

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 649 Session of
1989

INTRODUCED BY MUSTO, FISHER, MELLOW, LINCOLN, REIBMAN,
STAPLETON, SHAFFER, STOUT, ROSS, REGOLI, STEWART, JONES,
WILLIAMS, AFFLERBACH, BELAN, SALVATORE, PORTERFIELD AND
ANDREZESKI, MARCH 6, 1989

SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED,
DECEMBER 5, 1989

AN ACT

1 Establishing a Statewide hazardous material safety program;
2 creating the Hazardous Material Response Fund; providing for
3 the creation of ~~Emergency Planning Fee Accounts~~ HAZARDOUS
4 MATERIALS EMERGENCY RESPONSE ACCOUNT in each county; further
5 providing for the powers and duties of the Pennsylvania
6 Emergency Management Agency, of the Pennsylvania Emergency
7 Management Council, and of the counties and local
8 governments; imposing obligations on certain handlers of
9 hazardous materials; imposing penalties; and making an
10 appropriation.

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1 declares and finds that exposure to hazardous materials has the
2 potential for causing undesirable health and environmental
3 effects and poses a threat to the health, safety and welfare of
4 the citizens of this Commonwealth, and that the citizens of this
5 Commonwealth and emergency service personnel who respond to
6 emergency situations should be protected from the health hazards
7 and harmful exposure resulting from hazardous material releases
8 at facilities and from transportation related accidents.

9 (b) Purpose.--It is the purpose of this act to:

10 (1) Create a strong working relationship and partnership
11 between business and industry and the Commonwealth and its
12 municipalities in order to protect and safeguard the citizens
13 of this Commonwealth from the health hazards and other risks
14 of harm resulting from or incident to the use, storage,
15 distribution and transportation of hazardous materials.

16 (2) Designate the Pennsylvania Emergency Management
17 Council as the Commonwealth's emergency response commission
18 and establish an emergency planning district and a local
19 emergency planning committee in each county of this
20 Commonwealth to act in accordance with the provisions of the
21 Emergency Planning and Community Right-To-Know Act of 1986
22 (Title III of Public Law 99-499, 42 U.S.C. § 11001, et seq.),
23 also referred to in this act as SARA, Title III.

24 (3) Establish and maintain a comprehensive hazardous
25 material safety program for the Commonwealth and its
26 counties.

27 (4) Create the Hazardous Material Response Fund to
28 provide financial assistance to Commonwealth agencies and
29 counties to develop an effective and integrated response
30 capability to the health hazards, dangers and risks which

hazardous material releases pose to the general public.

(5) Establish an emergency notification system whereby the release of ~~any hazardous material~~ HAZARDOUS MATERIALS occurring at a facility or resulting from a transportation accident will be promptly reported to the proper Commonwealth and county emergency response officials. <—

(6) Assign responsibilities to various Commonwealth agencies and local agencies to ensure the development and furtherance of a comprehensive hazardous material safety program.

(7) Provide civil liability protection to officials and emergency response personnel of the Commonwealth and municipalities who are properly carrying out their duties and responsibilities under the Commonwealth's hazardous material safety program.

(8) Require persons responsible for the release of hazardous materials to pay the costs incurred by hazardous material response teams for emergency response activities necessitated by the hazardous material release.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"CERTIFIED HAZARDOUS MATERIALS RESPONSE TEAM." A TEAM OF INDIVIDUALS WHO ARE CERTIFIED AND ORGANIZED BY A COMMONWEALTH AGENCY, A LOCAL AGENCY, A REGIONAL HAZARDOUS MATERIALS ORGANIZATION, A TRANSPORTER, A MANUFACTURER, SUPPLIER, OR USER OF HAZARDOUS MATERIALS, OR A VOLUNTEER SERVICE ORGANIZATION, OR A PRIVATE CONTRACTOR, FOR THE PRIMARY PURPOSE OF PROVIDING EMERGENCY SERVICES TO MITIGATE ACTUAL OR POTENTIAL IMMEDIATE <—

1 THREATS TO PUBLIC HEALTH AND THE ENVIRONMENT IN RESPONSE TO THE
2 RELEASE OR THREAT OF A RELEASE OF A HAZARDOUS MATERIAL, WHICH IS
3 CERTIFIED, TRAINED AND EQUIPPED IN ACCORDANCE WITH THIS ACT OR
4 REGULATIONS PROMULGATED UNDER THIS ACT. HAZARDOUS MATERIALS
5 RESPONSE TEAMS MAY ALSO BE CERTIFIED TO PERFORM STABILIZATION
6 ACTIONS NEEDED TO REMOVE THREATS TO PUBLIC HEALTH AND THE
7 ENVIRONMENT FROM HAZARDOUS MATERIALS RELEASES.

8 "Commonwealth agency." An executive agency or independent
9 agency.

10 "Council." The Pennsylvania Emergency Management Council.

11 "County." Includes, but is not limited to, a city of the
12 first class coterminous with a county of the first class.

13 "County commissioner." Includes, but is not limited to, the
14 mayor of a city of the first class coterminous with a county of
15 the first class, or the designee of such mayor, and the
16 equivalent county official designated under a home rule charter
17 or optional plan adopted under the act of April 13, 1972
18 (P.L.184, No. 62), known as the Home Rule Charter and Optional
19 Plans Law.

20 "COUNTY EMERGENCY MANAGEMENT COORDINATOR." THE PERSON
21 DESIGNATED TO PERFORM EMERGENCY MANAGEMENT FUNCTIONS BY THE
22 COUNTY UNDER 35 PA.C.S. PART V (RELATING TO EMERGENCY MANAGEMENT
23 SERVICES).

24 "Emergency management." The judicious planning, assignment
25 and coordination of all available resources in an integrated
26 program of prevention, mitigation, preparedness, response and
27 recovery for emergencies of any kind, whether from attack, man-
28 made or natural sources.

29 "Executive agency." The Governor and the departments,
30 boards, commissions, authorities and other non-legislative

1 officers and agencies of the Commonwealth, except any court or
2 other officer or agency of the unified judicial system or the
3 General Assembly and its officers and agencies or any
4 independent agency.

5 "Extremely hazardous substance." A substance appearing on
6 the list of extremely hazardous substances published by the
7 administrator of the Federal Environmental Protection Agency
8 under the authority of section 302 of the Federal Emergency
9 Planning and Community Right-To-Know Act of 1986, Title III of
10 the Superfund Amendments and Reauthorization Act of 1986 (Public
11 Law 99-499, 42 U.S.C. § 11002), as set forth at 40 CFR Part 355
12 ("Appendix A - The List of Extremely Hazardous Substances and
13 Their Threshold Planning Quantities"), or appearing on any
14 successor list of extremely hazardous substances published by
15 the Administrator of the Federal Environmental Protection Agency
16 under the authority of section 302 of SARA, Title III.

17 "Facility." All buildings, structures, and other stationary
18 items which are located on a single site or a contiguous or
19 adjacent site which are owned or operated by the same person and
20 which ~~manufacture, produce, use, import, export,~~ ACTUALLY <—
21 MANUFACTURE, PRODUCE, USE, TRANSFER, store, supply, or
22 distribute any hazardous material. This term includes railroad
23 yards and truck terminals but does not include individual
24 trucks, rolling stock, water vessels, airplanes, or other
25 transportation vehicles.

