

REGION 6 LEPC Update



Volume 22, No. 5
July, 2009

Steve Mason, EPA Region 6
E-Mail: mason.steve@epa.gov

Angie Rothen, Weston Solutions
E-Mail: angie.rothen@westonsolutions.com

This month, we will be reviewing the information for the Local Government Reimbursement (LGR) program through EPA. We feel it is important to cover this once a year, as it can provide significant help to local communities after a chemical incident.

Special thanks to Kristen Hendrix, Texas Tech University student and EPA intern, for her research and assistance in developing this information.

Also, remember, it's not too late to apply for a scholarship for the HOTZONE conference, coming in October.

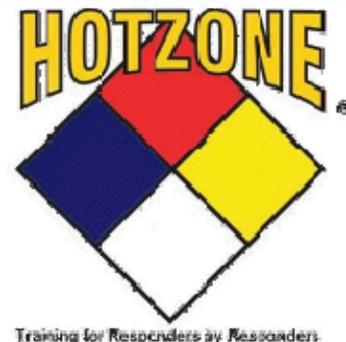
As always, if you received this Update from someone else, and would like to be added to the email list, just email us at the email above.

Steve & Angie

10th Annual HOTZONE Conference

The goal of the HOTZONE conference is to train and equip local, state and federal responders for safe, coordinated and efficient response to releases of hazardous materials which threaten public health and the environment.

People who should attend include local fire, police, emergency management personnel, emergency medical services, health care providers, and state and federal response personnel who participate directly in the incident command system or in its immediate support at the scene of a hazmat response or terrorist event in Federal Region 6.



THIS YEAR, HOTZONE 10 will be held:

October 22-25, 2009 -- Crowne Plaza Hotel - Reliant Park -- Houston, TX

GO TO OUR WEBPAGE FOR MORE CONFERENCE INFORMATION, REGISTRATION, AND SCHOLARSHIP OPPORTUNITIES
www.hotzone.org

Region 6 LEPC Coordinators

Arkansas	Kenny Harmon	501-683-6700	kenny.harmon@adem.arkansas.gov
Louisiana	Gene Dunegan	225-925-6113	gene.dunegan@dps.la.gov
New Mexico	Lee Shin	505-476-0618	lee.shin@state.nm.us
Oklahoma	Tom Bergman Bonnie McKelvey	405-702-1013 405-521-2481	tom.bergman@deqmail.state.ok.us bonnie.mckelvey@oem.ok.gov
Texas	Bernardine Zimmerman Don Hall	800-452-2791 512-424-5985	Bernardine.zimmerman@dshs.state.tx.us Donald.hall@txdps.state.tx.us

13th Annual Region 6 LEPC Conference



Plans are underway for our Region 6 13th Annual LEPC Conference. We have had amazing success with the first 12, and expect the same for the next one.

I cannot say enough for the wonderful job the Nueces County LEPC, especially Mari Cuevas, did on the LEPC Conference last year.



The 13th Annual Conference will be held in Oklahoma City, around the middle of January, 2010.

The Conference will focus on CAMEO/MARPLOT/ALOHA, EPlan, Tier II Submit, NOAA Response Tools, and other hazmat software available to LEPCs / emergency management. The Conference will be hands on training for all attendees.

We will have additional details by the August newsletter.

This Article May Be Worth \$25,000 to Your Community

How Local Governments Can Recover Costs for Emergency Response to Hazardous Substance Releases



Since its inception in 1986, the LGR program has been helping local governments like yours cover the costs of emergency responses. For over a decade, EPA has been working closely with hundreds of local governments to make the LGR program an easy and reliable source of funding.

Just ask anyone who has participated in the program. With more than three million dollars awarded by EPA so far, the LGR program has proven to be a valuable financial resource for local governments.

In the past several years, EPA has distributed over \$3 million dollars to local communities with over \$380,000 coming back to Region 6 to support local communities. So the next time you have a hazardous substance emergency, remember the LGR program.

Who Responds to Emergency Situations?

The National Contingency Plan (NCP -- 40 CFR Part 300.180) states:

"Because state and local public safety organizations would normally be the first government representatives at the scene of a discharge or release, they are expected to initiate public safety measures that are necessary to protect public health and welfare and that are consistent with containment and cleanup requirements in the NCP, and are responsible for directing evacuations pursuant to existing state or local procedures."



Additionally, 40 CFR Part 300.700 states:

- 1) Responsible parties shall be liable for all response costs incurred by the United States government or a state not inconsistent with the NCP.
- 2) Responsible parties shall be liable for necessary costs of response actions to releases of hazardous substances incurred by any other person consistent with the NCP.

