

CHAPTER 95: HAZARDOUS MATERIALS

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GENERAL PROVISIONS

§ 95.01 PURPOSE.

This Chapter is adopted by the Gallatin County Fiscal Court for the purpose of protecting public health and safety in the county through prevention and control of hazardous materials incidents and releases, requiring the timely reporting of releases of hazardous materials to appropriate local public safety and emergency agencies and requiring payment by parties responsible for hazardous materials of all expenses incurred by public safety and emergency agencies in responding to such hazardous materials releases.

§ 95.02 APPLICABILITY.

Pursuant to the authority set forth in KRS 67.083(7), the provisions of this Chapter shall apply to all parties who manufacture, use, store, or transport hazardous materials in quantities prescribed by this chapter and as defined herein within the entire area of the county, including all incorporated and unincorporated areas thereof.

(Ord. 340.8, passed 8-29-95; Ord. 2025-15, passed 5-6-2025)

§ 95.03 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED RELEASE. A release of hazardous materials in accordance with an appropriate permit granted by a state or federal agency having primary jurisdiction over such release.

GALLATIN COUNTY EMERGENCY MANAGEMENT (GCEM). The department of Gallatin County government identified as the administering agency for this ordinance, and in accordance with KRS 39A-F.

CONSUMER PRODUCT. This term shall have the same meaning as stated in 15 USC 2052.

COSTS. All expenses, to include backfill /overtime, incurred by local government and/or local emergency response organizations regardless of whether or not the agencies are

publicly or privately owned in responding to any hazardous materials spill, leak or other release into the environment and for any remedial or removal actions taken to protect and safeguard the public health and safety, property or the environment. These costs shall be defined in § 95.10 and set forth in Appendix B, incorporated herein by reference as "Billing Schedule – Hazardous Materials Spills / Releases".

EMPLOYEE. Every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employees, whether paid by the employer or employee, if employed with the knowledge, actual or constructive, of the employer.

EMPLOYER. Any person, firm, corporation, partnership, association, government agency, or other entity engaged in a business or providing services which has employees.

ENVIRONMENT. The navigable waters of the United States and any other surface water, ground water, drinking water supply, soil surface, subsurface strata, storm sewer or publicly owned sanitary sewer or treatment works (other than those handling only wastewater generated at a facility) within the county. The terms shall include air only for purposes of reporting releases pursuant to the further provisions of this Chapter.

FACILITY.

(1) Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle, truck trailer, rolling stock, or aircraft;

(2) Any site or area where a hazardous material has been deposited, stored, disposed of, abandoned, placed or otherwise come to be located. Consumer products in consumer use and vessels are not included.

HAZARDOUS MATERIALS. Any element, compound, substance or material or any combination thereof which are toxic, flammable, explosive, corrosive, radioactive, oxidizers, etiological agents, carcinogenic, or are highly reactive when mixed with other substances, including, but not limited to, any substance or material which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act" (49 USCA

1801, et seq.) or is listed by Appendix A, 40 CFR 302, "List of Hazardous Materials and Reportable Quantities," as amended, published by the U.S. Environmental Protection Agency (EPA), a copy of which said list is attached as Appendix A hereto and herein incorporated by reference the same as if set out at length herein in words and figures, in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed.

HAZARDOUS MATERIALS INCIDENT. The actual release or threatened release of a hazardous material which:

(1) (a) Poses an imminent threat to the environment or to the health, safety, or welfare of either individuals at the site of the incident, or of the general population; and

(b) Requires immediate response, incident assessment, control, containment, and abatement of the immediate hazard by an outside agency; or

(2) Involves a reportable quantity of hazardous materials, regardless of whether abatement occurs by employees at the site of the incident, or by any outside agencies.

HAZARDOUS MATERIALS RESPONSE TEAM (HMRT). The agencies, public or private, recognized by Gallatin County Emergency Management to respond and mitigate any hazardous material incident or release.