26 "Family farm enterprise." A natural person, family farm
27 corporation or family farm partnership engaged in farming which
28 processes and markets its agricultural commodities in either
29 intrastate or interstate commerce.

30 "HAZARDOUS CHEMICAL." SUBSTANCES AS DEFINED WITHIN THE <—

1 MEANING OF 29 CFR 1910.1200(C), EXCEPT THAT THE TERM DOES NOT
2 INCLUDE THE FOLLOWING:

3 (1) ANY FOOD, FOOD ADDITIVE, COLOR ADDITIVE, DRUG OR
4 COSMETIC REGULATED BY THE FOOD AND DRUG ADMINISTRATION.

5 (2) ANY SUBSTANCE PRESENT AS A SOLID IN ANY MANUFACTURED
6 ITEM TO THE EXTENT THAT EXPOSURE TO THE SUBSTANCE DOES NOT
7 OCCUR UNDER NORMAL CONDITIONS OF USE.

8 (3) ANY SUBSTANCE TO THE EXTENT THAT IT IS USED FOR
9 PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR IS PRESENT IN THE
10 SAME FORM AND CONCENTRATION AS A PRODUCT PACKAGED FOR
11 DISTRIBUTION AND USE BY THE GENERAL PUBLIC.

12 (4) ANY SUBSTANCE TO THE EXTENT THAT IT IS USED IN A
13 RESEARCH LABORATORY OR A HOSPITAL OR OTHER MEDICAL FACILITY
14 UNDER THE DIRECT SUPERVISION OF A TECHNICALLY QUALIFIED
15 INDIVIDUAL.

16 (5) ANY SUBSTANCE TO THE EXTENT THAT IT IS USED IN
17 ROUTINE AGRICULTURAL OPERATIONS OR IS A FERTILIZER HELD FOR
18 SALE BY A RETAILER TO THE ULTIMATE CONSUMER.

19 ~~"Hazardous material." Any of the following:~~ <—

20 ~~(1) A hazardous substance.~~

21 ~~(2) An extremely hazardous substance.~~

22 ~~(3) A hazardous chemical within the meaning of 29 CFR~~
23 ~~1910.1200(c) or its successor.~~

24 ~~(4) A toxic chemical.~~

25 "HAZARDOUS MATERIAL." ANY OF THE FOLLOWING, AS DEFINED IN <—
26 THIS ACT:

27 (1) A HAZARDOUS SUBSTANCE.

28 (2) AN EXTREMELY HAZARDOUS SUBSTANCE.

29 (3) A HAZARDOUS CHEMICAL.

30 (4) A TOXIC CHEMICAL.

1 EXCEPT AS PROVIDED IN SECTION 206, THE TERM DOES NOT INCLUDE THE
2 TRANSPORTATION, INCLUDING THE STORAGE INCIDENT TO SUCH
3 TRANSPORTATION, OF ANY SUBSTANCE OR CHEMICAL SUBJECT TO THE
4 REQUIREMENTS OF THIS ACT, INCLUDING THE TRANSPORTATION AND
5 DISTRIBUTION OF NATURAL GAS.

6 ~~"Hazardous material response team." A team of individuals~~ <—
7 ~~who are organized by a Commonwealth agency, a local agency, a~~
8 ~~regional hazardous materials organization, a transporter,~~
9 ~~manufacturer, supplier, or user of hazardous materials, or a~~
10 ~~volunteer service organization, for the primary purpose of~~
11 ~~providing emergency services, including removal and remedial~~
12 ~~actions, in response to the release of a hazardous material,~~
13 ~~which is trained and equipped in accordance with this act or~~
14 ~~regulations promulgated under this act.~~

15 "Hazardous substance." A substance appearing on the list of
16 hazardous substances prepared under section 102 of the
17 Comprehensive Environmental Response, Compensation, and
18 Liability Act of 1980 (P.L. 96-510, 94 Stat. 2767) as set forth
19 at 40 CFR Part 302 ("Table 302.4 - List of Hazardous Substances
20 and Reportable Quantities"), or appearing on any successor list
21 of hazardous substances prepared under section 102 of the
22 Comprehensive Environmental Response, Compensation, and
23 Liability Act of 1980.

24 "Independent agency." Boards, commissions, authorities and
25 other agencies and officers of the Commonwealth which are not
26 subject to the policy supervision and control of the Governor,
27 except any court or other officer or agency of the unified
28 judicial system or the General Assembly and its officers and
29 agencies.

30 "Local agency." A municipality or any officer or agency

1 thereof.

2 "Local Emergency Planning Committee" or "Local Committee."
3 The local committee within each emergency planning district
4 responsible for preparing hazardous material plans and
5 performing other functions under The Emergency Planning and
6 Community Right-To-Known Act of 1986 (Title III, Public Law 99-
7 499, 42 U.S.C. § 11001 et seq.).

8 "PEMA." The Pennsylvania Emergency Management Agency.

9 "Person." An individual, corporation, firm, association,
10 public utility, trust, estate, public or private institution,
11 group, ~~agency~~, COMMONWEALTH OR LOCAL AGENCIES, political <—
12 subdivision, and any legal successor, representative or agency
13 of the foregoing.

14 "Regional hazardous materials organization." A non-profit
15 corporation, joint venture or authority formed under the laws of
16 this Commonwealth which either contracts with or is organized by
17 one or more Commonwealth agencies, local agencies or volunteer
18 service organizations for the purpose of creating, training,
19 equipping, maintaining and providing one or more hazardous
20 material response teams to serve any specific geographic area as
21 approved by the Pennsylvania Emergency Management Council
22 within, but not limited to, the Commonwealth under this act.

23 "Release." Any spilling, leaking, pumping, pouring,
24 emitting, emptying, discharging, injecting, escaping, leaching,
25 dumping or disposing into the environment of a hazardous
26 material, including, but not limited to, the abandonment or
27 discarding of barrels, containers and other receptacles
28 containing a hazardous material.

29 "Reportable quantity." The quantity of a hazardous material
30 stated on the various lists of hazardous substances and

1 extremely hazardous substances as defined in this section, the
2 release of which shall be reported under this act.

3 "Rolling stock." Any railroad tank car, railroad box car or
4 other railroad freight car as defined in 49 CFR § 215, or its
5 successor, that contains an extremely hazardous substance in
6 excess of the threshold planning quantity established for such
7 substance and is used as a storage site for such substance.

8 "SARA, Title III." The Emergency Planning and Community
9 Right-to-Know Act of 1986 (Title III, Public Law 99-499, 42
10 U.S.C. § 11001 et seq.).

11 "SERVICE STATIONS." A MOTOR VEHICLE SERVICE STATION, FILLING <—
12 STATION, GARAGE OR SIMILAR OPERATION ENGAGED IN THE RETAIL SALE
13 OF MOTOR FUELS THAT ARE REGULATED BY THE ACT OF JULY 6, 1989
14 (P.L.169, NO.32), KNOWN AS THE STORAGE TANK AND SPILL PREVENTION
15 ACT.

16 "Toxic chemical." A substance appearing on the list of
17 chemicals described in section 313 of SARA (Title III, Public
18 Law 99-499, 42 U.S.C. § 11023) as set forth at 40 CFR Part 372,
19 or appearing on any successor list of chemicals set forth in the
20 Code of Federal Regulations under the authority of section 313
21 of SARA, Title III.