What Happens if You Respond and There is a Responsible Party?

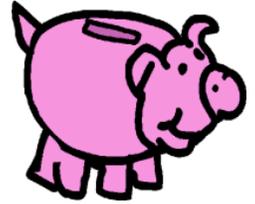
EPA recommends that your first route of cost recovery is with the responsible party. Once the response is completed, determine what your reasonable costs were and then present such costs to the responsible party.

You can always point out to them that CERCLA 107(a), the NCP 40 CFR 300.700, and applicable State statutes require the responsible party to compensate local government authorities for appropriate and reasonable costs related to a hazardous substance release.

What Happens if You Respond and There is No Responsible Party?

Your community responds to a release or threat of release of a hazardous substance, and there is no responsible party (e.g., abandoned drums), or if the responsible party is not capable of reimbursement for expenses (e.g., bankruptcy).

Then the LGR program may be able to provide a "safety net" of up to \$25,000 per incident to local governments that do not have funds available to pay for response actions.



Determining Your Eligibility

To be eligible for the Local Governments Reimbursement (LGR) program, your local government must meet the following requirements:

The applicant must be a general purpose unit of local government.

Local governments that are eligible to receive reimbursement under the LGR program include any general purpose unit of local government, such as a county, parish, city, town, township, and municipality.



Federally-recognized Indian Tribes are also eligible for reimbursement under the LGR program.

States are not eligible for reimbursement under the Local Governments Reimbursement program.

States may not request reimbursement on the behalf of a local government or a federally-recognized Indian Tribe within the state.

The applicant must have legal jurisdiction over the site where the incident occurred.

Only one request for reimbursement will be accepted for each eligible incident.

When more than one local government has participated in such a response, the local government that has legal jurisdiction over the site where the incident occurred must submit the application.

The application can be made on behalf of all participating local governments. If multiple local governments or agencies have jurisdiction over the site, then the respondents must decide which single government or agency will submit the reimbursement request.

Reimbursement cannot be made to a responsible party.

If the local government applying for reimbursement is also the responsible party, the application will be denied. Responsible parties are liable for response cost regardless of whether or not they are a local government.

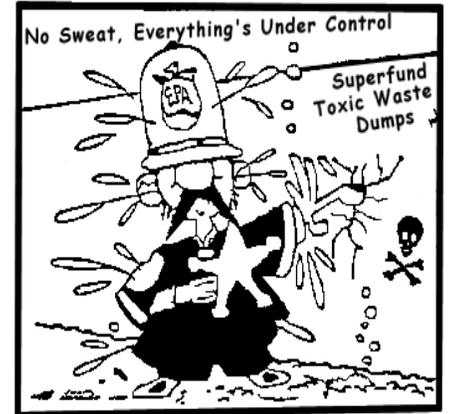
Substances released or threatened to be released must be designated as hazardous under CERCLA.

Incidents involving petroleum products including petroleum, natural gas, crude oil, or any other specified fractions thereof that are not specifically designated as CERCLA hazardous substances do not qualify under this program.

However, the USCG does have a program under which a claim can be made for the cost of responding to an oil spill. Go to the following webpage for information concerning this program:

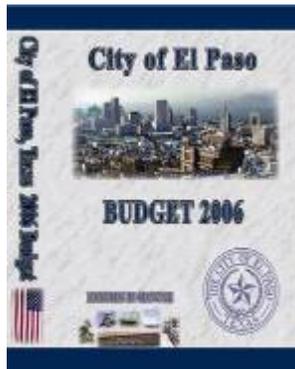
www.uscg.mil/npfc/

Some mixed waste may be allowable. Under CERCLA, potentially responsible parties are liable for cleanup costs.



Requirements for Reimbursement

Once a local government has decided to apply for reimbursement, there are a number of basic requirements that must be met to comply with the regulations of the LGR program. When completing the LGR application, local governments should pay special attention to the following requirements to facilitate the reimbursement process:



Reimbursement cannot supplant local funds normally provided for a response.

In other words, if a local government budgets for emergency response activities, it must draw from this budget to pay for the cost of a response.

However, if a local government's funds have been depleted, then it may be eligible for reimbursement under EPA's LGR program.

In addition, other items that may not be budgeted for (e.g., overtime pay, unanticipated materials, and supplies) may also be reimbursable under the LGR program.

Cost recovery must be pursued prior to applying for reimbursement.