NORMAL APPLICATION OF PESTICIDES. Application pursuant to the label directions for application of a pesticide product registered under § 30 or § 24 of the Federal Insecticides, Fungicide, and Rodenticide Act (FIRA) as amended (7 USC 135 et seq.), or pursuant to the terms and conditions of an experimental use permit issued under § 5 of FIRA, or pursuant to an exemption granted under § 18 of FIRA. OIL. Oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

PERSON. An individual, his or her executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a resident or non-resident of this Commonwealth.

RELEASE. Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, or disposing of a hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous materials or any constituent thereof may enter the environment. The term shall not apply:

- (1) To emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or a pipeline station pumping engine;
- (2) To the normal application of fertilizers and pesticides.

REMEDIAL ACTION. Any action consistent with permanent remedy taken instead of or in addition to any removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches or ditches, clay (or other earth) cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, on site treatment or incineration provision of alternative water supplies, and any monitoring reasonably required to assure that actions protect public health and welfare and the environment.

REMOVAL. The cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threatened release of hazardous materials, the disposal of removed material, or the taking of such actions as may be necessary to prevent, minimize, or mitigate damage to public health or welfare or the environment. The term includes, but is not limited to, security fencing, provision of alternative water supplies, and temporary evacuation, reception and care of threatened persons, and diking of fuel storage tanks.

REPORTABLE QUANTITY. That quantity as set forth in § 95.04 of this Chapter.

RESPONSE. Any remedial or removal actions, including, but not limited to, response by

local public safety and emergency agencies and subsequent actions taken to ensure the preservation and protection of the public health, safety, welfare and the environment.

STORE. To deposit or place a substance in the county for a period of 10 days or more provided such substance is not otherwise in transit.

THREATENED RELEASE. A circumstance which presents a substantial threat of a hazardous material incident as a result of:

(1) A transportation incident or incident when container structure damage is apparent or the potential for container structure damage exists; or

(2) A circumstance which presents a substantial threat of a hazardous material incident at a fixed site facility as a result of damage or failure to a production system(s), storage system(s) or as a result of a non-functional process safety engineering control.

USE. To store, maintain, treat, process, handle, generate, dispose of, or otherwise manage.

USE shall not include any mode of transportation other than on-site transportation.

VESSEL. Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 95.04 DETERMINATION OF REPORTABLE QUANTITIES.

(A) Listed hazardous materials. The quantity appearing in column "RQ" for each hazardous material listed by Appendix A, "List of Hazardous Materials and Reportable Quantities," 40 CFR 302, as amended, published by the U.S. Environmental Protection Agency (EPA) shall be the reportable quantity for that material

(B) Unlisted hazardous materials. Unlisted hazardous wastes designated as hazardous materials have the reportable quantity of 100 pounds, except for those unlisted hazardous wastes exhibiting the characteristics of EP toxicity identified in 40 CFR 261.24. Unlisted hazardous wastes which exhibit EP toxicity have the reportable quantities listed in Appendix A to 40 CFR 302, as amended, for the contaminant on which the characteristics of EP toxicity is based. If an unlisted hazardous waste

exhibits EP toxicity on the basis of more than one contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed by Appendix A to 40 CFR 302, as amended, for those contaminants. If an unlisted hazardous waste exhibits the characteristics of EP toxicity and one or more of the other characteristics, the reportable quantity shall be the lowest of the applicable reportable quantities.

(C) Oil.

(1) The reportable quantity for releases of oil to waters of the United States or adjoining shorelines is any quantity which violates applicable water quantity standards or causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

(2) The reportable quantity for releases of oil to the environment other than releases to waters of the United States and adjoining shorelines is 25 gallons.

(3) Notwithstanding any other provision of this section, a release of oil from a properly functioning vessel engine shall not be deemed to be in a reportable quantity; however, this provision shall not be applicable to oil accumulated in a vessel's bilges.

4) Notwithstanding any other provision of this section, any release of oil which creates a hazard to traffic on a roadway is deemed to be a reportable quantity and must be reported to the administering authority.

(D) Adjustments to the reportable quantity list. The Administering Agency, upon the recommendation and approval of the Northern Kentucky Emergency Planning Committee (NKEPC), the Kentucky Emergency Response Commission (KERC), or upon request of review by a regulated hazardous materials user, may adjust upward or downward the reportable quantity listed in 40 CFR Part 302, as amended.