22 "Unified judicial system." The unified judicial system
23 existing under section 1 of Article V of the Constitution of
24 Pennsylvania.

25 "Vehicle." Any truck, railroad car, water vessel, airplane
26 or other transportation vehicle that ships, carries or
27 transports a hazardous material on any highway, rail line or
28 waterway within the jurisdictional boundaries of this
29 Commonwealth.

30 CHAPTER 2

HAZARDOUS MATERIALS PROTECTION

Section 201. Designation and functions of Pennsylvania

Emergency Management Council

(a) Council.--The Pennsylvania Emergency Management Council, established and organized under the act of November 26, 1978 (P.L.1332, No.323), known as the Emergency Management Services Code, is designated and shall constitute the Commonwealth's emergency response commission to carry out the responsibilities assigned to the Commonwealth by SARA, Title III, to develop overall policy and direction for a statewide hazardous material safety program and to supervise and coordinate the responsibilities of the local emergency planning committees.

(b) Membership.--The council shall be composed of the current members of the Pennsylvania Emergency Management Council as now provided by law and the Secretary of Labor and Industry.

(c) Chairperson.--The Governor shall designate a member of the council to serve as chairperson of the council. In the absence of the chairperson, the director of PEMA shall serve as chairperson. The chairperson shall have the authority to assign, delegate or transfer tasks, duties and responsibilities to members of the council. The chairperson shall approve the appointment of members to the council who are designated through a delegation of authority from their respective department or office.

(d) Compensation and expenses.--Members shall serve without compensation but shall be reimbursed for necessary and reasonable actual expenses, such as travel expenses, incurred in connection with attendance at council meetings.

(e) Meetings.--For the conduct of routine or emergency business, the council shall meet at the call of the chairperson.

1 Five members of the council shall constitute a quorum for the
2 purpose of conducting the business of the council and for all
3 other purposes. All actions of the council shall be taken by a
4 majority of the council members present. The council shall be
5 subject to the act of July 3, 1986 (P.L.388, No.212), known as
6 the Sunshine Act.

7 (f) Staff.--~~PEMA shall serve as the primary agent and have~~ <—
8 ~~the lead responsibility~~ THE COUNCIL SHALL SUPERVISE PEMA AS ITS <—
9 PRIMARY AGENT RESPONSIBLE for performing the functions and
10 duties of the council ESTABLISHED UNDER THIS ACT. For this <—
11 purpose, PEMA shall employ such professional, technical,
12 administrative and other staff personnel as may be deemed
13 essential to carry out the purposes of this act and the
14 development and maintenance of a comprehensive Commonwealth
15 hazardous materials safety program AND REPORT DIRECTLY TO THE <—
16 COUNCIL.

17 (g) Powers and duties.--The council shall have the duty and
18 power to:

19 (1) Carry out all of the duties and responsibilities of
20 a State emergency response commission as specified in SARA,
21 Title III.

22 (2) ~~Make, amend, repeal and promulgate~~ PROMULGATE as <—
23 provided by law any rules and regulations necessary to carry
24 out and implement this act and SARA, Title III.

25 (3) Develop Commonwealth agency contingency plans
26 relating to the implementation of this act and SARA, Title
27 III.

28 (4) Provide guidance and direction to counties for the
29 implementation of this act and SARA, Title III.

30 (5) Supervise the operation of local committees and

1 ensure that local committees meet all Federal and
2 Commonwealth standards and requirements as provided by law.

3 (6) Develop a Commonwealth comprehensive hazardous
4 material safety program.

5 (7) Delegate authority and assign primary responsibility
6 to the Department of Labor and Industry for receiving,
7 processing and managing hazardous chemical information forms
8 and data, trade secrets, and public information requests

9 UNDER THIS ACT AND IN COORDINATION WITH THE ACT OF OCTOBER 5, <—
10 1984 (P.L.734, NO.159), KNOWN AS THE WORKER AND COMMUNITY
11 RIGHT-TO-KNOW ACT. EMPHASIS SHOULD BE GIVEN TO ELECTRONICALLY
12 PROCESSING THE INFORMATION REPORTED UNDER THIS ACT TO
13 MAXIMIZE ITS USE IN EMERGENCY RESPONSE AND TO ENHANCE ITS
14 AVAILABILITY TO THE PUBLIC.

15 (8) Delegate authority and assign responsibility to the
16 Department of Environmental Resources and the Department of
17 Health for providing technical advice and assistance
18 consistent with established departmental responsibilities in
19 the alleviation of public health and environmental hazards
20 associated with hazardous material releases, ~~including,~~ <—
21 ~~without limitation,~~ OR THREATENED RELEASES OF HAZARDOUS <—
22 MATERIALS, INCLUDING, BUT NOT LIMITED TO, dispatching
23 emergency response personnel to accident sites during
24 emergency situations when requested by PEMA. THIS ACT SHALL <—
25 NOT AFFECT ANY EXISTING AUTHORITY THESE AGENCIES HAVE TO
26 RESPOND TO HAZARDOUS MATERIAL RELEASES.

27 (9) Prescribe duties and responsibilities for
28 Commonwealth agencies, COUNTIES and local emergency planning <—
29 committees to conduct comprehensive emergency management
30 activities CONSISTENT WITH THIS ACT. <—

1 (10) Prescribe standards for hazardous material response
2 team training or certification, the equipping of hazardous
3 material response team units and other matters involving
4 hazardous material response activities.

5 (11) DEVELOP A PUBLIC INFORMATION, EDUCATION AND <—
6 PARTICIPATION PROGRAM FOR THE PUBLIC AND FACILITY OWNERS
7 COVERING THE REQUIREMENTS OF THIS ACT AND THE WORKER AND
8 COMMUNITY RIGHT-TO-KNOW ACT AND INTERPRETATION OF THE
9 CHEMICAL INFORMATION COLLECTED UNDER THIS ACT AND THE RISKS
10 THOSE CHEMICALS POSE TO THE PUBLIC HEALTH AND ENVIRONMENT.

11 ~~(11)~~ (12) Do all other acts and things necessary for the <—
12 exercise of the powers and duties of the council and for the
13 implementation of this act and SARA, Title III.

14 ~~(h) Council expenses. The administrative and operational <—~~
15 ~~expenses of the council shall be paid from the Hazardous~~
16 ~~Material Response Fund.~~

17 (H) COUNCIL EXPENSES.--THE COUNCIL SHALL DEVELOP A SPECIFIC <—
18 OPERATING BUDGET TO IMPLEMENT THE PROVISIONS OF THIS ACT WHICH
19 SHALL BE SUBMITTED BY PEMA WITH ITS REGULAR BUDGET EACH YEAR,
20 SUBJECT TO THE REQUIREMENTS OF SECTION 207.

21 (I) ADVISORY COMMITTEE.--

22 (1) THE COUNCIL SHALL APPOINT A 19-MEMBER HAZARDOUS
23 MATERIALS EMERGENCY PLANNING AND RESPONSE ADVISORY COMMITTEE.
24 MEETINGS OF THE COMMITTEE SHALL BE CONVENED BY PEMA FOR THE
25 PURPOSE OF REVIEWING GUIDELINES, STANDARDS OR REGULATIONS
26 DEVELOPED TO IMPLEMENT THIS ACT. PEMA SHALL PARTICIPATE IN
27 ALL MEETINGS OF THE COMMITTEE AND PROVIDE ADMINISTRATIVE
28 SUPPORT.