The applicant must complete the Cost Recovery Summary Table included in the application, to document the background and current status of cost recovery efforts.

It should be clear that all available sources of cost recovery (i.e., responsible parties and their insurance, the state, and local government insurance) have been pursued.

Although not required, it is recommended that a copy of all related correspondence also be included in the application to document the applicant's cost recovery efforts.

Potential cost recovery sources should be given a minimum of 60 days to respond before an LGR application is filed. By signing on the last page of the application, a local government is certifying that cost recovery was pursued.



Detailed cost documentation must be submitted with the application.

The applicant must complete the detailed Cost Breakdown Table, included in the application.

All costs reimbursement is being requested must be listed and supporting documentation (e.g., invoices, sales receipts, time sheets, or rental agreements) must be attached.

Please note: Costs incurred for long-term remedial measures do not qualify under the LGR program. Reimbursement is made only for temporary emergency measures conducted in response to hazardous substance releases or threatened releases.

The application must be signed by the local government's highest ranking official.

Examples of the highest ranking official include: Mayor, City Manager, Board of Commissioners Chair, County Judge, or head of a federally recognized Indian Tribe.

If the highest local official is unable to sign the application form, a letter of delegation along with the application that authorizes a delegate to sign the application on his or her behalf, must be submitted.



Applications must be submitted to EPA within one year of the "date of response completion" of the response.



For the LGR program, the date of completion is the date when all field work has been completed and all project deliverables (e.g., lab results, technical expert reports, or invoices) have been received by the local government. (The date of completion is not determined by cost recovery efforts, which can continue after an application for reimbursement is submitted.)

In general, a local government should allow at least 60 days for each potential source of reimbursement to respond to a request for repayment before submitting an application to LGR. EPA will consider late applications on a case-by-case basis.

Reimbursement Application

Please review the sections on Determining Your Eligibility and Requirements for Reimbursement before starting your application. The complete Local Governments Reimbursement application package includes the LGR application form and a copy of the LGR regulations (40 CFR part 310).

Download the Application Package for Reimbursement to Local Governments (PDF) at:

<http://www.epa.gov/oem/content/lgr/lgrapp.htm>

Hard copies are available from the Local Government Reimbursement HelpLine. You must submit your application to EPA within one year of the "date of response completion."



The date of completion is the date when all field work has been completed and all project deliverables (e.g., lab results, technical expert reports, or invoices) have been received by the local government.



EPA will consider late applications on a case-by-case basis.

We highly recommend that you send your applications through the U.S. Postal Service 1st class, unregistered. Any other methods of delivery will delay receipt of your application by EPA. Mail completed applications to:

U.S. Environmental Protection Agency, Local Governments Reimbursement (LGR) Program
Attn: Lisa Boynton, Mail Code 5104-A
1200 Pennsylvania Avenue
Washington, D.C. 20460

You should receive a confirmation postcard within one month of the receipt of your application. If your application is complete, and it is approved, you will receive reimbursement within three to six months.

If EPA requires more information to process the application, we will contact you for further details. This may increase the time it takes for you to receive reimbursement.

If you have questions about the status of your application at any point in the process, please call the LGR HelpLine.



Frequently Asked Questions

What costs are reimbursable under the Local Governments Reimbursement (LGR) program?

All costs for which a local government is seeking reimbursement must be consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and federal cost principles outlined by the Office of Management and Budget.

In general, EPA will consider reimbursement for costs of such items as:

- Disposable materials and supplies purchased during a specific response
- Rental or leasing of equipment used for a specific response
- Special technical services and laboratory costs
- Services and supplies purchased for a specific evacuation
- Payment of unbudgeted wages for employees responding to the specific incident (for example, overtime pay for response personnel)

Reimbursement cannot supplant local government funds normally provided for emergency response. All applications must include appropriate cost documentation such as invoices, sales receipts, leasing agreements, or time sheets.

In addition, it is essential that applications certify their attempts to recover costs from the potentially responsible party, the state, and local government insurance.

Who is eligible for reimbursement under the LGR program?

If you are the governing body of a county, parish, municipality, city, town, township, Federally recognized Indian tribe or general purpose unit of local government, you are eligible for reimbursement.



Special purpose units of local government (school district, water utilities district) are not eligible under the LGR program.



Can more than one application for reimbursement be submitted to EPA for the same incident?

No. Under the LGR regulation, reimbursement is limited to one request per incident, even when multiple government entities respond to the incident.