(E) Releases to sanitary sewer system. Notwithstanding any other provision of this section, any release of a hazardous material to a sanitary sewer system which is prohibited under applicable pretreatment or other regulations of any sanitation district operating within the county governing discharges to the sanitary sewer system shall be deemed to be discharged in reportable quantities.

(F) Component hazardous materials release.

(1) A release of a mixture or solution, in which only one component is a hazardous material, shall be considered to be a release of a reportable quantity only where the hazardous material component of the mixture or solution is released in a quantity equal to or greater than its reportable quantity.

(2) A release of a mixture or solution of two or more hazardous materials share the same characteristics of ignitability or corrosivity or reactivity and toxicity shall be considered a release of a reportable quantity of a hazardous material if the total quantity of hazardous materials in the mixture or solution equals or is greater than the reportable quantity of any one of the hazardous materials in the mixture or solution. The quantity of non-hazardous materials shall not be included for purposes of reporting.

(G) SARA "RQ" list. A substance designated an extremely hazardous substance (EHS) pursuant to Section 302(a) of the SARA of 1986 shall have the reportable quantity as set by the act under Section 304(a)(2).

§ 95.05 PERMIT REQUIRED FOR RELEASE.

No person shall cause, threaten or allow the release of a hazardous material into the environment within the territorial boundaries of the county unless the release is an authorized release in accordance with an appropriate permit granted by that agency of state or federal government which has primary jurisdiction over the release and the release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

§ 95.06 NOTICE TO PUBLIC SAFETY COMMUNICATIONS CENTER AND REPORTING REQUIREMENTS.

(A) Notice upon discovery.

(1) Whenever a hazardous material incident occurs (other than an authorized release) on facilities of any kind, the party in charge, upon discovery or confirmation of such hazardous materials incident, shall immediately cause notice to the Gallatin County 911 Communications Center of the existence of such hazardous materials incident, the circumstances of same, and the location thereof to be given by telephoning 911 or 859-567-7021

(a) Such notice is required when the circumstances and conditions on site are such that the individuals enumerated above either knew or should have known that a hazardous materials incident occurred.

(b) The notice via 911 shall serve as notification to all local agencies to which notification is required by KRS 39E.190 but shall not relieve the responsible party of any other notifications required by this Chapter, or other laws or regulations.

(B) Duty to control hazardous materials incident. The requirements of this section shall not be construed to forbid any party on or about the facilities from using all diligence necessary to control such hazardous materials incident prior to the notification of the Gallatin County 911 Communications Center via 911 especially if such efforts may result in the containment of the hazardous materials incident and/or the abatement of extreme hazard to the employees or the general public. Delays in reporting hazardous materials incidents due to in-house control efforts and/or notification of off-site owners/supervisors shall not be acceptable as reason for delay in notification required by this section and may result in penalties.

(C) Air releases.

(1) Accidental air releases in excess of the reportable quantities listed in 40 CFR

302.4 or, if unlisted, as prescribed by § 95.04 (releases that are required to be reported to local, state, and federal authorities) shall be reported under the requirements of this section unless a different reportable quantity has been established as outlined in § 94.04 (D).

(2) In order to ensure compliance with the notice requirement of § 95.06(A), any party who possesses, stores, or transports hazardous materials that are a gas at standard temperature and pressure in quantities equal to or greater than the reportable quantity, shall maintain a list of such materials. Any list maintained pursuant to this section shall, upon request, be made available at the facility to representatives of the administering agency and any responding agency.

(D) Threatened release.

(1) Whenever a threatened release occurs, as defined in § 95.03, the party in charge (or a responding agency), upon discovery of such threatened release, shall immediately cause notice of the existence of such threatened release, the circumstances of same and the location thereof to be given by calling 911

2) Such notice is required when the circumstances and conditions on-site are such that the parties enumerated above either knew or should have known that the threatened release occurred.

(E) Indoor release of hazardous materials. The actual release or threatened release of a hazardous material indoors that poses an imminent threat to the health, safety, or welfare of individuals at the site of the incident shall be immediately reported to "911".

