

| Regulatory Analysis Form | | This space for use by IRRC | |
|--|--|--|--|
| (1) Agency Pennsylvania Emergency Management Agency | | 89 OCT 15 PM 3:23 Cocodrill | |
| (2) I.D. Number (Governor's Office Use) 30-49 | | IRRC Number: # 1954 | |
| (3) Short Title Radiation Emergency Response Fund | | | |
| (4) PA Code Cite 4 Pa. Code Chapter 116 | | (5) Agency Contacts & Telephone Numbers Primary Contact: Mark Goodwin 717-651-2010 Secondary Contact: | |
| (6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted | | (7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor | |
| (8) Briefly explain the regulation in clear and non-technical language. This regulation establishes the guidelines for the administration and operation of the Radiation Emergency Response Fund which provides annual grants to counties, school districts, volunteer organizations and state agencies that participate in the Commonwealth's Radiation Emergency Response Program. | | | |
| (9) State the statutory authority for the regulation and any relevant state or federal court decisions. The Radiation Protection Act, 35 P.S. §§ 7110.101 - 7110.703 | | | |

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Radiation Protection Act.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

This regulation is intended to promote the public's health, safety and welfare by providing financial assistance to counties, school districts, volunteer organizations and state agencies to prepare emergency response plans, procure essential equipment, and conduct training programs to deal with potential radiological accidents or incidents at Pennsylvania's five nuclear power plants.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

As stated in 11 above, this regulation helps to protect the general public from the dangers associated with radiological accidents or emergencies at Pennsylvania's nuclear power plants

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The Radiation Emergency Response Fund provides financial assistance to 33 risk and support counties located around the five nuclear power plants in Pennsylvania. These counties contain approximately one half of Pennsylvania's total population.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

This regulation does not adversely affect any people, parties, or groups of people.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The requirements of this regulation apply primarily to county emergency management agencies, their municipalities and a few state agencies. Approximately 750 people will need to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

PEMA advised several risk and support counties that it planned to amend the regulations in order to eliminate the county's interim performance report requirement and to pay the annual county grant amount in one payment instead of two payments. These proposed changes were favorably received by the counties.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The proposed regulation will eliminate one performance report and will consolidate the annual grant payments from two checks to one check. This will reduce the accounting and administrative costs associated with this program by 50%.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

County and local governments that participate in the Radiation Emergency Response Program will have their administrative and compliance costs reduced by 50% as a result of this regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

State agencies that participate in the Radiation Emergency Response Program will not be impacted by these regulatory changes. As a result, their administrative costs will remain the same.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|-----------------------------|--------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | | | | | | |
| Local Government | \$8,400.00 | \$8,400.00 | \$8,400.00 | \$8,400.00 | \$8,400.00 | \$8,400.00 |
| State Government | | | | | | |
| Total Savings | \$8,400.00 | \$8,400.00 | \$8,400.00 | \$8,400.00 | \$8,400.00 | \$8,400.00 |
| COSTS: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | | | | | | |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | | | | | | |

(20a) Explain how the cost estimates listed above were derived.

Approximately 70 county government employees will each save their counties about \$120.00 in personnel and administrative costs each year by not having to prepare the county's interim performance report as previously required under the regulations.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY - 3 | FY - 2 | FY - 1 | Current FY |
|---------|--------------|--------------|--------------|--------------|
| | \$425,000.00 | \$425,000.00 | \$425,000.00 | \$425,000.00 |
| | | | | |
| | | | | |
| | | | | |

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The total grant amount of \$425,000.00 that is annually distributed to the 33 counties, their municipalities, school districts, and volunteer organizations from the Radiation Emergency Response Fund, clearly outweighs the minimal administrative and performance costs that the counties must incur in order to participate in this important and worthwhile grant program.

(22) Describe the non-regulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no non-regulatory alternatives available.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The only alternative regulatory scheme would be to keep the regulations as currently written. This alternative was dismissed because PEMA wants to reduce the administrative, accounting and other costs associated with the administration of this grant program.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

PEMA is not aware of any similar regulations in any other states. This regulation does not put Pennsylvania at a competitive disadvantage with any other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes. This proposed regulation would amend PEMA's current regulations found at 4 Pa. Code Chapter 116.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Yes. This proposed regulation will eliminate the requirement that a county must submit an interim performance report to PEMA before it receives the second payment of its funding allocations. In addition, each county will receive its annual funding allocation in one payment instead of two payments. The regulation will also remove the PEMA Council from its supervisory role in the grant program, thus streamlining and simplifying the grant review and approval process.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions are applicable to this regulatory change.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

To Be Determined.

(31) Provide the schedule for continual review of the regulation.

PEMA will review this regulation on an annual basis at the conclusion of each funding year (June 30).

