

(4) Any other information requested by the agency to determine a debtor's bankruptcy status.

(g) *Penalties for prohibited hazardous materials operations.* A respondent that continues to conduct hazardous materials operations in violation of this section may be subject to additional penalties, including criminal prosecution pursuant to 49 U.S.C. 5124.

§ 109.103 Notice of nonpayment of penalties.

(a) If a full payment of a civil penalty, or an installment payment as part of agreed upon payment plan, has not been made within 45 days after the date specified for payment by the final agency order, the agency may issue a cessation of hazardous materials operations order to the respondent.

(b) The cessation of hazardous materials operations order issued under this section shall include the following information:

(1) A citation to the statutory provision or regulation the respondent was found to have violated and to the terms of the order or agreement requiring payment;

(2) A statement indicating that if the respondent fails to pay the full outstanding balance of the civil penalty within 90 days after the payment due date, the respondent shall be prohibited from conducting any activity regulated under the Federal hazardous material transportation law, this subchapter or subchapter C of this chapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter C of this chapter;

(3) A statement describing the respondent's options for responding to the order which will include an option to file an appeal for reconsideration of the cessation of operations order within 20 days of receipt of the order; and

(4) A description of the manner in which the respondent can make payment of any money due the United States as a result of the proceeding (*i.e.*, the full outstanding balance of the civil penalty).

(c) The cessation of hazardous materials operation order will be delivered by personal service, unless such service is impossible or impractical. If per-

sonal service is impossible or impractical then service may be made by certified mail or commercial express service. If a respondent's principal place of business is in a foreign country, it will be delivered to the respondent's designated agent (as prepared in accordance with §105.40 of this subchapter).

PART 110—HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANTS

Sec.

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AUTHORITY: 49 U.S.C. 5101–5128; 49 CFR 1.97.

SOURCE: Amdt. 110–1, 57 FR 43067, Sept. 17, 1992, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 110 appear at 70 FR 56090, Sept. 23, 2005.

§ 110.1 Purpose.

This part sets forth procedures for grants to States, Territories, and Indian tribes to support emergency planning and training to respond to hazardous materials emergencies, particularly those involving transportation. Grants may also be used to enhance the implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 *et seq.*). For information regarding the Hazardous Materials Instructor Training, Supplemental Public Sector Training, and Community Safety grants, please refer to PHMSA's website at: <https://www.phmsa.dot.gov/>.

[84 FR 3999, Feb. 14, 2019]

§ 110.5

49 CFR Ch. I (10–1–24 Edition)

§ 110.5 Scope.

(a) This part applies to States, Territories, and Indian tribes and contains the program requirements for public sector grants to support hazardous materials emergency planning and training efforts.

(b) The requirements contained in 2 CFR part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” apply to grants issued under this part.

(c) Copies of standard forms and OMB circulars referenced in this part are available at <https://www.grants.gov/web/grants/forms.html> or from the Grants Chief, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

[84 FR 3999, Feb. 14, 2019]

§ 110.7 Control number under the Paperwork Reduction Act.

The Office of Management and Budget control number assigned for the collection of information in § 110.30 is 2137–0586.

[87 FR 79765, Dec. 27, 2022]

§ 110.10 Administering the hazardous materials emergency preparedness grants.

This part applies to States, Territories, and Indian tribes.

[84 FR 3999, Feb. 14, 2019]

§ 110.20 Definitions.

Unless defined in this part, all terms defined in 49 U.S.C. 5102 are used in their statutory meaning and all terms defined in 2 CFR part 200 with respect to administrative requirements for grants are used as defined therein. Other terms used in this part are defined as follows:

Allowable costs means those costs that are: Eligible, reasonable, necessary, and allocable to the activities permitted by the appropriate Federal cost principles, and approved in the grant.

Associate Administrator means the Associate Administrator for Hazardous

Materials Safety, Pipeline and Hazardous Materials Safety Administration or a person designated by the Associate Administrator.

National curriculum means the curriculum required to be developed under 49 U.S.C. 5115 and necessary to train public sector emergency response and preparedness teams, enabling them to comply with performance standards as stated in 49 U.S.C. 5115(c).

Political subdivision means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Public sector employee means an individual employed by a State, political subdivision of a State, Territory, or Indian tribe and who during the course of employment has responsibilities related to responding to an accident or incident involving the transportation of hazardous material, including an individual employed by a State, political subdivision of a State, Territory, or Indian tribe as a firefighter or law enforcement officer and an individual who volunteers to serve as a firefighter for a State, political subdivision of a State, Territory, or Indian tribe.

[84 FR 3999, Feb. 14, 2019]

§ 110.30 Hazardous materials emergency preparedness grant application.

An application must comply with the applicable Notice of Funding Opportunity that will include or reference forms approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3502). Applicants are required to electronically submit application packages at the OMB designated website. Applications must adhere to the instructions outlined in the Notice of Funding Opportunity and application kit.