(F) Duty to report to other agencies. No statement contained in this section shall be construed to exempt or release any party from any other notification or reporting procedure required by any state or federal agency.

§ 95.07 ADMINISTERING AGENCY.

The purpose of this Chapter is to establish a uniform county-wide program for protection

of the environment from uncontrolled releases of hazardous materials to be administered by existing agencies of local government. The Gallatin County Emergency Management department (hereinafter "GCEM") shall be the lead agency in administering this Chapter.

§ 95.08 RESPONSE AUTHORITY.

(A) Gallatin County Emergency Management shall have authority to coordinate response to any release or threatened release of hazardous materials in any incorporated or unincorporated area of the county and shall implement and operate under the National Incident Management System (NIMS)/Incident Command System (I.C.S.) as required by FEMA, SARA, O.S.H.A., E.P.A. and N.F.P.A. guidelines.

(B) The Fire Chief of the jurisdiction in which the release or threatened release is located shall have secondary authority for taking remedial or removal actions necessary to control or contain the release or threatened release and to assure the protection of human health, property and the environment. The role of HMRT is to provide technical advice and response capabilities, subject-matter expertise, coordination and assistance to the Emergency Management Director and Fire Chief. HMRT shall not direct the emergency response unless requested to do so by the Fire Chief or the Emergency Management Director or their authorized representative.

(C) Gallatin County Emergency Management or the Fire Chief shall immediately report any release or threatened release to the executive authority of the jurisdiction (e.g. Judge/Executive or his or her administrative assistant, Mayor, or City Administrative Officer. If in the opinion of the executive authority, the seriousness of the situation warrants, the chief executive officer of the jurisdiction (Judge/Executive or Mayor or Emergency Management Director) shall declare the existence of a state of emergency as authorized by KRS 39B.070 in the jurisdiction, and thereafter, the response authority provided by this section shall then be vested in such chief executive officer. In such an event, the chief executive officer may authorize GCEM, the Fire Chief, or other appropriate person to exercise all or part of the response authority provided by this section until further notice.

(D) With the implementation of the Incident Command System (ICS), all local emergency response personnel shall cooperate with and operate under the direction of the chief executive officer of the jurisdiction, GCEM Director (or other representative) or other person(s) then exercising response authority under this section (such as a Unified Command system) until such time as the person then exercising response authority has determined that the response is complete, or responsibility for response has been assumed by the state or federal agency having primary jurisdiction over such release or threatened release.

(E) The person(s) exercising response authority under this section shall coordinate and/or cooperate with other federal, state or local public health, safety and emergency agencies involved in the response to a release or threatened release of hazardous materials.

(F) The person(s) exercising response authority under this section may, with the approval of the executive authority of the jurisdiction, obtain vital supplies, equipment, services and other properties found lacking and needed for the protection of human health, property and the environment and obligate the jurisdiction for the fair value thereof, pursuant to KRS 39 et al.

§ 95.09 INSPECTION AND INVESTIGATION.

(A) Inspections. The administering agency and the response authority shall have the authority to jointly conduct the periodic inspections of any facilities, for the purpose of ascertaining and causing to be corrected, any condition which may be a violation of this Chapter. Inspections shall be made during working hours except by special arrangement with the person in charge of the facility.

(B) Investigations. When information that has been received or evidence indicates that an unreported release may have occurred on a property or facility, the administering agency and any responding agency shall be allowed immediate access to the facility by company personnel to conduct a proper investigation. Admission under this provision shall be consistent with the company safety procedures and the incident protocols as set forth in Chapter 95 but shall not result in an unreasonable delay.

§ 95.10 ENFORCEMENT; NOTICE OF VIOLATION.