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

NOV 15 11 48 AM '98

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

PENNSYLVANIA EMERGENCY
MANAGEMENT AGENCY

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 30-49

DATE OF ADOPTION: _____

BY: Charles F. Wynne

DIRECTOR

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: R. E. Grimaldi

11/4/98
DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

Notice of

Final Rulemaking

Pennsylvania Emergency Management Agency

4 Pa. Code Chapter 116

Radiation Emergency Response Fund

PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY

4 Pa. Code Chapter 116

Radiation Emergency Response Fund

A. Statutory Authority

The Pennsylvania Emergency Management Agency (PEMA), under the authority contained in 35 Pa. C. S. § 7313 (relating to powers and duties) amends Chapter 116 as set forth in Annex A. These amendments were previously published as proposed regulations in 28 Pa. B. 2817 on June 20, 1998.

B. Effective Date

The amendment will be effective upon publication in the Pennsylvania Bulletin.

C. Background and Purpose

The amendments are intended to streamline and improve the ability of PEMA to administer and operate the Radiation Emergency Response Fund and to carry out the many goals and objectives of the Radiation Emergency Response Program which was established to protect the health and welfare of all Pennsylvania residents living within the vicinity of Pennsylvania's five nuclear power plants. These amendments are needed to change the current funding process by which State agencies, counties, municipalities, school districts, and volunteer organizations receive annual funding amounts from the Radiation Emergency Response Fund as set forth in Chapter 116. Under the present funding process, these entities receive two equal payments during the funding year in order to purchase radiological protection equipment, conduct emergency responder training and public information activities, and participate in radiation emergency response exercises and drills. The second payment is contingent upon PEMA's receipt of an interim performance report which the counties submit to PEMA by January 15 of a funding year.

PEMA has determined that the submission of the interim performance report is an unnecessary and burdensome requirement on the counties which should be eliminated. PEMA has also determined that it is more cost effective and practical to make one grant payment to each county on an annual basis rather than the current two payment process. This will allow the counties and their sub-grantees to spend their grant moneys in a more timely and effective manner. These amendments will also remove the Pennsylvania Emergency Management Council from its supervisory role in the grant program and replaces it with PEMA which has been the actual program administrator and implementing agency for this grant program since its inception in 1985.

These amendments will also delete the section of the regulations dealing with the reimbursement of certain retroactive expenses of the counties and other eligible parties because

PEMA has completed the payment of those retroactive expenses to all eligible counties and other eligible applicants. Therefore, this section of the regulations no longer serves any purpose and will be deleted because it is no longer needed.

D. Comments

Written comments, suggestions and objections were solicited within a 30-day period after the proposed regulations were published. No public comments were received.

The Independent Regulatory Review Commission recommended that because the term “eligible” was not defined in the regulations that Section 116.4 include a reference to Section 116.5 to provide any reader with information concerning eligibility for the grant program. IRRC also recommended that Section 116.6 include a sentence that PEMA will provide the requisite grant application forms to all eligible grant applicants. PEMA agrees with these two comments and has made the necessary changes to the regulations in order to incorporate the above-mentioned comments. IRRC had no other comments on these regulations.

E. Fiscal Impact/Affected Persons

These amendments will have a favorable impact on all State agencies, counties, municipalities, school districts and volunteer organizations that apply for grants from the Radiation Emergency Response Fund because it will allow them to receive their grant moneys in one payment instead of two, will eliminate an unnecessary interim performance report, and will allow the grant recipients to receive their grant moneys in a more timely manner.

F. Paperwork Requirements

The proposed amendments will reduce the amount of paperwork that State agencies, counties, municipalities, school districts and volunteer organizations shall submit during the funding year as part of PEMA’s administration of the Radiation Emergency Response Fund.

G. Sunset Requirement

PEMA has not set a sunset date for this regulation because the Radiation Emergency Response Fund operates on a continuing basis. PEMA continues to monitor the operation of this Fund and will propose improvements such as this amendment when required.

H. Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), 71 P.S. §§745.1-745.15), the agency submitted a copy of the Notice of Proposed Rulemaking, published at 28 Pa. B. 2817, on June 8, 1998 to IRRC and the Chairmen of the Senate State Government Committee and the House Veterans Affairs and Emergency Preparedness Committee for review and comment. In compliance with Section 5(b.1) of the

Regulatory Review Act, the agency also provided the commission and the committees with copies of all comments received, as well as other documentation.

In preparing these final form regulations, the Agency has considered all comments received from the Commission, the committees and the public.

These final form regulations were deemed approved by the House Committee on _____, 1998 and deemed approved by the Senate Committee on _____, 1998. The Independent Regulatory Review Commission met on _____, 1998, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

I. Contact Person

Questions regarding these regulations may be directed to Mark Goodwin, Chief Counsel, Pennsylvania Emergency Management Agency, P.O. Box 3321, Harrisburg, Pennsylvania, 17108

J. Findings

The Pennsylvania Emergency Management Agency finds that:

(1) Public notice of proposed rulemaking was given under Sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This amendment is necessary and appropriate for the administration and enforcement of the Radiation Protection Act and the Emergency Management Services Code.

