

ARTICLE 6. ENVIRONMENTAL RELEASES

8-601. DEFINITIONS. (a) Emergency Action shall mean all of the concerted activities conducted in order to prevent or mitigate injury to human health or the environment from a release or threatened release of any material into or upon the environment.

(b) Governmental Entities shall include the City of Ulysses and Grant County, the Grant County Emergency Preparedness Department, Civil Defense Department and any entity funded by the City of Ulysses or Grant County.

(c) Person shall include any individual, corporation, association, partnership, firm, trustee, or legal representative.

(d) Recoverable Expenses. In general recoverable expenses are those expenses that are reasonable, necessary and allocable to the emergency action. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine firefighting. Expenses allowable for recovery may include, but are not limited to:

(1) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action.

(2) Compensation of employees for the time and efforts devoted specifically to the emergency action that is not otherwise provided for in the governmental entity's operating budget.

(3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment).

(4) Replacement costs for equipment owned by the governmental entity that is contaminated beyond reuse or repair, if the governmental entity can demonstrate that the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).

(5) Decontamination of equipment contaminated during the response.

(6) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical

experts or specialists not otherwise provided for by the governmental entity).

(7) Other special services specifically required for the emergency action.

(8) Laboratory costs for purposes of analyzing samples taken during the emergency action.

(9) Any cost of cleanup, storage, or disposal of the released material.

(10) Costs associated with the services, supplies and equipment procured for a specific evacuation.

(11) Medical expenses incurred as a result of response activities.

(12) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this article.

(13) Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon the environment. (Ord. 817, Sec. 1)

8-602. **PURPOSE.** This article provides a means for the governmental entities to recover, through civil suit, the recoverable expenses they incur in taking an emergency action. (Ord. 817, Sec. 1)

8-603. **LIABILITY.** Any and all persons responsible for a release or threatened release which results in an emergency action shall be liable to the governmental entities for the recoverable expenses resulting from the emergency action. (Ord. 817, Sec. 1)

8-604. **RECOVERY OF EXPENSE.** The staff of the governmental entities involved in the emergency action shall keep detailed expenses of the emergency action. Promptly after completion of the emergency action, the staffs shall certify those expenses to the appropriate legal counsel and shall request that legal counsel bring a civil action for recovery of the recoverable expense against any and all persons responsible for the emergency action. Not less than 30 days before filing the civil suit, legal counsel shall submit a written, itemized claim for the total certified expenses incurred by the governmental entities for the emergency action to the responsible party and a written notice that, unless the amounts are paid in full to the respective governmental

entities within 30 days after the date of the mailing of the claim and notice, legal counsel will file a civil action for the stated amount. Moneys recovered under this article shall be credited to the appropriate funds of the governmental entity from which moneys were expended in performing the emergency action. (Ord. 817, Sec. 1)