimbursement program. Within EPA, the following programs were investigated: the Asbestos in Schools Hazard Abatement Program; Pesticides Indemnification Program; Municipal Water Treatment Works Construction Grants Program. Other Federal agencies investigated include: Federal Emergency Management Agency; Department of Transportation (State Highway Aid Program); Department of Agriculture (Casual Firefighter Program); Department of Education (Impact Aid/Disaster Aid Program); Department of State (Protection of Foreign Missions and Officials Program); Department of Health and Human Services; Department of Housing and Urban Development. The New York State Spill Fund, New Jersey State Spill Fund, and the California Emergency Response Fund also were researched. Pursuant to this research, EPA concluded that the information required of reimbursement applicants is specific and unique to the reimbursement program and is not duplicated by any other Federal agency/department or EPA program office.

The reimbursement program encourages potential applicants to notify EPA of the response. It is possible that the responsible party will notify the NRC of the spill. Although this has the potential to represent duplication of information, such notification may not include all of the information required for reimbursement purposes.

5. Minimizing Burden for Small Business

While small businesses are not eligible for reimbursement under this program, the limited size of the maximum potential award and portion of the Superfund allocated to the program indicate that the reimbursement program will be most beneficial to small entities to whom a loss of \$25,000 or less constitutes a serious financial burden. EPA has developed the reimbursement program according to this principle of alleviating financial burden. The steps EPA has taken to minimize burden for small entities are the same as those discussed under section 3, Use of Improved Information Technology to Minimize Burden.

6. Consideration of Less Frequent Collection

Although submitting an application is necessary to receive reimbursement, applying for reimbursement is entirely voluntary on the part of the applicant. The application process involves only one collection of information from applicants. If an incomplete application is submitted, applicants are encouraged to supply the additional information necessary within 90

days to complete the application. Given that the reimbursement application process involves only one collection of information, it would not be feasible to collect information less frequently.

7. Special Circumstances

Prior to this revision, the local governments reimbursement program regulation required applicants to retain records for ten years after having received a monetary award from EPA. Under the revised regulation, applicants are required to retain records for three years after receiving an award, thus eliminating any special circumstances associated with the regulation.

8. Consultations

As part of the development process of this program, EPA held five regional meetings with local officials at which input from local government and emergency response officials was solicited. These meetings were held in Baton Rouge, LA; Edison, NJ; Chattanooga, TN, Jefferson, OH; and Los Angeles, CA. In addition to these regional meetings, EPA assembled a workgroup comprised of EPA, Coast Guard, and local government representatives. The Agency has continued to consult with current and potential applicants, state and local government offices concerned with hazardous material responses, and EPA regional personnel in an effort to get "feed-back" on the operation of the program and make improvements where necessary.

Because this regulation falls under the grants benefits and contracts exemption of section 553 of the Administrative Procedures Act [5 U.S.C. 553(a)(2)], EPA is not required to solicit public comment before the revisions to the rule becomes effective. Under the direct final approach to rulemaking, EPA may implement revisions to the program while continuing to make reimbursement monies available. At the same time as the rule is published, the Agency will solicit comments on information collection from interested parties.

9. Payments and Gifts

The local government reimbursement regulation will not provide any payment or gifts to respondents except in the form of reimbursement grants for eligible applicants as authorized under statute.

10. Confidentiality

The local government reimbursement regulation does not require any confidential information.

11. Sensitive Questions

The local governments reimbursement regulation does not request any information of a sensitive nature.

12. Estimation of the Hourly Burden of the Collection

a. Estimation of Hourly Burden for Respondents (Table 1 below)

The entire potential universe of respondents is estimated to be approximately 31,000, or the number of professional and volunteer fire departments as counted by the National Fire Protection Association. This counting method is based on the logic that the vast majority of responses to hazardous substance emergencies involve fire departments.

Requests for reimbursement consist of a completed application form and supporting documentation that verifies costs were incurred for the particular response and are eligible for reimbursement. The actual preparation of the application package and the filing and maintaining of records are the only sources of burden on applicants seeking reimbursement.