K. Order

The Pennsylvania Emergency Management Agency, acting under the Radiation Protection Act and the Emergency Management Services Code, orders that:

(a) The regulations of the Pennsylvania Emergency Management Agency, 4 Pa. Code Chapter 116, are amended as set forth in Annex A.

(b) The Pennsylvania Emergency Management Agency shall submit this Order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality and form as required by law.

(c) The Pennsylvania Emergency Management Agency shall certify this Order and Annex A and shall deposit them with the Legislative Reference Bureau as required by law.

(d) This Order shall take effect immediately upon publication in the Pennsylvania Bulletin.

Charles F. Wynne
Director

RADIATION EMERG. RESPONSE FUND

CHAPTER 116. RADIATION EMERGENCY RESPONSE FUND

Sec.

- 116.1. Definitions.
- 116.2. Purpose.
- 116.3. Operation of the RERF.
- 116.4. Allocation of funds.
- 116.5. Program requirements and eligible expenditures.
- 116.6. Application and review procedures for funding.
- 116.7. Reporting requirements and disbursement of funds.
- [116.8. Reimbursement for retroactive expenses.]
- 116.[9.](8.) Retention of records for audit.
- 116.[10.](9.) Agency report.

Authority

The provisions of this Chapter 116 issued under 35 Pa. C.S. §§ 7101—7707.

Source

The provisions of this Chapter 116 adopted August 2, 1985, effective August 3, 1985, 15 Pa.B. 2802, unless otherwise noted

§116.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Radiation Protection Act (35 P.S. §§ 7110.101—7110.703).

Agency—The Pennsylvania Emergency Management Agency.

[*Council*—The Pennsylvania Emergency Management Council.]

County—An all inclusive term in that it also refers to all risk and support counties located in this Commonwealth together with all risk municipalities, school districts, and volunteer organizations located within those risk and support counties. All of the functions, duties, responsibilities and requirements of this chapter—except for the reporting requirements of § 116.7 (relating to reporting requirements and disbursement funds)—that apply to a risk or support county also apply in like manner to that county's risk municipalities, school districts, and volunteer organizations.

Emergency Planning Zone (EPZ)—A designated area surrounding a nuclear facility to facilitate offsite emergency planning and develop a significant response base.

FEMA—Federal Emergency Management Agency.

NRC—Nuclear Regulatory Commission.

RADIATION EMERG. RESPONSE FUND

Person—An individual, corporation, firm, association, public utility, trust, estate, public or private institution, group, agency, political subdivision of the Commonwealth, another state or political subdivision or agency thereof and a legal successor, representative, agent or agency of the foregoing, other than the NRC or a successor thereto.

Radiation Emergency Response Fund (RERF)—A restricted account created in the General Fund of the Commonwealth for the deposit of fees received from the nuclear industry under sections 402(c)(1), (2), and (3) of the act (35 P.S. § 7110.402(c)(1), (2), and (3)).

Radiation Emergency Response Program—The development of a detailed fixed nuclear emergency response plan for areas surrounding each nuclear electrical generation facility, nuclear fabrication and away-from-reactor storage facility located in this Commonwealth, the training and equipping of State and local emergency response personnel, the periodic exercise of the accident scenarios designated in the NRC emergency response plan applicable to each fixed nuclear facility, the procurement of specialized supplies and equipment, and the provisions for providing financial assistance to counties, risk municipalities, school districts, volunteer organizations and state agencies in order to carry out the purposes of this program.

[*Retroactive expense*—An expense incurred by risk and support counties, risk municipalities, school districts, volunteer organizations and State agencies as a direct result of the preparation, establishment and testing of emergency response plans surrounding each nuclear electrical generation facility, and for the payment of personnel costs, training expenses, and protective supplies and equipment. The expense must have been incurred during the periods from March 28, 1979 to June 30, 1985.]

Risk county—A county partially or wholly within the plume exposure pathway EPZ of a fixed nuclear facility.

Risk municipality—A municipality partially or wholly within the plume exposure pathway EPZ [or] of a fixed nuclear facility.

School district—A school district located within either a risk county or a support county.

State agency—A department or agency of the Commonwealth government other than the Agency that has a health, safety or emergency response function assigned to it by statute or by the Commonwealth's Radiation Emergency Response Program.

Support county—The county outside the plume exposure pathway EPZ of a fixed nuclear facility that, through prior agreement, will provide support to a risk county in the event of an incident. Depending on size and location, the same county may be both a risk and support county.

Volunteer organization—An emergency services organization that has an emergency response mission assigned to it by either its articles of incorporation or by the county Radiation Emergency Response Plan in the county where the volunteer organization is located.