The local government with legal jurisdiction over the site of the incident must submit one application on behalf of all local governments that responded to the incident. In the event that two applications are submitted for the same incident, EPA will accept only the application from the local government with legal jurisdiction.

In some cases two local governments with legal jurisdiction (e.g., a city and a county) may attempt to submit an application for reimbursement. In these cases, EPA will either return both applications with an explanation or, if one has already been awarded, the second application will be denied.

This requirement ensures that EPA does not reimburse more than \$25,000 per response, and does not reimburse local governments more than once. To avoid this situation, EPA strongly encourages local governments, or agencies within the same local government, to coordinate with each other when seeking reimbursement under the LGR program.

This will help local governments obtain the maximum amount of reimbursement funds, particularly in cases where the combined total of reimbursement requests is less than \$25,000.

Can I include more than one incident on a single application?

Yes, you can however; then you must submit all associated necessary information and cost documentation for each incident. In addition, the incidents should be closely related by type (i.e., 10 anthrax calls in one day) and in around the same time period.

The cap for each application is \$25,000 even if you submit more than one incident in an application. You are only eligible for a total reimbursement of \$25,000. Our suggestion is that you submit a separate application for each incident to simplify the review process and maximize your eligible response costs.



Is there a cap on the amount of reimbursement?

The law limits the amount of reimbursement available to local governments to \$25,000 per incident. Furthermore, the law limits the total amount of reimbursement funds that EPA can award in a given year.

In the event that the amount of funds available for reimbursement becomes limited (e.g., due to increased participation in the program), EPA would prioritize reimbursements according to the financial burden that an incident places on each local government, as specified in the LGR Federal Regulation (40 CFR part 310).

How will reimbursement requests be evaluated?

After receiving completed applications from local governments, EPA will screen each application for compliance with the basic requirements.

Each application will be evaluated on its own merit.

EPA will ensure that the costs for which reimbursement is being sought are allowable and documented, do not supplant local funds normally provided for emergency response, and that all other possible sources of reimbursement have been exhausted.



During the review cycle, the applicant may be contacted to supply additional information or to clarify information in the application.

Based on EPA's evaluation of the application, a request may be reimbursed (in whole or in part), denied, or held over for reconsideration in instances where funding is limited or currently unavailable.



How does EPA prioritize reimbursement requests?

Once EPA reviews an application and determines that it is complete and complies with all of the regulatory requirements, EPA calculates the applicant's financial burden. A local government's financial burden is determined by comparing the eligible response costs to the locality's aggregate income (i.e., the per capita income of the locality multiplied by the locality's population).

The purpose of this requirement is to provide financial relief to local governments that face significant financial burden as a result of responding to a hazardous substance incident.

In the event that the amount of funds available for reimbursement becomes limited, the financial burden formula gives priority to those local governments for which the response costs create the greatest financial burden.

Because the funding ceiling for the LGR program has not yet been reached in a given year, EPA has yet to use financial burden to prioritize reimbursements and has reimbursed all eligible applications to date. If reimbursements for a given year exceed the total amount of funds available for that year, EPA will be required to use the financial burden calculation to prioritize reimbursements.

However, EPA may consider other financial information demonstrating a locality's financial hardship (e.g., the impact of responding to numerous hazardous substance emergencies in a short time period, the financial impact of a recent disaster, etc.).



In cases where an application is eligible for reimbursement but cannot be reimbursed due to limited funds, EPA will hold the application for up to one year and will reimburse the local government if funds become available.

How can I check the status of my application?

You can check the status of your application by calling the LGR HelpLine at (800) 431-9209 and identifying your local government, the incident type, and the date on which the response occurred.

Awards in Region 6

ST	City/County	Description	\$ Amount	Award
AR	Garland County	Chemical Release / Threat	\$1,896.41	Jun-00
AR	Little Rock	Chemical Release / Threat	\$400.00	Sep-00
AR	Little Rock	Chemical Release / Threat	\$446.10	Jun-01
AR	Little Rock	Clandestine Drug Lab	\$1,176.60	Aug-02
AR	Little Rock	Clandestine Drug Lab	\$1,320.13	Aug-02
AR	Little Rock	Clandestine Drug Lab	\$1,060.30	Aug-02
AR	Little Rock	Clandestine Drug Lab	\$1,470.71	Aug-02