[84 FR 4000, Feb. 14, 2019]

§ 110.40 Activities eligible for hazardous materials emergency preparedness grant funding.

Eligible applicants may receive funding for the following activities:

(a) To develop, improve, and implement emergency plans required under the Emergency Planning and Community Right-to-Know Act of 1986, as well as exercises that test the emergency plan. To enhance emergency plans to include hazard analysis, as well as response procedures for emergencies involving transportation of hazardous materials.

(b) To determine commodity flow patterns of hazardous materials within a State, between a State and another State, Territory, or Tribal lands, and develop and maintain a system to keep such information current.

(c) To determine the need for regional hazardous materials emergency response teams.

(d) To assess local response capabilities.

(e) To conduct emergency response drills and exercises associated with emergency preparedness plans.

(f) To provide for technical staff to support the planning effort.

(g) To train public sector employees to respond to hazardous materials transportation accidents and incidents.

(h) To determine the number of public sector employees employed or used by a political subdivision who need the proposed training and to select courses consistent with national consensus standards or the National Curriculum.

(i) To deliver comprehensive preparedness and response training to public sector employees, which may include design and delivery of preparedness and response training to meet specialized needs, and financial assistance for trainees and for the trainers, if appropriate, such as tuition, travel expenses to and from a training facility, and room and board while at the training facility.

(j) To deliver emergency response drills and exercises associated with training, a course of study, and tests and evaluation of emergency preparedness plans.

(k) To pay expenses associated with training by a person (including a department, agency, or instrumentality

of a State or political subdivision thereof, a Territory, or an Indian tribe) and activities necessary to monitor such training including, but not limited to examinations, critiques, and instructor evaluations.

(l) To maintain staff to manage the training effort designed to result in increased benefits, proficiency, and rapid deployment of local and regional responders.

(m) Additional hazardous materials emergency preparedness activities not otherwise described in this section that the Associate Administrator deems appropriate under the grant agreement.

[84 FR 4000, Feb. 14, 2019]

§ 110.50 Disbursement of grant funds.

(a) *Pre-award costs.* (1) PHMSA expects the recipient to be fully aware that pre-award costs result in borrowing against future support and that such borrowing must not impair the recipient's ability to accomplish the activities in the approved period of performance.

(2) A recipient may, at its own risk, incur pre-award costs to cover costs up to 90 days before the beginning date of the initial period of performance.

(3) The incurrence of pre-award costs in anticipation of a competitive or non-competitive grant imposes no obligation on PHMSA under any circumstances, including in the event of:

(i) The absence of appropriations;

(ii) A grant is not subsequently being made; or

(iii) A grant being made for a lesser amount than the recipient anticipated.

(b) Payments may not be made for activities not approved in the grant agreement. If a recipient seeks additional grant funds, the supplemental amendment request will be evaluated on the basis of needs, performance, and availability of grant funds. An existing grant is not a commitment of future funding.

[84 FR 4000, Feb. 14, 2019]

§ 110.60 Cost sharing.

The recipient must provide 20 percent of the direct and indirect costs of all activities approved in the grant agreement with non-Federal funds.

[84 FR 4000, Feb. 14, 2019]

§§ 110.70–110.90

49 CFR Ch. I (10–1–24 Edition)

§§ 110.70–110.90 [Reserved]

§ 110.100 Enforcement.

If a recipient fails to comply with any term of the grant agreement, a noncompliance action may be taken. The recipient will have the opportunity to object and provide information and documentation challenging the suspension or termination action. Costs incurred by the recipient during a suspension or after termination of the grant agreement are not allowable unless the Associate Administrator authorizes it in writing. Grant agreements may also be terminated in whole or in part with the consent of the recipient at any agreed upon effective date, or by the recipient upon written notification.

[84 FR 4000, Feb. 14, 2019]

§ 110.110 Post-award requirements.

The Associate Administrator will close out the grant upon determination that all applicable administrative actions and all required work of the grant are complete. The recipient must submit all financial, performance, and other reports required as a condition of

the grant within 90 days after the expiration or termination of the grant. This time frame may be extended by the Associate Administrator for cause.

[84 FR 4000, Feb. 14, 2019]

§ 110.120 Deviation from this part.

Recipients may request a deviation from the non-statutory provisions of this part. The Associate Administrator will respond to such requests in writing. If appropriate, the decision will be included in the grant agreement. Request for deviations from this part must be submitted electronically to the Grants Chief at *HMEP.Grants@dot.gov*.

[84 FR 4000, Feb. 14, 2019]

§ 110.130 Disputes.

Disputes should be resolved at the lowest level possible, beginning with the Grants Management Specialist, the Grants Team Lead, and the Grants Chief. If an agreement cannot be reached, the Associate Administrator will serve as the dispute resolution official, whose decision will be final.

[84 FR 4001, Feb. 14, 2019]