RADIATION EMERG. RESPONSE FUND

Work plan—A written narrative explaining how the recipient will use funds received under the [Emergency Management Assistance Program.] Radiation Emergency Response Program. It shall comply with the guidelines in the Agency's program requirements and will become part of a grant agreement.

§ 116.2 Purpose.

The purpose of this chapter is:

(1) To establish within the Agency a program for administering the RERF under section 503(a) of the act (35 P.S. § 7110.503(a)).

(2) To establish within the Agency a financial assistance program that will provide for the payment of expenses incurred by eligible risk and support counties, risk municipalities, school districts, volunteer organizations, and State agencies as a result of their direct participation in the development and implementation of the Agency's Radiation Emergency Response Program.

[(3) To provide reimbursement for expenses incurred during the period from March 28, 1979 to June 30, 1985 by eligible risk and support counties, risk municipalities, school districts, volunteer organizations and State agencies for costs which were required to be expended, but which were not previously reimbursed, as a direct result of the preparation, establishment and testing of radiation emergency response plans, for personnel costs, training expenses, and protective supplies and equipment.]

§116.3. Operation of the RERF.

(a) This fund is a restricted account that is created within the General Fund of the Commonwealth.

(b) The fund shall consist of fees paid to the Agency by the following persons:

(1) A person who has received or has applied for a nuclear power reactor facility operating license from the NRC shall pay to the agency a one-time fee of \$200,000 per site in the initial year, July 1984 through June 1985, and an annual fee of \$ 100,000 per site payable by July 1 of each succeeding year.

(2) A person who has applied for or received a valid license from the NRC to operate an away-from reactor spent fuel storage facility shall pay to the Agency an annual fee of \$50,000 per site payable by July 1 of each year.

(3) A person who has applied for or received a valid license from the NRC to operate a reactor fuel fabrication facility shall pay to the Agency an annual fee of \$50,000 per site payable by July 1 of each year.

§116.4. Allocation of funds.

[(a) Allocation of initial year funds.

(1) The initial year/one time fees deposited into the RERF will be allocated for the reimbursement of expenses incurred by those eligible applicants set forth in section 503(b) of the act (35 P.S. § 7110.503(b)). These expenses will be reimbursed under § 116.8 (relating to reimbursement provisions for retroactive expenses.).

RADIATION EMERG. RESPONSE FUND

(2) Fees not expended for the reimbursement of expenses described in paragraph (1), will be administered under subsection (b).]

[(b)] (a) Allocation of funds from annual fees.

(1) On or before August 1 of each funding year, the Agency will obtain a fiscal year-end balance report [from the Pennsylvania Treasurer's Office] concerning the total amount of the RERF. The total amount of the fund as stated in that report shall represent the disbursement ceiling for the amount of funds that may be available for distribution to all eligible applicants, excluding the Agency, during the current funding year of July 1 to June 30. The eligibility of an applicant, whether a county or state agency, is determined by the requirements contained in §116.5 (relating to program requirements and eligible expenditures).

(2) Each year, the total amount of RERF as established in paragraph (1) will be disbursed and expended in accordance with the following schedule:

(i) Ten percent to the Agency for the purposes of administering the RERF and for training and other needs related to carrying out the goals and objectives of the Radiation Emergency Response Program.

(ii) Five percent to eligible State agencies that directly participate in the development or implementation of the Agency's Radiation Emergency Response Program.

(iii) [Once the Agency and all other State agency allocations have been approved by the Council, t]The total remaining amount of the RERF will be [divided between] disbursed to the eligible [support and risk] risk and support counties. [The Council, at the recommendation of the Agency, will then approve a funding allocation for each eligible support and risk county.]

[(3)] (3) The Council will approve all funding allocations for each funding year.]

[(4)] (3) An eligible [support and risk] risk and support county will receive its approved funding allocation in [two separate and equal payments] one advance payment during the funding year. [These payments will be made in accordance with a schedule which will be furnished to an eligible support and risk county at the beginning of each funding year. These payments will be made if a county satisfactorily complies with § 116.6 (relating to application and review procedures for funding) and § 116.7 (relating to reporting requirements and disbursement of funds).]

[(5)] (4) An eligible State agency will receive its approved funding allocation in one advance payment during a funding year. [This payment will be made if the State agency satisfactorily complies with § 116.6 (relating to application and review procedures for funding) and § 116.7 (relating to reporting requirements and disbursement of funds).]

[(6)] (5) Funds not disbursed or obligated by an eligible applicant in the fiscal year in which they were allocated shall revert to the RERF. These revertible funds shall then be applied to those allocations approved for eligible applicants for the subsequent funding year.

§116.5 Program requirements and eligible expenditures.

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(a) Program requirements.

(1) In order to maintain eligibility for funding, each county, risk municipality, school district, volunteer organization, and State agency shall meet the requirements of the Agency's Radiation Emergency Response Program.

(2) The requirements of the Radiation Emergency Response Program shall include the following:

(i) The participation of each county and State agency in required radiation emergency response exercises and drills, including remedial exercises and drills.