29 (2) FOUR MEMBERS SHALL BE REPRESENTATIVES OF COUNTY
30 GOVERNMENT SELECTED FROM A LIST OF EIGHT NAMES SUBMITTED BY

1 THE STATE ASSOCIATION OF COUNTY COMMISSIONERS; THREE MEMBERS,
2 INCLUDING ONE EACH FROM A CITY OF THE FIRST, SECOND AND THIRD
3 CLASS; ONE MEMBER FROM A LOCAL EMERGENCY PLANNING COMMITTEE;
4 FIVE MEMBERS REPRESENTING FACILITY OWNERS OR OPERATORS
5 AFFECTED BY THIS ACT, INCLUDING ONE SMALL BUSINESS
6 REPRESENTATIVE; TWO MEMBERS FROM FIRE PROTECTION SERVICES;
7 THREE MEMBERS OF THE GENERAL PUBLIC, INCLUDING
8 REPRESENTATIVES OF ENVIRONMENTAL AND PUBLIC INTEREST GROUPS;
9 AND THE STATE FIRE COMMISSIONER, OR HIS DESIGNEE. THE
10 SECRETARY OF ENVIRONMENTAL RESOURCES, THE SECRETARY OF
11 HEALTH, THE SECRETARY OF TRANSPORTATION AND THE COMMISSIONER
12 OF THE PENNSYLVANIA STATE POLICE, OR THEIR DESIGNEES, SHALL
13 BE EX OFFICIO MEMBERS.

14 (3) THE COMMITTEE SHALL SELECT A CHAIRMAN FROM AMONG ITS
15 MEMBERS. A QUORUM SHALL CONSIST OF A MAJORITY OF THE
16 APPOINTED MEMBERS PRESENT.

17 (4) COMMITTEE MEMBERS SHALL SERVE WITHOUT COMPENSATION,
18 BUT SHALL BE REIMBURSED FOR ALL REASONABLE AND NECESSARY
19 EXPENSES FROM THE HAZARDOUS MATERIAL RESPONSE FUND, IN
20 ACCORDANCE WITH THE RULES OF THE EXECUTIVE BOARD.

21 (5) PRIOR TO THE FORMALIZATION OF ANY GUIDELINE,
22 STANDARD OR PROPOSED OR FINAL REGULATION TO IMPLEMENT THIS
23 ACT, THE COUNCIL SHALL CONSULT WITH THE ADVISORY COMMITTEE
24 AND GIVE THE COMMITTEE A REASONABLE OPPORTUNITY TO REVIEW AND
25 COMMENT ON THE PROPOSAL. A WRITTEN REPORT, INCLUDING THE
26 COMMENTS OF THE COMMITTEE ON ANY GUIDELINE, STANDARD OR
27 PROPOSED OR FINAL REGULATION, SHALL BE PROVIDED TO THE
28 COUNCIL PRIOR TO ANY FINAL ACTIONS. THE CHAIRMAN OF THE
29 ADVISORY COMMITTEE SHALL BE INVITED TO PARTICIPATE IN ALL
30 COUNCIL MEETINGS AND DISCUSSIONS CONCERNING IMPLEMENTATION OF

1 THIS ACT.

2 Section 202. Establishment of emergency planning districts.

3 Each county is designated and constituted an emergency
4 planning district for the purposes of SARA, Title III.

5 Section 203. Establishment and functions of local emergency
6 planning committees.

7 (a) Local emergency planning committees.--In order to carry
8 out the provisions of Federal and Commonwealth law, a minimum of
9 one local emergency planning committee shall be established in
10 each county. THE LOCAL COMMITTEE SHALL ELECT A CHAIRMAN FROM <—

11 AMONG ITS MEMBERS. The local committee shall be subject to the
12 supervision of the council and shall cooperate with the county
13 emergency management agency and SARA facilities to prepare the
14 emergency response plans required by section 303 of SARA, Title
15 III ~~(Public Law 99-499, 42 U.S.C. § 11003)~~, FOR FACILITIES WHERE <—
16 EXTREMELY HAZARDOUS CHEMICALS ARE PRESENT.

17 (b) Membership.--A local committee shall be composed of the
18 county emergency management coordinator, one county commissioner
19 and at least one person selected from each of the following
20 groups:

21 (1) Elected officials ~~of the Commonwealth and~~ <—
22 ~~municipalities.~~ REPRESENTING LOCAL GOVERNMENTS WITHIN THE <—
23 COUNTY.

24 (2) Law enforcement, ~~civil defense, firefighting,~~ first <—
25 aid, health, local environmental, hospital and transportation
26 personnel.

27 (3) FIREFIGHTING PERSONNEL. <—

28 (4) CIVIL DEFENSE AND EMERGENCY MANAGEMENT PERSONNEL.

29 ~~(3)~~ (5) Broadcast and print media. <—

30 ~~(4) Community groups.~~ <—

1 (6) COMMUNITY GROUPS NOT AFFILIATED WITH EMERGENCY <—
2 SERVICE GROUPS.

3 ~~(5)~~ (7) Owners and operators of facilities subject to <—
4 the requirements of SARA, Title III.

5 (c) Coordinator.--The county emergency management
6 coordinator, AS SUPERVISED BY THE COUNTY COMMISSIONERS, shall <—
7 have the lead responsibility for ensuring that the plans and
8 activities of the local committee comply with SARA, Title III,
9 this act, and other applicable statutes and laws.

10 (d) Appointment.--The members of a local committee shall be
11 appointed by the council from a list of nominees submitted by
12 the governing body of the county. The list of nominees shall
13 contain the names of at least one person from each of the groups
14 enumerated in subsection (b). Upon the failure of the governing
15 body of a county to submit a list of nominees to the council
16 within a time fixed by the council, the council may appoint
17 members at its pleasure.

18 (e) Vacancies.--Within ~~30~~ 60 days of the occurrence of a <—
19 vacancy, the council shall appoint in the manner provided in
20 subsection (d) a successor member to a local committee for the
21 remainder of the unexpired term of the member for which the
22 vacancy exists. A vacancy shall occur upon the death,
23 resignation, disqualification or removal of a member of a local
24 committee.

25 (f) Meetings.--For the conduct of routine or emergency
26 business, the local committee shall meet at the call of the
27 chairperson. A majority of the members of the local committee,
28 or such other number of members of the local committee as set by
29 the local committee, shall constitute a quorum for the purpose
30 of conducting the business of the local committee and for all

1 other purposes. All actions of the local committee shall be
2 taken by a majority of the local committee members present. The
3 local committee shall be subject to the act of July 3, 1986
4 (P.L.388, No.212), known as the Sunshine Act.

5 (g) Duties.--A local committee shall have the duty and ~~power~~ <—
6 AUTHORITY to: <—

7 (1) Make, amend and repeal bylaws and other procedures
8 in order to carry out the duties, requirements and
9 responsibilities of a local committee as set forth in SARA,
10 Title III, and as required by the council.

