



Reimbursement options for local responders

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Accidents and other hazardous materials incidents, such as train wrecks, pipeline breaks, or pesticide fires, often create the need for intensive involvement and follow-up by local public safety agencies. Local fire and police departments may remain on scene for extended periods, may need to call in extra staff, may need to arrange for specialized equipment, and may have equipment contaminated, damaged or destroyed. The costs to local agencies are often high and are usually not planned.

Cities can recover some of the costs of responding to hazardous materials incidents in several ways:

- The person(s) responsible for the incident reimburses the city for the city’s response.
- The U.S. Environmental Protection Agency (EPA) reimburses the city.
- The Minnesota Pollution Control Agency (MPCA) or Minnesota Department of Agriculture reimburses the city.

Responsible person

Many environmental laws describe the liability of generators, shippers and other handlers of hazardous substances. These persons or companies are described in the law as the “responsible person” for “releases” of hazardous substances. One of the costs that a responsible person is responsible for is

all reasonable and necessary response costs incurred by a political subdivision of the state (cities, counties, townships, etc.). Thus, the first place to look for reimbursement is the responsible person. Usually a letter to the responsible person and his or her insurance carrier, if known, will result in reimbursement of costs. Your city’s attorney can cite Minn. Stat. § 115B.04 as the basis for requesting reimbursement.

Federal help

Sometimes responsible persons refuse to pay for the incurred costs, or they do not have enough money to pay or they cannot be found. In these cases, the federal or state government may reimburse all or a portion of the costs related to the response. The federal “Superfund” contains a provision for reimbursing local units of government for response costs. One of the critical steps in obtaining federal reimbursement is notifying the National Response Center (NRC) of the incident at (800) 424-8802. An application form can be obtained by calling EPA’s Local Governments Reimbursement Helpline at (800) 431-9209 or visit its Web site at <http://www.epa.gov/superfund/programs/er/lgr/index.htm>. Eligible local governments may submit applications to EPA for reimbursement of up to \$25,000 per incident.

State help

The state “Superfund” also has provisions for reimbursing political subdivisions for “reasonable and necessary expenditures resulting from an emergency caused by a release or threatened release of hazardous substance, pollutants or contaminant.” Requests can be made to the state after requests have been made to the responsible person and to the federal government.

The MPCA Citizens Board reviews and approves all claims except for pesticide and fertilizer incidents. These incident claims are handled by the commissioner of the Minnesota Department of Agriculture. Reimbursement is subject to legislative appropriation. In enacting this provision, the Minnesota Legislature used an estimate of the level of need for such reimbursements of up to \$200,000 per year.

To establish some framework for evaluating reimbursement requests, the MPCA Citizens Board has determined that it will consider the following information when reimbursement is requested:

- Claimed expenses for an incident should be for “extraordinary” activities above and beyond the “normal” response of a political subdivision to a similar incident which does not involve hazardous substances, pollutants or contaminants.
- Claimed expenses for an incident should be for emergency activities providing protection for the “public health, welfare or the environment.”
- Claimed expenses should generally be for immediate measures. Longer-term measures, such as ground water cleanup, replacement of buildings, new municipal wells, waste disposal and ongoing sampling or similar activities, should not be considered unless the activity was specifically requested or authorized by MPCA staff.
- Political subdivisions should attempt to recover expenditures from the parties responsible for the incident and from the federal program authorized to make similar reimbursements.

- Claimed expenses should be documented and reasonable.
- Actions for which the expenditures were made should have been reasonable and necessary.

For more information

For more information about reimbursement and spill prevention, cleanup and disposal, call the MPCA at (651) 296-6300 or (800) 657-3864 and ask for a member of the Emergency Response Team.

More information is available also from other MPCA fact sheets at www.pca.state.mn.us/cleanup/pubs/ertpubs.html.