(ii) The development and maintenance of a county or State agency radiological emergency response plan for each appropriate emergency planning zone.

(iii) The development of a primary and secondary communications system between each county and its municipalities, school districts, and volunteer organizations.

(iv) The development of a communications system between each county's emergency operations center and its reception and mass care centers.

(v) The development and maintenance of a current list of handicapped persons requiring special assistance. This special assistance is to include life-saving or life support equipment and special transportation.

(vi) The development of a program to recruit and train such volunteers as bus drivers, emergency operations center staffs and decontamination teams needed to maintain the response capability of each county's radiation emergency response plan.

(3) Detailed requirements for compliance with paragraph (2) may be provided through directives or instructions on the application forms used to administer the Radiation Emergency Response Program.

(b) Eligible expenditures.

(1) County and State agency expenditures shall contribute to the development of a radiation emergency response capability in conformity with the standards and criteria established by the NRC, FEMA and Annex E to the Commonwealth of Pennsylvania's [Disaster] Emergency Operations Plan [(DOP).] (EOP).

(2) The following list of activities are appropriate uses of grant funds by risk counties. If a grant applicant wishes to use grant funds for a purpose other than those listed in subparagraphs (i)—(ix), the applicant shall secure the Agency's prior written approval for the use or activity.

(i) Develop, revise, upgrade, and test the radiological emergency response plans of the county, its municipalities, hospitals, nursing homes, prisons and schools located within the EPZ.

(ii) Participate in drills and exercises, including remedial drills and exercises, scheduled by the Agency or by the Federal government.

(iii) Conduct a countywide public information and education program concerning the health aspects, hazards and effect of radioactive releases that may be associated with a fixed nuclear facility incident, proper response

RADIATION EMERG. RESPONSE FUND

action for an individual's protection, and preparations that have been made for the protection of the public.

(iv) Procure essential equipment, such as communications equipment for two-way communications between each county and its municipalities for traffic control, miscellaneous supplies such as bullhorns, batons, traffic barriers, generators, citizens band radios for route alerting, and other appropriate supplies needed for the direction and control of operations.

(v) Conduct a countywide program to identify and maintain a list of nonambulatory, deaf or otherwise handicapped persons who may need some form of special assistance, including lifesaving or life support equipment or special transportation in the event of a radiation emergency.

(vi) Conduct a program that recruits and trains volunteers for emergency functions such as the replacement of bus drivers—normally bus drivers will be provided with the buses, however, volunteer drivers should also be included in contingency plans—county and municipal emergency operations center staff and decontamination monitoring teams.

(vii) Pay the personnel costs directly involved in the development or implementation of the Radiation Emergency Response Program[.], [or both] Detailed justification of personnel costs shall be included in the application work plan.

(viii) Procure construction or remodeling supplies for an [e]Emergency [o]Operations [c]Center or purchase equipment for an [e]Emergency [o]Operations [c]Center.

(ix) Provide maintenance services for equipment purchased for radiation emergency response functions.

(3) The following list of activities are appropriate uses of grant funds by support counties. If a grant applicant wishes to use grant funds for a purpose other than those listed in this paragraph, the applicant shall secure the Agency's prior written approval for the use or activity.

(i) Develop, revise, upgrade, and test the radiological emergency response plans of the county.

(ii) Participate in drills and exercises[—], including remedial drills and exercises[—], scheduled by the Agency or by the Federal government.

(iii) Conduct a countywide public information and education program concerning the county's support role in a radiological emergency and the public safety measures to be implemented as part of its support mission.

(iv) Procure essential equipment such as two-way radios for communications between the county, its reception centers and its mass care centers, equipment needed for traffic control such as bullhorns, batons, traffic barriers, generators, citizens band radios and other equipment or supplies needed for the direction and control of support operations.

(v) Conduct a program that recruits and trains volunteers for the county emergency operations center staff and for decontamination monitoring teams.

RADIATION EMERG. RESPONSE FUND

(vi) Pay the personnel costs directly involved in the development or implementation of the Radiation Emergency Response Program. Detailed justification of personnel costs shall be included in the application work plan.

(vii) Procure construction or remodeling supplies for an Emergency Operations Center or purchase equipment for an Emergency Operations Center.

(viii) Provide maintenance services for all equipment purchased for radiation emergency response functions.

(4) The following list of activities are appropriate uses of grant funds by State agencies. If a grant applicant wishes to use grant funds for a purpose other than those listed in this paragraph, the applicant shall secure the Agency's prior written approval for the use or activity.

(i) Develop, revise, upgrade, and test the radiological emergency response plan of the State agency.

(ii) Participate in drills and exercises[—], including remedial drills and exercises[—], scheduled by the Agency or by the Federal government.

(iii) Conduct training programs related to the State agency's assigned functions and missions under the Radiation Emergency Response Program.

