

## 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.	[Reserved].
116.9.	Retention of records for audit.
116.10.	Agency report.

### Authority

The provisions of this Chapter 116 issued under the Emergency Management Services Code, 35 Pa.C.S. §§ 7101—7707, unless otherwise noted.

### 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.

*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.

*EPZ—Emergency Planning Zone*—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.

*Person*—An individual, corporation, firm, association, public utility, trust, estate, public or private institution, group, agency, political subdivision of this 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.

*RERF—Radiation Emergency Response Fund*—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)—(3) of the act (35 P. S. § 7110.402(c)(1)—(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 to carry out the purposes of this program.

*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 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.

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

#### Source

The provisions of this § 116.1 amended June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial pages (229865) to (229866).

### § 116.2. Purpose.

The purpose of this chapter is:

116-2

(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.

#### Source

The provisions of this § 116.2 corrected August 13, 1999, effective June 26, 1999, 29 Pa.B. 4350. Immediately preceding text appears at serial pages (257156) to (257157).

### § 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.

#### *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 concerning the total amount of the RERF. The total amount of the RERF 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 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) The total remaining amount of the RERF will be disbursed to the eligible risk and support counties.

(3) An eligible risk and support county will receive its approved funding allocation in one advance payment during the funding year.

(4) An eligible State agency will receive its approved funding allocation in one advance payment during a funding year.

(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 will then be applied to those allocations approved for eligible applicants for the subsequent funding year.

#### Source

The provisions of this § 116.4 amended June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial pages (229867) to (229868).

### § 116.5. Program requirements and eligible expenditures.

#### (a) *Program requirements.*

(1) 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 volunteers such 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 Emergency Operations Plan (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 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. Detailed justification of personnel costs shall be included in the application work plan.

(viii) Procure construction or remodeling supplies for an emergency operations center or purchase equipment for an emergency operations 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.

(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.

**Source**

The provisions of this § 116.5 amended June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial pages (229868) to (229871).

**Cross References**

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

(g) Upon completion of the Agency's application review process, the Agency will approve those work plans and budgets that are determined to be eligible for funding. The Agency will then approve a recommended funding allocation for an eligible applicant.

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

#### Source

The provisions of this § 116.6 amended June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial pages (229871) to (229873).

### § 116.7. Reporting requirements and disbursement of funds.

(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:

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

(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.

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

(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.

(b) *Eligibility for future funding allocations.*

(1) The Agency will review the final performance report of each county and State agency to verify satisfactory participation 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.

#### Source

The provisions of this § 116.7 amended June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial pages (229873) to (229875).

#### Cross References

This section cited in 4 Pa. Code § 116.1 (relating to definitions).

### § 116.8. [Reserved].

#### Source

The provisions of this § 116.8 reserved June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial pages (229875) to (229877).

**§ 116.9. Retention of records for audit.**

(a) Records and supporting documents—that is, receipts, invoices, vouchers, and the like—related to grant funds shall be retained for 3 years. The retention period starts at the end of the funding year—June 30—in which the funding allocation was made.

(b) A county and State agency shall make the records described in subsection (a) available for audit by Commonwealth and Agency officials within 10 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 year record retention period.

**Source**

The provisions of this § 116.9 amended June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial page (229877).

**§ 116.10. 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, 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, the General Assembly and the Pennsylvania Emergency Management Council.

**Source**

The provisions of this § 116.10 amended June 25, 1999, effective June 26, 1999, 29 Pa.B. 3201. Immediately preceding text appears at serial pages (229877) to (229878).

[Next page is 117-1.]