(A) Notice. Upon notification or discovery of any release or violation of the provisions of this chapter, the administering agency and any responding agency shall immediately investigate the site upon which the violation is located. The administering agency will be the lead enforcement agency for violations of this Chapter. If a violation exists, or a release has occurred, a Notice of Violation describing the violation or release shall be served by the administering agency upon the party that is responsible for the violation or release occurring, if the identity of the party is known. The responsible party may be initially notified orally by the administering agency, prior to a written notification. The Notice of Violation shall include the following, if applicable:

(1) A statement that if the situation is not remedied within the prescribed period of time, the administering agency may proceed to correct the violation;

(2) A statement that the party shall be liable for costs incurred by responding agencies associated with their releases as set forth in §§ 95.11 and 95.12, and that after the violation has been corrected, or the release has been remediated, a bill shall be sent, charging the party the amount of costs and expenses incurred by the administering agency and any responding agencies.

(3) A statement that in addition to cost recovery measures, additional penalties, as set forth in section § 95.99 may be imposed for violations that have occurred.

(B) Governmental response. If a hazardous materials incident occurs, the administering agency and/or one or more responding agencies may take reasonable steps to abate any problem associated with the hazardous materials incident and may take reasonable steps to clean up the area affected to assure continuing safety of the public and the environment, if either of the following circumstances exist:

(1) The identity of the party responsible for the facility upon which such hazardous materials incident occurs is unknown at the time of the incident and subsequent remediation by the administering agency and/or responding agencies; or

(2) A situation exists that presents an imminent danger to facility employees and/or the general public, and the party responsible for the hazardous materials incident having occurred is not taking sufficient response actions to abate and minimize such imminent danger.

(C) Responsible party billed. When the identity of the party responsible for the hazardous materials incident is determined, or, for emergency situations, at a time subsequent to the cleanup of the spill, leak or release, a bill shall be sent to the party for the costs for correcting the violation, or remediating the release, in accordance with the provisions of § 95.13.

(D) Injunctive relief. The administering agency is empowered to seek injunctive relief for violations of this Chapter should other means prove ineffective and a threat to public health and safety exists.

§ 95.11 LIABILITY FOR COSTS.

Notwithstanding any other provision or rule of law, the following persons shall be jointly and severally liable for all costs of removal and remedial actions, as identified in § 95.12, incurred by local response, administering, public safety and emergency agencies as a result of a release or threatened release of hazardous materials into the environment:

(A) The owner and operator of a facility or vessel from which there is a release or substantial threat of release of hazardous materials.

(B) Any person who, at the time of disposal, transport, storage, or treatment of hazardous materials, owned or operated the facility or vessel used for such disposal, transport, treatment, or storage from which there was a release or substantial threat of a release of hazardous materials.

(C) Any person who by contract, agreement, or otherwise has arranged with another person or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by another party or entity from which facility there is a release or substantial threat of a release of hazardous materials.

(D) Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release or substantial threat of a release of hazardous materials.

§ 95.12 COST WHICH MAY BE RECOVERED BY ADMINISTERING OR RESPONDING AGENCIES.

(A) Cost recovery shall be available to the administering agency and any responding agencies for a hazardous materials incident pursuant to § 95.11 and this section.

(B) Cost recovery is set forth in Appendix B, "Billing Schedule – Hazardous Materials Spills / Releases" and shall encompass any or all of the following expenses that directly result from a hazardous materials incident and that are directly or indirectly incurred by the administering agency and/or responding agencies pursuant to their rights and obligations under this Chapter 95:

(1) Reasonable and necessary expenses incurred for response, incident assessment, control, containment and abatement of a hazardous materials incident;

(2) Reasonable and necessary expenses associated with transportation and storage of hazardous materials if such materials are necessary for the control and containment of a hazardous materials incident;

(3) Reasonable and necessary expenses of ensuring the safety of the public, both on and off the site of the hazardous materials incident;

(4) Reasonable and necessary expenses of repairing or replacing equipment damaged or destroyed as a direct or indirect result of a hazardous materials incident;

(5) Reasonable and necessary contract labor and equipment expenses directly or indirectly related to a hazardous materials incident;

(6) Reasonable and necessary overtime expenses paid to employees of any administering or responding agency for time devoted specifically to a hazardous materials incident (this includes overtime required to backfill positions and equipment to maintain a response agencies' ability to provide normal levels of protection);

(7) The expense incurred for the replacement or replenishment of disposable materials and supplies consumed and/or utilized as a result of a hazardous materials incident;

(8) Decontamination of equipment utilized during a hazardous materials incident; and

(9) Reasonable and necessary laboratory expenses associated with analyzing samples taken during a hazardous materials incident.