11 ~~(2) Take all actions necessary to ensure the~~ <—
12 ~~implementation of the local emergency response plan and to~~
13 ~~notify PEMA upon receipt of a notification of the release of~~
14 ~~a hazardous material.~~

15 (2) TAKE APPROPRIATE ACTIONS TO ENSURE THE <—
16 IMPLEMENTATION AND UPDATING OF THE LOCAL EMERGENCY RESPONSE
17 PLAN REQUIRED BY THIS ACT.

18 (3) ~~Investigate~~ REPORT ON alleged violations of this <—
19 act.

20 (4) Prepare reports, recommendations or other
21 information RELATED TO THE IMPLEMENTATION OF THIS ACT, AS <—
22 requested by the council.

23 (5) Meet, IF APPROPRIATE, with any Commonwealth agency <—
24 or local OR REGIONAL agency which is empowered to exercise <—
25 the governmental functions of planning and zoning, to
26 regulate land use and land use development, or to authorize
27 the siting of a facility within the county to discuss and
28 review with the Commonwealth agency and local agency all
29 mitigation factors necessary to protect the health, safety
30 and welfare of the general public from a potential release of

hazardous materials from a proposed facility. Mitigation factors include, but are not limited to, environmental impacts, shelter and evacuation feasibility, emergency warning and communications, availability of response equipment and future population and economic growth in the area of the proposed facility.

(6) ACCEPT AND DEPOSIT INTO ITS COUNTY HAZARDOUS MATERIALS EMERGENCY RESPONSE ACCOUNT ANY GRANTS, GIFTS OR OTHER FUNDS RECEIVED FROM A FEDERAL, STATE OR COUNTY AGENCY OR ANY PERSON, AS DEFINED IN SECTION 103, WHICH ARE INTENDED FOR THE PURPOSE OF CARRYING OUT THIS ACT.

~~(h) Expenses. The administrative and operational expenses of a local committee shall be paid from the fees collected by the county and from grants received from the council in accordance with the provisions of sections 207 and 208, respectively.~~

(H) EXPENSES.--THE ADMINISTRATIVE AND OPERATIONAL EXPENSES OF A LOCAL COMMITTEE MAY BE PAID THROUGH A COMBINATION OF SOURCES BY THE COUNTY FROM THE FEES COLLECTED BY THE COUNTY, FROM GRANTS RECEIVED FROM THE COUNCIL IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 207 AND 208, RESPECTIVELY, OR BY ACCEPTING PRIVATE DONATIONS.

(i) Agency and compensation for injury.--A member of a local committee shall be an agent of the council and shall be deemed a duly enrolled emergency management volunteer for the purposes of 35 Pa.C.S. § 7706 (relating to compensation for accidental injury).

(j) Advisory capacity.--The local committee may perform other emergency management advisory duties as requested by county elected officials.

1 (K) PLAN PROVISIONS.--EACH EMERGENCY PLAN SHALL INCLUDE, BUT <—
2 NOT BE LIMITED TO, EACH OF THE FOLLOWING:

3 (1) IDENTIFICATION OF FACILITIES SUBJECT TO THE
4 REQUIREMENTS OF SECTION 303 OF SARA, TITLE III, WITHIN THE
5 COUNTY, IDENTIFICATION OF ROUTES LIKELY TO BE USED FOR THE
6 TRANSPORTATION OF SUBSTANCES ON THE LIST OF EXTREMELY
7 HAZARDOUS SUBSTANCES AND IDENTIFICATION OF ADDITIONAL
8 FACILITIES CONTRIBUTING OR SUBJECTED TO ADDITIONAL RISK DUE
9 TO THEIR PROXIMITY TO FACILITIES SUBJECT TO THE REQUIREMENTS
10 OF THIS SECTION, SUCH AS HOSPITALS OR NATURAL GAS FACILITIES.

11 (2) METHODS AND PROCEDURES TO BE FOLLOWED BY FACILITY
12 OWNERS AND OPERATORS AND LOCAL EMERGENCY AND MEDICAL
13 PERSONNEL TO RESPOND TO ANY RELEASE OF SUCH SUBSTANCES.

14 (3) DESIGNATION OF A COUNTY EMERGENCY MANAGEMENT
15 COORDINATOR AND FACILITY EMERGENCY COORDINATORS, WHO SHALL
16 MAKE DETERMINATIONS NECESSARY TO IMPLEMENT THE PLAN.

17 (4) PROCEDURES PROVIDING RELIABLE, EFFECTIVE AND TIMELY
18 NOTIFICATION BY THE FACILITY EMERGENCY COORDINATORS AND THE
19 COUNTY EMERGENCY MANAGEMENT COORDINATOR TO PERSONS DESIGNATED
20 IN THE EMERGENCY PLAN, AND TO THE PUBLIC, THAT A RELEASE HAS
21 OCCURRED, CONSISTENT WITH THE NOTIFICATION REQUIREMENTS OF
22 SECTION 304 OF SARA, TITLE III.

23 (5) METHODS FOR DETERMINING THE OCCURRENCE OF A RELEASE,
24 AND THE AREA OR POPULATION LIKELY TO BE AFFECTED BY SUCH
25 RELEASE.

26 (6) A DESCRIPTION OF EMERGENCY EQUIPMENT AND FACILITIES
27 IN THE COUNTY AND AT EACH FACILITY IN THE COUNTY SUBJECT TO
28 THE REQUIREMENTS OF THIS SECTION, AND AN IDENTIFICATION OF
29 THE PERSONS RESPONSIBLE FOR SUCH EQUIPMENT AND FACILITIES.

30 (7) EVACUATION PLANS, INCLUDING PROVISIONS FOR A

1 PRECAUTIONARY EVACUATION AND ALTERNATIVE TRAFFIC ROUTES.

2 (8) TRAINING PROGRAMS, INCLUDING SCHEDULES FOR TRAINING
3 OF LOCAL EMERGENCY RESPONSE AND MEDICAL PERSONNEL.

4 (9) METHODS AND SCHEDULES FOR EXERCISING THE EMERGENCY
5 PLAN.

6 Section 204. Hazardous material safety program.

7 (a) ~~Components~~ PROGRAM COMPONENTS.--In conjunction with the
8 Departments of Environmental Resources, Health, Transportation,
9 Agriculture, Labor and Industry, Public Utility Commission,

10 COMMERCE, Fish Commission, Pennsylvania Turnpike Commission, and

11 the Pennsylvania State Police, or any other Commonwealth

12 agencies as determined by the council, PEMA shall develop a

13 hazardous material safety program for incorporation into the

14 Pennsylvania Emergency Management Plan developed by PEMA under

15 35 Pa.C.S. Pt. V (relating to emergency management services).

16 The hazardous material safety program shall include an

17 assessment of the potential dangers and risks that hazardous

18 material releases occurring at facilities and from

19 transportation related accidents pose to the general public AND

20 THE ENVIRONMENT. The Pennsylvania State Fire Academy shall be

21 utilized as a primary training facility pursuant to its duties

22 under 35 Pa.C.S. § 7316(c) (relating to Pennsylvania State Fire

23 Academy). THE COUNCIL MAY ALSO UTILIZE OTHER INSTITUTIONS THAT

24 HAVE IN PLACE APPROPRIATE TRAINING RESOURCES, SUCH AS THE CENTER

25 FOR HAZARDOUS MATERIALS RESEARCH AT THE UNIVERSITY OF

26 PITTSBURGH'S APPLIED RESEARCH CENTER, TO FULFILL ITS TRAINING

27 RESPONSIBILITIES. The program shall also consider the impacts,

28 consequences and necessary protective measures required to

29 respond to and mitigate the effects of such releases and

30 accidents. The program shall include, but not be limited to:

1 (1) Development of comprehensive emergency management
2 guidance for hazardous materials for the Commonwealth and
3 Commonwealth agencies which sets forth the specific duties,
4 responsibilities, roles and missions of Commonwealth
5 agencies.