(iv) Procure essential protective supplies and equipment and communications equipment. The State agency will dedicate this equipment to the use of the Radiation Emergency Response Program.

(v) Pay the personnel costs directly involved in the development or implementation of the Radiation Emergency Response Program. Detailed justification of personnel costs shall be included in the application work plan.

(vi) Provide maintenance services for equipment purchased for radiation emergency response functions.

Cross References

This section cited in 4 Pa.Code § 116.6 (relating to application and review procedures for funding).

§116.6. Application and review procedures for funding.

(a) The application procedures set forth in this section apply to risk and support counties, risk municipalities, school districts, volunteer organizations, and State agencies that seek funding from the RERF. The Agency will provide each applicant with the requisite application form.

(b) Applicants, except State agencies, shall submit their funding requests to the appropriate County Emergency Management Agency. The [agency] County Emergency Management Agency shall review the request in terms of its compliance with and advancement of the county's Emergency Preparedness Plan. Upon approval by the County Emergency Management Agency, the individual funding requests of a risk municipality, school district, or volunteer organization shall be incorporated into the county's application for funding from the RERF.

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State agencies shall submit their funding requests directly to the Agency. The request shall be submitted under the signature of the State agency's secretary/director or designee.

(c) In order to be eligible for funding, a county or State agency shall submit its funding application to the Agency by June 1 preceding each applicable funding year—July 1 to June 30. [The funding application shall include the following information submitted upon forms provided by the Agency:

- (1) Funding application.
- (2) Emergency preparedness work plan.
- (3) Budget.
- (4) Nondiscrimination clause.]

(d) A county funding application shall also include the individual funding requests of a risk municipality, school district, or volunteer organization submitted to the county for review, whether or not those requests were incorporated into the county's funding budget.

(e) Upon receipt of a funding application, the Agency will review the application for accuracy and completeness. The Agency will apply the following standards to its application review process:

(1) The work plan will be evaluated on its feasibility and adequacy to support both the county's comprehensive radiation emergency response plan and the Agency's Radiation Emergency Response Program.

(2) The work plan will be evaluated on its ability to advance radiation emergency coordination efforts within the county and with other counties, volunteer organizations, and State agencies.

(3) The work plan will be reviewed to determine its compliance with the eligible expenditures and priorities established in § 116.5 (relating to program requirements and eligible expenditures).

(4) The budget will be reviewed to determine the cost-effectiveness of the planned expenditures, taking into account the applicants' specific needs.

(f) During the review of the work plan and budget, the Agency may involve the county, its risk municipalities, school districts, volunteer organizations, or State agency in negotiations and revisions of part of the work plan or budget, or both, so that the goals and objectives established for the applicant's participation in the Radiation Emergency Response Program can be met. It shall be the obligation of the county to participate in negotiations and revisions concerning its work plan and budget. The county shall attempt to resolve disputes that arise between the county and its risk municipalities, school districts or volunteer organizations concerning the inclusion of their individual funding requests in the county's application. Disputes that cannot be resolved at the county level through negotiations will be resolved by the Agency during its review of the county's funding application. [During this review process, the Agency may request that the Council consider and decide the facts and issues in dispute between the county and its risk municipalities, school districts, and volunteer organizations.]

(g) Upon completion of the Agency's application review process, the Agency will [make a recommendation to the Council concerning an application received and

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reviewed. Based upon the recommendation, the Council will] approve those work plans and budgets that are determined to be eligible for funding. The [Council] Agency will then approve a recommended funding allocation for an eligible applicant.

(h) After the [Council's] Agency's approval of a funding allocation, the Agency will forward the [first] payment of the allocation to an eligible applicant. This payment [and other payments] will be dependent upon the availability of funds being present in the RERF at the time of their intended disbursement.

Cross References

This section cited in 4 Pa. Code § 116.6 (relating to allocation of funds).

§116.7. Reporting requirements and disbursement of funds.

[(a) Required reports. During a funding year, the following reports are required:

(1) An interim performance report and a final performance report shall be submitted by a county.

(2) A final performance report shall be submitted by a State agency.]

(a) Required report. During a funding year, a final performance report shall be submitted by a county and a State agency. The requirements for this final performance report are listed as follows:

[(b) *Requirements.* The requirements for these performance reports are set forth in subsections (c) and (d).

(c) Interim performance report.

(1) A county that has received a funding allocation shall submit an interim performance report to the Agency by January 15 of a funding year. This report will cover the period from July 1 through December 31.

(2) The interim performance report shall supplement the county's work plan so that actual accomplishments can be compared to the work plan schedule.

(3) The interim performance report shall contain the following information:

(i) A discussion of the progress made toward accomplishing the goals and objectives of the work plan.

(ii) A discussion of changes or modifications made to the work plan during the first 6 month period - July 1 to December 31 - or changes or modifications that need to be made during the second 6 month period - January 1 to June 30 - of the funding year.