(C) To recover expenses attributable to a hazardous materials incident, administering and/or responding agencies shall keep a detailed record of expenses incurred as the result of their response to a hazardous materials incident, including receipts, when available.

(D) An administering and/or responding agency shall not be entitled to recover the following expenses for a hazardous material incident:

(1) Costs incurred for fire suppression services that are routinely provided by fire departments within Gallatin County, or their agents;

(2) Costs associated with normal wear and tear of equipment used by responding agencies, or

(3) For any other costs typically incurred by the administering agency or other responding agencies associated with a routine emergency response.

§ 95.13 PRODEDURE FOR THE RECOVERY OF COSTS FROM A RESPONSIBLE PARTY

(A) Gallatin County Emergency Management shall be the only agency that will submit a bill for cost recovery to the responsible party or parties. This bill for cost recovery shall include all responding agencies' cost recovery requests submitted to GCEM.

(B) The procedure to be followed for the recovery of costs sought to be recovered pursuant to this section shall be as follows:

(1) A Notice of Violation from the administering agency identifying the sections of Chapter 95 that the responsible party or parties are in violation of will be submitted to the responsible party or parties responsible for the hazardous materials incident within 15 days of the incident.

(2) A claim by a responding agency for cost recovery from the responsible party or parties responsible for the hazardous materials incident, along with any supporting documentation, shall be submitted within 45 days of the incident,

or of the discovery of damage to any equipment specifically related to the incident, to GCEM. It is the responsibility of each responding agency to fully document and support any claim for reimbursement.

(3) Gallatin County Emergency Management shall forward a copy of all the reasonable and necessary cost recovery requests, to the Boone County Finance Department who will generate a Single combined Invoice for all response agencies and submit it to the responsible party or parties at their last known address or principle office address as listed with the Kentucky Secretary of State, if applicable, by certified mail return receipt requested.

(4) Upon receipt of recovered costs, the Boone County Finance Department will remit proportionate payment to each of the agencies that submitted a claim for expenses.

(C) If additional remediation is required, and additional expenses are incurred, the responding agency or agencies may continue to submit claims to GCEM for reimbursement of expenses as identified in §95.12, and provide all required documentation, as set forth herein within thirty days of expenses incurred.

(D) If the responsible party or parties refuses or for any reason does not pay the invoice generated by the Gallatin County Fiscal Court as set forth herein in its entirety within thirty days of receipt and/or fails to make other arrangements for payment of same with the Finance Department, the Fiscal Court (or GCEM) may seek the assistance of the Gallatin County Attorney's Office in the pursuit of all legal remedies, including litigation, to collect costs associated with the remedial incident including a reasonable attorney's fee and costs of litigation.

(E) If the bill for a remedial action involves a facility owned by the responsible party or parties, and the bill is not paid within 30 days, the GCEM (or County), may at its option place a lien on the real property with the County Clerk for an amount equal to the unpaid portion of the invoice. The lien shall bear interest at the rate of 10% per annum and shall be enforceable as a real property lien under Kentucky law,

including foreclosure for collection on the lien.

(F) Cost recovery shall not be deemed a fee or penalty, as defined within this Chapter.

§ 95.14 AUTHORIZED RELEASE.

There shall be no liability under this Chapter for any release permitted by state or federal law, but only to the extent that such release is made in accordance with an appropriate permit granted by the state or federal agency having primary jurisdiction over such release and that the release is in full compliance with such permit with respect to time, location and manner of the release so that such release will not create a hazard or potential hazard to human health, property or the environment; or, if the release is in substantially lesser quantities than those reportable quantities established by state or federal law, regulations, permit requirements, or ordinances of the jurisdiction in which the release occurs.

§ 95.15 CONTRACTUAL INDEMNIFICATION; SUBROGATION.