6 (2) Development of comprehensive emergency management
7 guidance consistent with the Emergency Management Services
8 Code for hazardous materials that can be used by the local
9 committees to meet the requirements of Federal and
10 Commonwealth statutes and laws.

11 (3) DEVELOPMENT OF SPECIFIC PROCEDURES FOR COUNTIES TO <—
12 COMPLETE THE HAZARDOUS MATERIALS EMERGENCY RESPONSE
13 PREPAREDNESS ASSESSMENT WITHIN 30 DAYS OF THE EFFECTIVE DATE
14 OF THIS ACT.

15 ~~(3)~~ (4) Development of a notification system whereby the <—
16 owners and operators of a facility will report the occurrence
17 of any hazardous substance or extremely hazardous substance
18 release to the appropriate Commonwealth agencies, local
19 agencies, and Commonwealth and local officials designated in
20 the Commonwealth and local EMERGENCY plans. The reporting <—
21 requirements for this notification system are set forth in
22 section 206.

23 ~~(4)~~ (5) Development of a notification system whereby the <—
24 transporters of any hazardous substance or extremely
25 hazardous substance will report the occurrence of any
26 hazardous material release to the Commonwealth agencies,
27 local agencies and Commonwealth and local officials
28 designated in the Commonwealth and local plans. The reporting
29 requirements for this notification system are set forth in
30 section 206.

1 ~~(5)~~ (6) Training and equipping Commonwealth agency and <—
2 local agency public safety and emergency response personnel.

3 ~~(6)~~ (7) Establishing training standards ~~or~~ AND a <—
4 certification program for the formation of Commonwealth
5 agency, local agency or regional hazardous material response
6 teams. All Commonwealth agency, local agency or other
7 agencies and committees that establish training standards for
8 emergency service, law enforcement, firefighting or other
9 personnel shall cooperate with the council in the
10 implementation of these training standards ~~or~~ AND <—
11 certification program.

12 ~~(7)~~ (8) Periodical exercise of hazardous material <—
13 release scenarios at facilities and transportation sites that
14 are designed to test the response capabilities of
15 Commonwealth agency, local agency and regional public safety
16 and emergency response personnel.

17 ~~(8) Procurement of specialized hazardous material <—~~
18 ~~response supplies and equipment to be used by Commonwealth~~
19 ~~agency, local agency and regional public safety and emergency~~
20 ~~response personnel.~~

21 (9) FINANCE THE PROCUREMENT OF SPECIALIZED HAZARDOUS <—
22 MATERIAL RESPONSE SUPPLIES AND EQUIPMENT TO BE USED BY LOCAL
23 AND REGIONAL PUBLIC SAFETY AND EMERGENCY RESPONSE PERSONNEL.

24 ~~(9)~~ (10) PEMA's staffing and operation of a 24-hour <—
25 State emergency operations center to provide effective
26 emergency response coordination for all types of natural and
27 man-made disaster emergencies, including the ability to
28 receive and monitor the emergency notification reports
29 required under sections 205 and 206 from all facilities and
30 transporters involved with hazardous material incidents.

1 ~~(10)~~ (11) Provisions for financial assistance to <—
2 counties ~~and Commonwealth agencies~~ as provided in sections <—
3 207 and 208 and for the payment of compensation benefits
4 awarded to duly enrolled emergency management volunteers
5 under 35 Pa. C.S. § 7706 (relating to compensation for
6 accidental injury).

7 (B) COUNTY PREPAREDNESS ASSESSMENT.-- <—

8 (1) WITHIN ONE YEAR OF THE COMPLETION OF PROCEDURES
9 CALLED FOR IN SUBSECTION (A)(3), COUNTIES SHALL DEVELOP AND
10 SUBMIT TO THE COUNCIL A HAZARDOUS MATERIALS EMERGENCY
11 RESPONSE PREPAREDNESS ASSESSMENT. THE ASSESSMENT SHALL BE
12 UPDATED ANNUALLY.

13 (2) THE COUNTY SHALL ASSESS THE POTENTIAL DANGERS AND
14 RISKS THAT HAZARDOUS MATERIAL RELEASES FROM FACILITIES AND
15 TRANSPORTATION ACCIDENTS POSE TO PUBLIC HEALTH AND THE
16 ENVIRONMENT, IDENTIFY THE COUNTY'S NEEDS FOR HAZARDOUS
17 MATERIALS RESPONSE TEAMS TO DEAL WITH THOSE DANGERS AND RISKS
18 AND OUTLINE ITS PLAN FOR IMPLEMENTING COUNTY AND LOCAL
19 EMERGENCY PLANNING FUNCTIONS UNDER THIS ACT.

20 (3) THE ASSESSMENT SHALL INCLUDE THE FOLLOWING:

21 (I) POTENTIAL THREATS POSED BY FACILITIES REQUIRING
22 EMERGENCY RESPONSE PLANS UNDER SECTION 303 OF SARA, TITLE
23 III, AND OTHER CONCENTRATIONS OF HAZARDOUS MATERIALS IN
24 THE COUNTY OR IN AREAS IMMEDIATELY ADJACENT TO THE COUNTY
25 THAT MAY POSE A THREAT.

26 (II) POTENTIAL THREATS POSED BY HAZARDOUS MATERIALS
27 TRANSPORTED BY HIGHWAY AND RAILROAD IN THE COUNTY.

28 (III) IDENTIFICATION OF EXISTING CAPABILITIES TO
29 RESPOND TO HAZARDOUS MATERIALS RELEASES, INCLUDING
30 PERSONNEL, EQUIPMENT, TRAINING, PLANNING AND

1 IDENTIFICATION OF EXISTING HAZARDOUS MATERIAL RESPONSE
2 ZONES.

3 (IV) SELECTION OF AN OPTION TO COMPLY WITH THIS ACT
4 UNDER SECTION 209(E) AND IDENTIFICATION OF THE NEED FOR
5 PERSONNEL, EQUIPMENT, TRAINING AND PLANNING NEEDED TO
6 RESPOND TO THE POTENTIAL THREATS, INCLUDING THE
7 DESIGNATION OF PROPOSED LEVELS OF PREPAREDNESS FOR LOCAL
8 OR REGIONAL RESPONSE TEAMS AND PROPOSED LOCAL OR REGIONAL
9 RESPONSE ZONES.

10 (V) IDENTIFICATION OF OTHER RESOURCES NEEDED TO
11 IMPLEMENT THE PROVISIONS OF THIS ACT AND TO SUPPORT THE
12 LOCAL EMERGENCY PLANNING COMMITTEE.

13 (VI) AN AUDIT OF THE HAZARDOUS MATERIALS EMERGENCY
14 RESPONSE ACCOUNT.