AR	Little Rock	Abandoned waste	\$531.60	Oct-06
AR	North Little Rock	Clandestine Drug Lab	\$2,970.00	Apr-01
AR	North Little Rock	Chemical Release / Threat	\$400.00	Aug-02
AR	Searcy	Chemical Fire / Explosion	\$16,626.20	Mar-00
LA	Chitimacha Tribe	Anthrax / Ricin Threat	\$681.79	Sep-02
LA	Lafayette	Chemical Fire / Explosion	\$25,000.00	Jul-94
LA	Ouachita	Chemical Fire / Explosion	\$5,145.95	Jul-94
LA	Waterloo	Clandestine Drug Lab	\$372.88	Feb-01
NM	Socorro County	Landfill / Tire Fire	\$25,000.00	Jun-01
OK	Guymon	Train derailment	\$15,702.50	Jun-05
OK	Lone Grove	Herbicides contaminated public water supply	\$18,912.47	Sep-08
OK	Maysville	Meth lab	\$6,767.10	Aug-07
OK	Rogers County	Landfill / Tire Fire	\$725.50	Jul-01
TX	Baytown	Chemical Release / Threat	\$5,000.00	Dec-94
TX	Baytown	Chemical Release / Threat	\$525.00	Aug-96
TX	Beaumont	Meth lab	\$5,691.00	Mar-08
TX	Bexar County	Chemical Release / Threat	\$3,082.25	Mar-00
TX	Bowie	Chemical Release / Threat	\$854.39	Aug-02
TX	Cameron County	Chemical Release / Threat	\$12,604.19	Aug-99
TX	Collin County	Clandestine Drug Lab	\$1,512.65	Aug-00
TX	Comanche	Chemical Fire / Explosion	\$25,000.00	Jul-02
TX	El Paso	Chemical Fire / Explosion	\$5,589.08	Sep-90
TX	El Paso	Abandoned waste	\$3,747.91	Jun-05
TX	El Paso	Potential anthrax release	\$916.27	Dec-05
TX	Fannin County	Chemical Release / Threat	\$25,000.00	Jun-01
TX	Friendswood	Chemical Release / Threat	\$11,403.09	Jun-03
TX	Guadalupe County	Toxic smoke from trash fire	\$2,084.31	Jun-05
TX	Harker Heights	Chemical Release / Threat	\$2,957.57	Jan-97
TX	Harker Heights	Chemical Release / Threat	\$707.47	Jun-98
TX	Houston	Chemical Fire / Explosion	\$25,000.00	Jul-96
TX	Lubbock	Chemical Release / Threat	\$25,000.00	Aug-97
TX	McKinney	Clandestine Drug Lab	\$2,272.00	Aug-00
TX	McLennan County	Chemical Release / Threat	\$1,947.56	Dec-99
TX	Midlothian	Landfill / Tire Fire	\$25,000.00	Aug-97
TX	Montgomery County	Abandoned waste	\$5,469.56	Aug-04
TX	Paris	Clandestine Drug Lab	\$3,253.20	Apr-00
TX	Pasadena	Chemical Release / Threat	\$10,851.14	Sep-93
TX	Pecos	Chemical Release / Threat	\$19,035.48	Jan-98
TX	Plano	Chemical Release / Threat	\$1,100.00	Aug-99
TX	Rockwell	Chemical Release / Threat	\$7,328.57	Sep-93
TX	San Antonio	Potential Anthrax Releases	\$19,602.82	Feb-04
TX	Seabrook	Chemical Release / Threat	\$11,999.50	Jun-01
TX	Wilson County	Chemical Release / Threat	\$3,608.75	Jul-02



HAS YOUR LEPC:

- Established a permanent address for facilities, the SERC, and EPA to mail required forms and information;
- Established a 24-hour manned emergency phone number (i.e., sheriff's office, 911, fire department) for facilities to make release notifications -- an answering machine is not sufficient;
- Notified the SERC of any changes to the LEPC structure, especially a change in the chair or address;
- Provided EPCRA training to local emergency responders, specifically local fire departments who often can provide information to facilities during fire inspections and police departments who respond to haz-mat incidents?

The articles contained herein are provided for general purposes only.

EPA does not accept responsibility for any errors or omissions or results of any actions based upon this information.

Please consult the applicable regulations when determining compliance.

Mention of trade names, products, or services does not convey, and should not be interpreted as conveying official EPA approval, endorsement, or recommendation.

Region 6 Emergency Notification Numbers

Arkansas Dept. of Emergency Management	800-322-4012
Louisiana State Police	877-925-6595
New Mexico State Police	505-827-9126
Oklahoma Dept. of Environmental Quality	800-522-0206
Texas Environmental Hotline	800-832-8224

National Response Center	800-424-8802
EPA Region 6	866-372-7745
CHEMTREC	800-424-9300