(iii) A description of unforeseen events or problems that have affected the performance goals of the county or its participating risk municipalities, school districts, or volunteer organizations, together with proposals to correct or eliminate those problems or events.

(iv) A financial accounting of the items either purchased or ordered to date, together with a description of remaining items, such as equipment, training, supplies, to be purchased during the second 6 month period. The accounting shall include:

(A) A list of expenditures made by the county either for its own use or on behalf of its risk municipalities, school districts, or volunteer organizations.

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(B) Copies of invoices or vouchers received for those expenditures or a copy of receipts or other financial documentation that verifies the payment of the expenditures made during the reporting period.

(v) Other relevant information that the county believes supports and explains its overall performance in meeting the goals and objectives of its work plan and budget.

(4) The Agency will review the interim performance report for accuracy and completeness. The agency will then make a determination, based upon the report, that the county is or is not in satisfactory performance of the goals and objectives of its work plan. Each county will be notified of this determination in writing. The notification will state reasons for disapproving the report and will provide suggested corrective actions to be taken by those counties determined to be in unsatisfactorily performance of their goals and objectives.

(5) A county that is in satisfactory performance of its work plan will receive the second payment of its funding allocation in a reasonable period of time.

(6) A county that is not in satisfactory performance of its work plan will not receive the second payment of its funding allocation until the Agency determines that the county has taken the necessary action to bring itself into compliance with its work plan.]

[(d) Final performance report]

(1) A county and State agency that has received a funding allocation shall submit a final performance report to the Agency by July [15] 30 [of a] following the funding year. The report shall cover the period [from January 1 through June 30 for each county and the period] from July 1 through June 30 [for a State agency.] .

(2) The final performance report shall contain the following information:

(i) A complete description of the work plan goals and objectives accomplished during the reporting period[s].

(ii) A description of those goals and objectives not accomplished during the reporting period, together with a statement of the reasons that led to this result.

(iii) A list of recommendations or suggestions for improving or expanding the effectiveness of the county or State agency Radiation Emergency Response Program, as based upon the lessons learned during the reporting period.

(iv) A list of expenditures made during the reporting period, together with a brief explanation of those expenditures.

(v) A copy of receipts or other financial documentation that verifies the payment of expenditures made during the reporting period.

(3) The [a]Agency will review the final performance report for accuracy and completeness. The Agency will then make a determination, based upon the report, that the county or State agency has or has not satisfactorily performed the goals and objectives of its work plan. A county or State agency will be notified of this determination in writing. The notification will state reasons for disapproving the report and will provide suggested corrective actions to be taken

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by counties or State agencies determined to be in unsatisfactory performance of their goals and objectives.

[(4) A State agency that has satisfactorily performed its work plan will be reimbursed for all verifiable expenditures listed in the final report.

(5) A State agency that has not satisfactorily performed its work plan will not be reimbursed for expenditures, whether verifiable or not, until the Agency determines that the State agency has taken the necessary action to bring itself into compliance with its work plan.]

(4) A county or State Agency that has not satisfactorily performed its work plan will be required to return the funds provided under its Grant Agreement.

[(e)] (b) Eligibility for future funding allocations.

(1) [At the end of each funding year (June 30), t] The Agency will review the [overall performance] final performance report of each county and State agency [that received a funding allocation during that funding year. The performance standard that will be applied to this review is whether or not the county or State agency] to verify satisfactor[il]y participat[ed]ion in the further development, improvement, and implementation of the Agency's Radiation Emergency Response Program.

(2) A county or State agency that satisfactorily met this performance standard will be eligible to submit a funding application for the subsequent funding year.

(3) A county or State agency that has not satisfactorily met this performance standard may have its eligibility to submit a funding application for the subsequent funding year withheld by the Agency.

Cross References

This section cited in 4 Pa. Code § 116.1 (relating to definitions); and 4 Pa. Code § 116.4 (relating to allocation of funds).

[§116.8. Reimbursement for retroactive expenses.

(a) Certain retroactive expenses incurred by eligible counties, risk municipalities, school districts, volunteer organizations, and State agencies during the period from March 28, 1979 to June 30, 1985 may be reimbursed by funds from the RERF under this section.

(b) Applicants, except State agencies, that seek reimbursement for retroactive expenses not previously reimbursed shall submit their funding requests to the appropriate County Emergency Management Agency. That agency will review the request to determine that it is eligible for a reimbursement payment from the RERF. Upon approval by the County Emergency Management Agency, the individual funding requests of a risk municipality, school district, or volunteer organization shall be incorporated into the county's application for a reimbursement payment from the RERF. A state agency shall submit funding requests directly to the Agency. That request shall be submitted under the signature of the State agency's secretary/director or his designee.

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(c) In order to be eligible for a reimbursement payment, a county or State agency shall submit its funding application to the Agency by November 1, 1985. The funding application shall include the following information submitted upon forms provided by the Agency:

- (1) Retroactive expenses application.
- (2) Financial accounting statement.