15 (4) THE LOCAL EMERGENCY PLANNING COMMITTEE SHALL ASSIST
16 THE COUNTY IN THE PREPARATION OF THE HAZARDOUS MATERIALS
17 EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT.

18 (5) THE COUNCIL SHALL REVIEW AND APPROVE THE ASSESSMENT
19 IF IT DETERMINES THE ASSESSMENT IS COMPLETE AND FULFILLS THE
20 COUNTY'S OBLIGATIONS UNDER THIS ACT TO RESPOND TO RELEASES OF
21 HAZARDOUS MATERIALS.

22 (6) IF AN ASSESSMENT IS NOT APPROVED BY THE COUNCIL, IT
23 SHALL BE RETURNED TO THE COUNTY WITH AN EXPLANATION OF ITS
24 DEFICIENCIES. THE COUNTY SHALL HAVE 90 DAYS TO RETURN THE
25 ASSESSMENT TO THE COUNCIL WITH EITHER CHANGES OR FURTHER
26 EXPLANATION OR JUSTIFICATION. THE COUNCIL SHALL THEN REVIEW
27 THE ASSESSMENT.

28 Section 205. Emergency reporting requirements.

29 (a) Requirements.--The owner or operator of a facility in
30 this Commonwealth shall comply with the following requirements:

1 (1) The owner or operator of a facility in this
2 Commonwealth covered under section 302 of SARA, Title III,
3 shall comply with the emergency planning and notification
4 requirements under sections 302 and 303 of SARA, Title III.

5 (2) The owner or operator of a facility in this
6 Commonwealth covered under section 311 of SARA, Title III,
7 shall comply with the reporting requirements under sections
8 311 and 312 of SARA, Title III.

9 (3) The owner or operator of a facility in this
10 Commonwealth subject to section 313 of SARA, Title III, shall
11 comply with the toxic chemical release form requirements
12 under section 313 of SARA, Title III.

13 (4) The owner of a facility in this Commonwealth subject
14 to the requirements of paragraphs (2) and (3) shall comply
15 with the procedures for providing information under section
16 323 of SARA, Title III.

17 (5) The owner or operator of a facility in this
18 Commonwealth covered under section 304 of SARA, Title III,
19 shall comply with the notification requirements of section
20 304 of SARA, Title III, and section 206 of this act.

21 (b) Document repository.--For the purposes of complying with
22 the reporting requirements set forth in sections 311, 312 and
23 313 of SARA, Title III, the owner or operator of any facility
24 shall submit its material safety data sheets or chemical lists,
25 emergency and hazardous chemical inventory forms and toxic
26 chemical release forms to the Department of Labor and Industry,
27 which is the council's repository for those documents AT THE <—
28 STATE LEVEL.

29 (c) Rolling stock.--The owner or operator of a property that
30 has one or more rolling stock, WHETHER OWNED OR LEASED, located <—

1 within its property boundaries for any period of time in excess
2 of 30 continuous days AND CONTAINING AN EXTREMELY HAZARDOUS <—
3 SUBSTANCE IN EXCESS OF THE THRESHOLD PLANNING QUANTITY shall
4 notify the council and the appropriate local committee of that
5 fact and shall prepare an emergency response plan, which
6 contains those provisions that either the council or the
7 appropriate local committee directs, in order to deal with any
8 potential release of an extremely hazardous substance from that
9 rolling stock.

10 Section 206. Emergency notification requirements.

11 (a) Facility or transportation accident or incident.--Except
12 as provided in subsection (e), the owner or operator of a
13 facility that manufactures, produces, uses, imports, exports,
14 stores, supplies or distributes any hazardous substance or
15 extremely hazardous substance, and the owner or operator of a
16 vehicle that ships, transports or carries any hazardous
17 substance or extremely hazardous substance to, within, through
18 or across this Commonwealth shall immediately report the release
19 of the substance which exceeds the reportable quantity and which
20 ~~occurs outside~~ EXTENDS BEYOND the property boundaries of the <—
21 facility or which results from a transportation accident or
22 incident to the appropriate Commonwealth and county emergency
23 response office as follows:

24 (1) ~~Initial notification~~ TWO NOTIFICATIONS shall be made <—
25 by the owner or operator of a facility. ~~by calling~~ THE FIRST <—
26 CALL SHALL BE TO the 24-hour response telephone number of the
27 county office designated and acting as the emergency response
28 coordinator for the local committee, which may be known as
29 the county emergency management office 24-hour response
30 number. THE SECOND CALL SHALL BE MADE TO THE PEMA 24-HOUR <—

1 RESPONSE NUMBER.

2 (2) ~~Initial notification~~ NOTIFICATION shall be made by <—
3 the owner or operator of a vehicle by dialing 911 or, in the
4 absence of a 911 emergency telephone number, calling the
5 operator in order to notify the county emergency management
6 office 24-hour response number within whose jurisdiction the
7 transportation accident or incident has occurred, and
8 reporting that a hazardous substance or an extremely
9 hazardous substance release has occurred. THE COUNTY <—
10 EMERGENCY MANAGEMENT OFFICE SHALL REPORT ANY NOTIFICATION
11 MADE UNDER THIS SUBSECTION TO THE PEMA 24-HOUR RESPONSE
12 NUMBER WITHIN ONE HOUR OF ITS RECEIPT.

13 (b) Contents.--The notification REQUIRED BY THIS SECTION <—
14 shall include each of the following to the extent known at the
15 time of the notice and so long as no delay in responding to the
16 emergency results:

17 (1) The name and telephone number of the person making
18 the notification.

19 (2) The name of the person employed by the owner or
20 operator of the facility or vehicle who has the authority or
21 responsibility to supervise, conduct or perform any cleanup
22 activities required at the facility or transportation
23 accident site or to contract for the performance of any
24 cleanup activities at the facility or transportation accident
25 site.

26 (3) The chemical name or identity of any substance
27 involved in the release.

28 (4) An indication of whether the substance is an
29 extremely hazardous substance or other hazardous material or
30 appears on a Federal or Commonwealth list of hazardous

1 materials as periodically amended.

2 (5) An estimate of the quantity of the substance that
3 was released into the environment.

4 (6) The time, location and duration of the release.

5 (7) The medium or media into which the release occurred.

6 (8) Any known or anticipated acute or chronic health
7 risks associated with the emergency and, where appropriate,
8 advice regarding medical attention necessary for exposed
9 individuals.

10 (9) Proper precautions to take as a result of the
11 release, including evacuation, unless the information is
12 readily available to the community emergency coordinator
13 under an emergency plan, and any other relevant information
14 which may be requested.

15 (10) The name and telephone number of the person or
16 persons to be contacted for further information.