EPA conducted a test of the original application form and instructions with eight Agency and contractor staff and recorded the time required to perform each step involved in preparing an application. Testers read the preamble and reimbursement rule, a fact sheet on a fictitious response, supporting documentation (such as sales receipts, rental agreements, etc.) and completed the actual form requesting reimbursement for the fictitious response.

EPA has revised the reimbursement regulation (40 CFR part 310) and application form to simplify the application process and reduce the burden on the applicant. The requirement to notify EPA or the NRC has been eliminated. The amount of information needed to document the response and costs involved and the time required to fill out the application form have been significantly reduced. As a result, the hourly burden on the applicant to complete the application was reduced in 1998. The original estimates for the breakdown of the average hours needed to complete the application have been adjusted to reflect these changes.

As of 2011, EPA has received and reviewed over 1750 applications from respondents over the 21 year period in which the program has been fully operative.

b. Estimation of Burden for the Agency (see Table 2)

The activities included in this estimate are reviewing applications for compliance with the regulation, contacting applicants to revise or add to applications, performing training and outreach on the program, maintaining all applications, and developing and maintaining electronic systems associated with the program.

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.

13. Estimated Total Annual Cost Burden to Responders

\$ 9,990 (See Table 1)

Table 1

**Estimated Burden on Applicants Seeking Reimbursement
for Temporary Emergency Measures
Under §123 of SARA**

Burden Item	Average Hours per Application
Read Instructions ^a	1
Gather Information ^b	3
Compile Information ^c	3
Complete Application ^d	1
File and Maintain Information ^e	<u>1</u>
Total Estimated Burden Hours Per Application	9
Total Estimated Number of Applications Submitted by All Applicants per Year	<u>x 60^f</u>
Total Estimated Annual Burden Hours	540
Total Estimated Cost Burden to Responders ^g	\$ 9,990

- a. Time to read or hear instructions. This includes the time which will be needed by applicants to familiarize themselves with the requirements for requesting reimbursement and the instructions for completing the application form.
- b. Time to gather information. This includes the time necessary to collect various reports from files and extract pertinent information and find additional reference materials and information.
- c. Time to compile information. This includes the time necessary to assemble information specific to the response for which reimbursement is being sought. This may include interviewing first responders and ascertaining the number of work-hours involved in the response.
- d. Time to complete application. This includes the time required to enter the pertinent information on the application form in accordance with the line-by-line instructions.
- e. Time to file and maintain information. This includes the time needed for preparing file folders, indexes, and filing.
- f. Approximately 60 applications are received each year.
- g. Estimated hourly rate is \$18.50. This estimate takes into consideration that the application may be prepared by a secretary, Fire Chief, County Clerk, Health Professional, or other administrative staff.

14. Estimated Cost to the Federal Government

\$ 139,700 (See Table 2)

Table 2

<u>Object Class</u>	<u>FTE</u>	<u>Labor Cost</u>
<u>Headquarters budgeted staff and funds</u> ¹		
Personnel compensation and benefits ²	1.5	\$121,500
Overhead (15% of FTE) ³	--	\$18,200
Total	1.5	\$139,700

1. Source: FY 2011 Budget data (EPA Office of Solid Waste and Emergency Response)
2. PC&B Cost/FTE 2011 = \$81,000 HQ
3. Includes travel, rent, contract services (maintenance), and supplies and materials.

Using the data from Table 2, the calculation for the cost per burden hour to respondents becomes:

Average FTE cost + 15% overhead = Cost per burden hour = \$52.92

Number of burden hours in one FTE = 1760 (The standard number of hours in an FTE 2011)

15. Reasons for Change in Burden

There is an estimated burden increase of 135 hours, due to growth in the number of applications for reimbursement from 45 to 60 per year.

16. Capital Start Up Costs

There are no start-up costs. This is not an annual reporting burden, but rather a one time application, using data already existing.

B. Collection of Information Employing Statistical Methods

This information collection does not use statistical methods or techniques

C. Public Notice Required Prior to ICR Submission to OMB

The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on July 14, 2011 76 FR 41242 and the comment period closed on September 13, 2011. No comments were received.

Burden Statement

The public reporting and recordkeeping burden for this collection of information is estimated to average approximately 9 hours per application. 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. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

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, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number and OMB control number in any correspondence.