

Title 20. Public Health and Welfare
Chapter I. Generally, Department of Health
Subchapter A. Generally
Part 2. Rules Pertaining to Recovery of Expenditures

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"AUTHORITY

The following Rules Pertaining to Recovery of Expenditures are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including, without limitation, Act 384 of 1989."

"SECTION VIII. APPEAL

If the responsible party does not accept the ruling of the Director with regard to his identification as the responsible party, expenditures subject to recovery, or the amount of the invoice for actual expenditures, he may appeal to the Arkansas State Board of Health under the provisions of the Arkansas Administrative Procedures Act (A.C.A. 5-701 et. seq.)."

"SECTION IX. SEVERABILITY

If any provision of these rules, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can give effect without the invalid provisions or applications, and to this end the provisions hereto are declared to be severable."

"SECTION X. REPEAL

All rules and parts of rules in conflict herewith are hereby repealed."

"SECTION XI. CERTIFICATION

"This will certify that the foregoing Rules Pertaining to Recovery of Expenditures was adopted by the Arkansas State Board of Health at a regular session of the Board held in Little Rock, Arkansas on the twenty-sixth day of October, 1989.

Director, Arkansas Department of Health
Secretary, State Board of Health"

"The following Rules Pertaining to Recovery of Expenditures has been filed in my office and is hereby adopted on the 27th day of November, 1989.
Governor"

Subpart 1. Generally

20 CAR § 2-101. Purpose.

(a) The purpose of these rules is for the State Board of Health to define circumstances and activities subject to recovery of expenditures under Acts 1989, No. 384.

(b) It is further the purpose to set forth the method of recovery of department expenditures from responsible parties as well as to set forth the method of appeal.

Authority. Arkansas Code § 20-7-130.

20 CAR § 2-102. Definitions.

As used in this part:

- (1) "Board" means the State Board of Health;
- (2) "Department" means the Department of Health;
- (3) "Person" means:
 - (A) An individual;
 - (B) A firm;
 - (C) A partnership;

- (D) A company;
 - (E) A corporation;
 - (F) A trustee;
 - (G) An association; or
 - (H) Any public or private entity; and
- (4) "Secretary" means the Secretary of the Department of Health.

Authority. Arkansas Code § 20-7-130.

20 CAR § 2-103. Incidents subject to recovery of expenditures.

(a) Incidents requiring Department of Health response to nonroutine, unplanned events creating potential for adverse health effects are outlined in this section.

(b) Incidents subject to recovery of expenditures include but are not limited to:

(1) Transportation incidents involving:

- (A) Food;
- (B) Drugs;
- (C) Hazardous materials;
- (D) Radiological materials; or
- (E) Biological materials or chemicals;

(2) Fires involving:

- (A) Grocery stores;
- (B) Restaurants;
- (C) Food warehouses;
- (D) Drugstores;
- (E) Storage or manufacturing facilities;
- (F) Power plants; or
- (G) Other facilities;

(3) Industrial or other releases of contaminants into the environment:

- (A) Air;
- (B) Water; or

- (C) Soil;
- (4) Product contamination or recalls;
- (5) Indoor air contamination or suspected contamination; and
- (6) Special monitoring or investigative requirements initiated by:
 - (A) The federal government; or
 - (B) Other governmental entities.

Authority. Arkansas Code § 20-7-130.

20 CAR § 2-104. Department of Health activities subject to recovery of expenditures.

Department of Health activities subject to recovery of expenditures incurred in response to incidents outlined in 20 CAR § 2-103 include but are not limited to:

- (1) Onsite and/or offsite damage assessment and reporting;
- (2) Quarantine or condemnation of products;
- (3) Sampling of:
 - (A) Air;
 - (B) Water;
 - (C) Soil;
 - (D) Food;
 - (E) Body fluids or tissue, human or animal; or
 - (F) Other media;
- (4) Sample analysis, reporting, and interpretation of data by:
 - (A) The department; or
 - (B) A private or other outside laboratory contracted by the department;
- (5) Onsite and/or offsite monitoring of air, water, soil, or other media using department-owned, leased, or rented equipment;
- (6) Health studies or epidemiological investigations;
- (7) Supervision of sites, facilities, equipment, or products prior to:
 - (A) Destruction;

- (B) Disposal;
 - (C) Salvage; or
 - (D) Mitigation;
- (8) Supervision of destruction, disposal, or salvage of products; and
- (9) Professional, managerial, administrative, and/or clerical preparation of:
- (A) Documents;
 - (B) Reports;
 - (C) Assessments; or
 - (D) Other material.

Authority. Arkansas Code § 20-7-130.

20 CAR § 2-105. Department of Health expenditures subject to recovery.

(a) Department of Health expenditures resulting from activities outlined in 20 CAR § 2-104, in response to incidents outlined in 20 CAR § 2-103, are subject to recovery.

(b) These expenditures include but are not limited to:

(1) Salaries and fringe benefits for professional/technical staff man hours worked in response to incidents, to include travel time;

(2) Support salaries and fringe benefits, including but not limited to:

- (A) Secretarial;
- (B) Accounting;
- (C) Data processing;
- (D) Legal; and
- (E) Managerial;

(3) Transportation and/or mileage expenses for vehicles responding to incidents;

(4) Meals and lodging expenses for staff responding to incidents;

(5) Department laboratory costs, to include man hours, equipment, and supplies, in response to incidents;

(6) Contract costs for:

- (A) Private or other outside laboratories; or
 - (B) Other professional services;
 - (7) Supplies and equipment use, to include rental or lease costs; and
 - (8) Repair, replacement, or decontamination costs of equipment, vehicles, or instrumentation damaged in response to incidents.
- (c) Expenditures are calculated at the actual department rate in effect at the time the response activity occurs.

Authority. Arkansas Code § 20-7-130.

20 CAR § 2-106. Liability.

(a) The responsible party or parties liable for reimbursement of Department of Health expenditures are the people who, at the time the incident occurs, own or operate a facility, site, equipment, materials, or products causing the unplanned, nonroutine circumstances creating potential for adverse health effects.

(b) The identification of the responsible party or parties is determined by the Secretary of the Department of Health.

Authority. Arkansas Code § 20-7-130.

20 CAR § 2-107. Recovery of expenditures.

(a) The Department of Health is to compile a written report of actual expenditures incurred in response to incidents.

(b) Records are to:

- (1) Reflect actual cost of response to incidents; and
- (2) Be itemized by category of expenditure outlined in 20 CAR § 2-105.

(c) The record of expenditures is to be presented to the Secretary of the Department of Health for review and approval.

(d) Upon the secretary's approval, the record of expenditures and an invoice are to be submitted to the responsible party for payment.

(e) Payment by the responsible party is due upon receipt of the invoice.

(f) If the incident requires ongoing department response activities, the department may submit a partial invoice to the responsible party for payment upon receipt.

Authority. Arkansas Code § 20-7-130.