(A) No conveyance, transfer, sale, indemnification, hold harmless, or similar agreement shall be effective to release the owner or operator of any facility or vessel or any person who may be liable for a release of hazardous materials or threat thereof under this Chapter. Nothing in this section shall bar any arrangement to ensure, hold harmless or indemnify a party to such agreement for any liability under this Chapter.

(B) Nothing in this section, including the provisions of division (A) above, shall bar a cause of action that an owner or operator or any other person subject to liability under this Chapter, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

§ 95.16 EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY REPORTING REQUIREMENTS.

(A) Those facilities required by the Superfund Amendments and Reauthorization act (SARA) of 1986, Title III, and any regulations promulgated thereunder, to submit annually an emergency and hazardous chemical inventory form shall be subject to the reporting requirements of this section.

(B) Any facility that reports Tier II information to the Northern Kentucky Emergency Planning Committee (NKEPC), as set forth in 42 U.S.C. 11022, shall be required to use the electronic reporting software specified by that agency, which shall be set forth in its policies as they are adopted and/or revised. Such electronic reporting software that is utilized by the NKEPC shall be provided by the Kentucky Emergency Response Committee and available to facility owners and operators directly from that agency.

95.17 CONFIDENTIAL INFORMATION AND TRADE SECRETS.

(A) Information and data provided by any person or obtained from any report, questionnaire, permit application, permit and monitoring program, and from inspections shall not be made available to the public or any other government agency, unless required by law.

(B) Upon submission of information in any form, it shall be the obligation of the submitter to separate all confidential and trade secret material from any materials subject to disclosure under the law.

(C) Any request made under the law for information containing confidential or trade secret information shall be brought to the attention of the person requesting confidentiality of its trade secrets by certified mail, return receipt requested. The notification shall advise the person requesting confidentiality of the decision of the administering agency regarding release of the confidential information. In no event will such confidential information be released until five days have elapsed from date notice is sent by certified mail.

(D) Within 72 hours after receipt of notice, the person requesting confidentiality of its trade secrets shall have the burden to initiate appropriate actions at law or otherwise to protect its confidential or trade secret information from disclosure and must demonstrate that public disclosure of confidential or trade secret information is likely to cause substantial harm to his competitive position.

(E) Any individual who releases information containing confidential or trade secret information in violation of law or this section shall be subject to disciplinary action

by his or her employer for malfeasance, misfeasance, or willful neglect of official duties, and may further be guilty of misuse of confidential information under KRS 522.040.

(F) The provisions of this section shall in no way prohibit or limit the exchange of information, confidential or otherwise, between public agencies when the exchange is serving a legitimate government need or is necessary in the performance of a government function including, but not limited to, the carrying out of the provisions and intent of this Chapter.

(G) Gallatin County Emergency Management shall be the repository for all trade secret information for the purposes of this Chapter.

§ 95.18 DISCLAIMER OF LIABILITY.

This Chapter shall not create liability on the part of the administering agency or on the part of the response authority for any damages that result from reliance on this Chapter, or any administrative decision lawfully made thereunder. All persons are advised to determine to their own satisfaction the level of protection, in addition to that required by this Chapter, necessary or desirable to ensure that there is no unauthorized release of hazardous materials.

KENTUCKY FIRE PREVENTION CODE

§ 95.40 ADOPTION OF THE KENTUCKY FIRE PREVENTION CODE (STANDARDS OF SAFETY).

The Kentucky Fire Prevention Code (Standards of Safety) as promulgated in 815 KAR 10:060 by the Commissioner of the Department of Housing, Buildings and Construction on the advice and recommendation of the State Fire Marshal, is hereby adopted in full as an ordinance of Gallatin County of the Commonwealth of Kentucky. Copies of the Code book are available through the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601.

§ 95.41 DESIGNATED ENFORCEMENT AGENT/AGENCIES.

The following fire departments or fire districts shall be designated as the local enforcement agents/agencies for the Standards of Safety as appointed by the Gallatin County Fiscal Court for the unincorporated areas of Gallatin County:

- (A) Gallatin County (Fire Chief or his designee)
- (B) Glencoe (Glencoe Fire Chief or his designee);
- (C) Verona (Verona Fire Chief or his designee);

§ 95.42 PERMITS AND FEES.