(d) The retroactive expenses application shall contain the following information:

- (1) An itemized list of expenditures.
- (2) The date of each expenditure.
- (3) The purpose of the expenditure.
- (4) A copy of the receipt or other financial documentation that verifies the payment of an itemized expenditure.

(e) A county funding application shall also include the individual funding requests of a risk municipality, school district, or volunteer organization submitted to the county for review, whether or not those requests were incorporated into the county's financial accounting statement. It shall be the obligation of the county to participate in negotiations and revisions concerning its funding application. In particular, the county shall attempt to resolve disputes that arise between the county and its risk municipalities, school districts or volunteer organizations concerning the inclusion of their individual funding requests into the county's financial accounting statement. Disputes that cannot be resolved at the county level through negotiations will be resolved by the Agency during its review of the county's funding application. During this review process, the Agency may request that Council consider and decide the facts and issues in dispute between the county and its risk municipalities, school districts, and volunteer organizations.

(f) Upon receipt of a funding application, the Agency will review the application for accuracy and completeness. The Agency will apply the following standards to its application review process:

- (1) The expenditures were incurred during the period from March 28,
- (2) The expenditures were not previously recouped or reimbursed from other sources.
- (3) The expenditures were required as a direct result of the preparation, establishment, and testing of Radiation Emergency Response Plans.
- (4) The expenditures were required for either the payment of personnel costs, training costs, or for the purchase of protective supplies and equipment.
- (5) The expenditures shall be verifiable.

(g) Upon completion of the Agency's application review process, the Agency will make a recommendation to the Council concerning an application received and reviewed. Based upon that recommendation, the Council will approve a reimbursement payment for an eligible applicant.

(h) After the Council's approval of the reimbursement payment, the Agency will forward the reimbursement payment to an eligible applicant. Payments will be dependent upon the availability of funds being present in the RERF at the time of their intended disbursement.

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(i) Reimbursement payments for retroactive expenses incurred by eligible applicants will not be considered for disbursement after December 31, 1985, except in unusual circumstances that are approved by the Council.

(j) Any portion of the reimbursement of expenses fund described in § 116.4(a)(1) (relating to allocation of funds), that is not disbursed or obligated by December 31, 1985, shall revert to the RERF and shall be administered under § 116.4(b) for the allocation of funds from annual fees.]

§116.[9.] (8.) Retention of records for audit.

[(a) A county and State agency that has received a funding allocation shall retain financial records, receipts, invoices, vouchers, supporting documents, statistical records and other records that were used to support and document the following reports and applications:

- (1) Funding application.
- (2) Interim performance report.
- (3) Final performance report.
- (4) Retroactive expenses application.

(b) (a) [The] All records [described in subsection (a) shall] and supporting documents (i.e. receipts, invoices, vouchers, etc.) related to grant funds must be retained for a period of [3] three years. The retention period starts at the end of the funding year—June 30— in which the funding allocation was made.

[(c)] (b) A county and State agency shall make the records described in subsection (a) available for audit by Commonwealth and Agency officials within [10] ten days after receiving a written request that those records be made available for audit. The audit request may be made at any time during the [3] three year record retention period.

§116.[10.] (9.) Agency report.

On September 1 of each year, the Agency will submit a report on its operation of the RERF for the preceding funding year to the Governor, [and] the General Assembly, and the Pennsylvania Emergency Management Council. The report will include a summary of the activities of the Radiation Emergency Response Program as provided for in Chapter 5 of the act (35 P.S. §§ 7110.501—7110.503). The report will also include a proposed operating budget, a financial statement, a list of applications received, and the disbursements or reimbursements made to the eligible counties, risk municipalities, school districts, volunteer organizations, and State agencies. An analysis of the adequacy of the fees established under section 402(c) of the act (35 P.S. § 7110.402(c)) will also be included in the report. The proposed funding formula for each subsequent funding year will be included in either an annual or a special report to the Governor, [and] the General Assembly, and the Pennsylvania Emergency Management Council.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 30-49
 SUBJECT: Radiation Emergency Response Fund
 AGENCY: PA Emergency Management Agency

NOV 16 1998

NOV 16 1998

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|----------|---------------------------|---|
| 11-16-98 | <u>Denise Miller</u> | HOUSE COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS |
| 11/16/98 | <u>Steph J. [unclear]</u> | |
| 11/16/98 | <u>[unclear]</u> | SENATE COMMITTEE ON STATE GOVERNMENT |
| 11/16/98 | <u>Valerie Hoover</u> | |
| 11/16/98 | <u>Kim C. [unclear]</u> | INDEPENDENT REGULATORY REVIEW COMMISSION |
| _____ | _____ | ATTORNEY GENERAL |
| _____ | _____ | LEGISLATIVE REFERENCE BUREAU |

November 6, 1998