WEST VIRGINIA CODE: §7-1-3AA

§7-1-3aa. Authority of county commissions to create and fund a hazardous material accident response program.

In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered to create a hazardous material accident response program. The program may include the establishment of a hazardous materials response team. The hazardous materials response team shall include members of the fire departments, recognized and approved by the West Virginia Fire Commission in the county, who are designated by the county commission. The team shall also include members of emergency medical services certified pursuant to article four-c, chapter sixteen of this code who are acting in their official capacity by providing ambulance or emergency medical services within the county and who are designated as members of the hazardous materials response team by the county commission. The team may also include other people in the community who are recognized as having expertise with hazardous materials or hazardous material incidents and who are designated by the county commission to serve on the team. The purpose of the team is to respond to hazardous material incidents. The hazardous materials response team shall function and the members shall serve at the will and pleasure of the county commission. The team shall operate in cooperation with the county Office of Emergency Services and other approved fire departments. The commission is authorized to receive donated funds and to expend those funds and to expend its own funds for the acquisition of equipment and materials for use by and training of the members of the team. The county commission is hereby authorized to enter into agreements with other counties to combine or coordinate hazardous material response team training and for the purchase or lease and use of equipment or materials.

Any carrier, owner or generator of hazardous materials who receives the services of a county hazardous materials response team is liable for the cost of necessary services provided by a county hazardous materials response team. County commissions may bill a carrier, owner or generator of hazardous materials for any costs incurred by the team in responding to a hazardous materials incident in which the carrier, owner or generator is involved: Provided, That the carrier, owner or generator may, within thirty days of receipt of the bill, appeal in writing to the county commission to request a hearing to address any costs which may be considered extraordinary for the services of the hazardous materials response team. The carrier, owner or generator will hold payment of the costs in abeyance pending the final written decision of the county commission. Any funds received by the county commission as a result of billing carrier, owners and generators of hazardous materials shall be used by the county commission to implement the provisions of this section and to reimburse the response teams participants for response costs.

Any carrier, owner or generator involved in a hazardous materials incident who fails to pay a bill for services provided by a county hazardous materials incident team within ninety days

WV Legislature

shall be liable for treble the cost of the services.

For purposes of this section, the term "generator" means any person, corporation, partnership, association or other legal entity, by site location, whose act or process produces hazardous materials as identified or listed by the director of the Division of Environmental Protection in regulations promulgated pursuant to section six, article nineteen, chapter twenty-two of this code, in an amount greater than twelve thousand kilograms per year.

For purposes of this section, the term "carrier" means any person engaged in the off-site transportation of hazardous materials by air, rail, highway or water.

For purposes of this section, "owner" means any person, corporation, partnership, association or other legal entity whose hazardous materials are being transported by the entity or by a carrier.

For the purposes of this section, the term "hazardous materials" means those materials which are designated as such pursuant to federal laws and regulations, the designations of which are adopted by reference as of July 10, 1993.

WV Legislature