The requirements for permits and required fees, if any, shall be provided for by the fire districts listed in § 95.41 at their place of business.

§ 95.43 APPEAL PROCESS.

All final decisions for the fire code enforcement agents/agencies as listed in § 95.41 shall be appealable to a local appeals board pursuant to the procedures adopted by the Gallatin County Fiscal Court.

95.99 PENALTY.

(A) Any person who is responsible for the release or substantial threat of a release of hazardous materials into the environment in violation of § 95.05 or who fails to report such release or threatened release in violation of § 95.06 of this Chapter shall, upon conviction thereof by a court of competent jurisdiction, be guilty of a Class A Misdemeanor and subject to a fine or imprisonment or by both such fine and imprisonment as is otherwise provided by law for such offense. Each day that the violation occurs, exists or continues shall be deemed to be a separate offense.

(B) Any person who otherwise violates any provision of this Chapter other than §§ 95.05 or 95.06 shall, upon conviction thereof by a court of competent jurisdiction, be guilty of a Class B Misdemeanor and subject to such fine or imprisonment or by both the fine and imprisonment as is otherwise provided by law for the offense. Each day that the violation occurs, exists or continues shall be deemed to be a separate offense.

(C) In addition to the penalties provided in divisions (A) and (B), any person violating

any provisions of this Chapter shall become liable civilly to the appropriate county or city government for any expense, loss or damage to the government or agency thereof caused by reason of such violation, including, but not limited to, any clean-up, evacuation, administration or other expenses, and legal expenses.

APPENDIX A: LIST OF HAZARDOUS MATERIALS AND REPORTABLE QUANTITIES

Section

1. Adoption by reference

§ 1. ADOPTION BY REFERENCE.

(A) The List of Hazardous Materials and Reportable Quantities, as promulgated in 40 CFR Part 302, as amended, and published by the U.S. Environmental Protection Agency (EPA), is hereby adopted and incorporated herein by reference, the same as if set out at length herein.

APPENDIX B: BILLING SCHEDULE – HAZARDOUS MATERIALS SPILLS/RELEASES

1. The cost recovery schedule listed below in Appendix B, § 1, hereinafter referred to as the “Billing Schedule”, shall be utilized for cost recovery of the administering agency and any response agency that submits a bill for responding to a hazardous materials incident, unless a response agency has adopted their own cost recovery schedule for hazardous materials incidents, at which time, would be utilized for that response agency only for cost recovery.

§ 1. HAZARDOUS MATERIALS BILLING SCHEDULE

(A) (1) Billing Schedule for Equipment

Equipment Type	Cost/Hour
Fire Engine/Aerial/Rescue	\$250.00
Water Tanker/Tender (Fire)	\$175.00
Air Cascade / Lighting Unit / Ventilation Unit	\$200.00
Hazardous Materials Unit	\$250.00
Hazardous Materials Support Unit	\$150.00
Mobile Command Vehicle	\$200.00
Pickup Truck	\$45.00
Ambulance	\$225.00
Police Cruiser / EMA Vehicle / Fire Command	\$40.00
Dump Truck	\$85.00

Skid Steer	\$125.00
Backhoe	\$125.00
Street Sweeper/Broom	\$225.00

(2) Other Equipment. All other equipment will be billed as needed and according to the prevailing rate at the time of the incident. Replacements for equipment that is disposable, no longer usable due to the incident, or destroyed, will be at the cost of replacement of the equipment.

(B) Personnel. All personnel expenses will be billed at the true cost of employment to the responding agency. This includes all expenses incurred by the response agency to employ the personnel for the timeframe of the response to the incident.

(1) Overtime/Backfill. Any overtime expenses incurred by a response agency due to having to call back employees to staff normal operations during the timeframe of the response to the hazardous materials incident shall be billable as part of the cost recovery per § 95.12 (B)(6). These expenses are to be reasonable and not exceed normal staffing requirements an agency would utilize for other response backfill requirements.