

106 KAR 1:121. Kentucky Emergency Response Commission (KERC) fee account grant distribution formula.

RELATES TO: KRS 39E.050, 42 U.S.C. 11000, et seq.

STATUTORY AUTHORITY: KRS 39E.040(3), (6), 39E.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39E.040(3) requires the Kentucky Emergency Response Commission to develop reporting requirements and procedures for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances. KRS 39E.040(6) requires the commission to recommend administrative regulations to the director for issuance by the Division of Emergency Management to implement KRS Chapter 39E. This administrative regulation establishes administrative support and the grant distribution formula to be used in awarding grants for funds generated by KRS 39E.050.

Section 1. Local Emergency Planning Committee (LEPC) Grant Distribution Formula. (1) The collection of maintenance and access fees, late fees, and fines shall be required for the administration of the KERC program. At least fifty (50) percent of funds collected annually pursuant to KRS 39E.050 shall be awarded to eligible LEPCs that submit grant requests for administration, development, and implementation of the Kentucky Emergency Planning and Community Right-to-Know Program, known as SARA Title III (Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. 11001, et seq., within the guidelines mandated by 42 U.S.C. 11001(a), (b), and (c), Section 301, and KRS 39E.050.

(2) The grant distribution formula to determine how much money will be available to each LEPC shall be:

(a) Ten (10) percent of the total amount (A) collected by March 1 divided by the total number of counties in the state.

$$.1 \times \frac{A}{\text{Total Counties}}$$

Hypothetical example:

$$.1 \times \frac{\$500,000}{120} = \$416.67$$

(b) Plus twenty (20) percent of the total amount (A) collected by March 1 times the ratio of KERC - required and approved EHS Facility Emergency Response Plans (Qc) in the planning district to the total KERC - approved (Qs) in the state.

$$.2(A) \frac{Qc}{Qs}$$

Hypothetical example:

$$.2 \times (\$500,000) \times \left(\frac{4}{1171} \right) = \$341.59$$

(c) Plus twenty (20) percent of the total amount (A) collected by March 1 times the ratio of Tier II Reports (Tc) in the planning district to the total number of Tier II Reports (Ts) in the state.

$$.2(A) \frac{Tc}{Ts}$$

Hypothetical example:

$$.2 \times (\$500,000) \times \left(\frac{11}{5,541} \right) = \$198.52$$

(3) The grant (Gr) distribution formula to determine how much money an eligible LEPC that submits a grant request form may receive shall be:

$$Gr = \left(\frac{.1 \times A}{\text{Total LEPCs}} \right) + .2(A) \frac{Qc}{Qs} + .2(A) \frac{Tc}{Ts}$$

Section 2. Notice of Amount of Availability of Funds to Each LEPC. (1) No later than April 30 each year, the KERC shall notify the LEPCs how much money will be available to each LEPC that submits a grant request form. This amount shall be based upon the total amount of funds available in the KERC fee account divided pursuant to Section 1 of this administrative regulation.

(2) Notification of money available shall not be construed as an automatic grant award to an LEPC. Each LEPC who wants an award shall submit a grant request form and required grant documentation in accordance with 106 KAR 1:091.

(3) LEPCs that do not submit a grant request form and all required documentation in accordance with 106 KAR 1:091 shall not be eligible for grant funds.

(a) Funds allotted for ineligible LEPCs, per the grant distribution formula established in Section 1(3) of this administrative regulation, shall be transferred to the KERC Fee Account Fund for use as supplemental grant awards.

(b) The KERC shall award supplemental grant funding to eligible LEPCs in accordance with 106 KAR 1:091, Section 5.

Section 3. State Agency Grant Distribution. No more than fifty (50) percent of funds collected annually by KRS 39E.050 shall be allocated by the KERC to state agencies, other than LEPCs that submit grant requests for administration, development, and implementation of the Kentucky Emergency Planning and Community Right-to-Know program, known as SARA Title III (Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. 11001 et seq., and KRS 39E.050.

Section 4. Additional Funds. Funds collected after March 1, or that were returned to the commission during the year, shall be carried over into the next grant cycle and shall be distributed in accordance with Sections 1(1) and 3 of this administrative regulation.

Section 5. Administrative support required by KRS 39E.050 shall be provided by the Kentucky Division of Emergency Management. (18 Ky.R. 1720; Am. 2329; eff. 1-27-1992; 43 Ky.R. 1232, 1525; eff. 3-31-2017; 45 Ky.R. 2753, 3056; eff. 5-31-2019.)