

IC 36-8-12.2

Chapter 12.2. Hazardous Materials Emergency Action Reimbursement

IC 36-8-12.2-1

"Facility" defined

Sec. 1. As used in this chapter, "facility" has the meaning set forth in 327 IAC 2-6.1-4(7), as in effect on January 1, 2001.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-2

"Fire department" defined

Sec. 2. As used in this chapter, "fire department" means a fire department that:

- (1) is established under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and
- (2) employs:
 - (A) both full-time paid members and volunteer members; or
 - (B) only full-time paid members.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-3

"Hazardous materials emergency" defined

Sec. 3. As used in this chapter, "hazardous materials emergency" has the meaning set forth in IC 13-11-2-97.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-4

"Mode of transportation" defined

Sec. 4. As used in this chapter, "mode of transportation" has the meaning set forth in 327 IAC 2-6.1-4(10), as in effect on January 1, 2001.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-5

"Responsible party" defined

Sec. 5. As used in this chapter, "responsible party" has the meaning set forth in IC 13-11-2-191(e).

As added by P.L.33-2001, SEC.3. Amended by P.L.127-2009, SEC.13.

IC 36-8-12.2-6

Imposition of service charges and administrative fees

Sec. 6. (a) A fire department may impose a charge on a person that is a responsible party with respect to a hazardous materials emergency that:

- (1) the fire department responded to;
- (2) members of that fire department assisted in containing, controlling, or cleaning up;
- (3) with respect to the release or imminent release of hazardous materials at a facility, involves a quantity of hazardous

materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-5, as in effect on January 1, 2001; and

(4) with respect to the release or imminent release of hazardous materials from a mode of transportation, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-6, as in effect on January 1, 2001.

(b) The owner or responsible party shall remit payment directly to the governmental unit providing the service.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

As added by P.L.33-2001, SEC.3. Amended by P.L.182-2009(ss), SEC.437.

IC 36-8-12.2-7

Service charge billed to responsible party

Sec. 7. A fire department imposing a charge under this chapter may bill the responsible party for the total value of the assistance provided, as determined from the state fire marshal's schedule of service charges issued under IC 36-8-12-16(h).

As added by P.L.33-2001, SEC.3. Amended by P.L.182-2009(ss), SEC.438.

IC 36-8-12.2-8

General fund of unit; hazardous materials response fund

Sec. 8. (a) Money collected under this chapter must be deposited in one (1) of the following:

(1) The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1).

(2) A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire department established under IC 36-8-2-3.

(b) Money collected under this chapter may be used only for the following:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.

(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

As added by P.L.33-2001, SEC.3. Amended by P.L.173-2003, SEC.37.

IC 36-8-12.2-8.1

Establishing hazardous materials response fund; fund administration

Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.

(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

As added by P.L.173-2003, SEC.38.

IC 36-8-12.2-9

Billing for services of fire department

Sec. 9. (a) A fire department may not bill under this chapter for services provided that duplicate services provided by another governmental entity.

(b) The responsible party billed for services under this chapter may elect to reimburse the fire department by providing replacement materials that are of equal or greater value than those expended by the fire department in responding to the emergency.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-10

Actions for reimbursement

Sec. 10. A fire department that imposes a service charge under this chapter and maintains an action for reimbursement under IC 13-25-6-5 may recover all costs of the action, including attorney's fees.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-11

Penalties

Sec. 11. A responsible party is subject to a penalty for failure to pay the full amount of a charge made under this chapter within sixty (60) days after the issuance of the bill for payment by the fire department. The amount of the penalty is ten percent (10%) of the amount of the charge that remains unpaid on the due date.

As added by P.L.33-2001, SEC.3.