17 (11) Additional information required by Federal or
18 Commonwealth law OR REGULATION. <—

19 ~~(c) Second notice. A second notification shall be made to~~ <—
20 ~~the PEMA 24 hour response number. This notification shall~~
21 ~~contain the information required by subsection (b) and shall be~~
22 ~~made within one hour of the occurrence of the accident or~~
23 ~~incident.~~

24 (C) PEMA NOTICE.--THE NOTIFICATION TO PEMA SHALL BE MADE TO <—
25 THE PEMA 24-HOUR RESPONSE NUMBER. THIS NOTIFICATION SHALL
26 CONTAIN THE INFORMATION REQUIRED BY SUBSECTION (B). THE NOTICE
27 TO PEMA SHALL FULFILL THE REQUIREMENTS IN SARA, TITLE III, TO
28 NOTIFY THE COUNCIL AND ANY REQUIREMENTS IN OTHER STATE LAWS TO
29 NOTIFY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OR ANY OTHER
30 STATE AGENCY OF THE SPILL OR RELEASE OF HAZARDOUS CHEMICALS

1 REQUIRING NOTIFICATION UNDER SECTION 206. PEMA SHALL IMMEDIATELY
2 NOTIFY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OR ANY OTHER
3 APPROPRIATE STATE AGENCY OF THE OCCURRENCE OR ACCIDENT.

4 (d) Written report.--Within 14 calendar days after a release
5 which required notice under this section, the owner or operator
6 of a facility and the owner or operator of a vehicle shall
7 provide a written follow-up emergency notice, or notices if more
8 information becomes available, to PEMA and the county emergency
9 management office setting forth and updating the information
10 required under subsection (b), and including additional
11 information with respect to:

12 (1) Actions taken to respond to and contain the release.

13 (2) Any known or anticipated acute or chronic health
14 risks associated with the release.

15 (3) Advice regarding medical attention necessary for
16 exposed individuals, where appropriate.

17 (4) Actions to be taken to mitigate potential future
18 incidents.

19 (e) Exception.--The provisions of this section shall not
20 apply to a release of a hazardous substance or an extremely
21 hazardous substance if the release of such substance is
22 exempted, excluded or permitted by Federal or Commonwealth
23 statute, law, rule or regulation.

24 (F) COUNCIL STUDY.--THE COUNCIL SHALL CONDUCT A STUDY TO
25 DETERMINE THE FEASIBILITY OF ESTABLISHING A SINGLE NOTIFICATION
26 CENTER IN THIS COMMONWEALTH TO RECEIVE ALL HAZARDOUS MATERIAL,
27 HAZARDOUS SUBSTANCE, HAZARDOUS WASTE, AS DEFINED IN THE ACT OF
28 OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE HAZARDOUS SITES
29 CLEANUP ACT, OR OTHER TOXIC CHEMICAL RELEASE REPORTS THAT ARE
30 CURRENTLY REQUIRED TO BE REPORTED TO ALL COMMONWEALTH AGENCIES

<—

1 AND DEPARTMENTS BY FEDERAL AND STATE LAW.

2 Section 207. Establishment of funds.

3 ~~(a) Hazardous Material Response Fund. There is hereby~~ <—
4 ~~created in the General Fund a nonlapsing restricted account to~~
5 ~~be known as the Hazardous Material Response Fund. The fund shall~~
6 ~~consist of the fees collected under subsection (d). Expenditures~~
7 ~~from the fund shall be authorized by the Governor and~~
8 ~~administered by PEMA and shall be used to carry out the~~
9 ~~purposes, goals and objectives of SARA, Title III, and the~~
10 ~~Commonwealth's hazardous material safety program.~~

11 ~~(b) Emergency Planning Fee Account. The treasurer of each~~
12 ~~county shall establish a nonlapsing restricted account, to be~~
13 ~~known as the Emergency Planning Fee Account. The fund shall~~
14 ~~consist of the fees collected under subsection (c). Expenditures~~
15 ~~from the fund shall be authorized by the council and shall be~~
16 ~~used only to fund the administrative and operational expenses of~~
17 ~~local committees in accordance with guidelines or regulations~~
18 ~~promulgated by the council.~~

19 ~~(c) Emergency planning fee. Each owner or operator of a~~
20 ~~facility shall pay to the treasurer of the county where the~~
21 ~~facility is located, for deposit into the Emergency Planning Fee~~
22 ~~Account, an annual fee to be known as an emergency planning fee,~~
23 ~~for each facility owned or operated according to the following~~
24 ~~schedule:~~

25 ~~(1) Payable on or before July 1, 1989, \$100 for each~~
26 ~~facility at which four or less persons are employed.~~

27 ~~(2) Payable on or before July 1, 1989, \$500 for each~~
28 ~~facility at which more than four but not more than nine~~
29 ~~persons are employed.~~

30 ~~(3) Payable on or before July 1, 1989, \$800 for each~~

1 ~~facility at which more than nine but not more than 19 persons~~
2 ~~are employed.~~

3 ~~(4) Payable on or before July 1, 1989, \$1,000 for each~~
4 ~~facility at which more than 19 persons are employed.~~

5 ~~(5) Payable on or before July 1, 1990, and the first day~~
6 ~~of July of every year thereafter, \$100 for each facility.~~

7 (A) HAZARDOUS MATERIAL RESPONSE FUND.--

<—

8 (1) THERE IS HEREBY CREATED IN THE STATE TREASURY A
9 NONLAPSING RESTRICTED ACCOUNT TO BE KNOWN AS THE HAZARDOUS
10 MATERIAL RESPONSE FUND. THE FUND SHALL CONSIST OF THE FEES
11 COLLECTED UNDER SUBSECTION (C), CIVIL PENALTIES, AND FINES
12 AND FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY. MONEYS IN THE
13 FUND SHALL BE APPROPRIATED ANNUALLY TO PEMA TO BE DISBURSED
14 BY THE COUNCIL THROUGH PEMA AND SHALL BE USED TO CARRY OUT
15 THE PURPOSES, GOALS AND OBJECTIVES OF SARA, TITLE III, AND
16 THE COMMONWEALTH'S HAZARDOUS MATERIAL SAFETY PROGRAM.

17 (2) THE COUNCIL, THROUGH PEMA, SHALL ADMINISTER AND
18 ALLOCATE MONEYS IN THE FUND, INCLUDING ALL INTEREST GENERATED
19 THEREIN, IN THE FOLLOWING MANNER:

20 (I) UP TO 5% SHALL BE EXPENDED ON TRAINING PROGRAMS
21 FOR HAZARDOUS MATERIALS RESPONSE TEAMS.

22 (II) UP TO 5% SHALL BE EXPENDED FOR PUBLIC AND
23 FACILITY OWNER EDUCATION, INFORMATION AND PARTICIPATION
24 PROGRAMS.

25 (III) NO MORE THAN 5% SHALL BE USED FOR THE GENERAL
26 ADMINISTRATIVE AND OPERATIONAL EXPENSES OF THIS ACT,
27 EXCLUDING THE EXPENSES OF THE HAZARDOUS MATERIALS
28 EMERGENCY PLANNING AND RESPONSE ADVISORY COMMITTEE.

29 (IV) THE REMAINING REVENUE IN THE FUND SHALL BE USED
30 AS GRANTS TO SUPPORT THE ACTIVITIES OF COUNTIES UNDER

THIS ACT, AS DESCRIBED IN SECTION 208.

(B) COUNTY EMERGENCY RESPONSE FINANCING.--

(1) THE TREASURER OF EACH COUNTY SHALL ESTABLISH A NONLAPSING RESTRICTED ACCOUNT, TO BE KNOWN AS THE HAZARDOUS MATERIALS EMERGENCY RESPONSE ACCOUNT. THE ACCOUNT SHALL CONSIST OF REVENUE FROM FEES AUTHORIZED BY THIS SECTION, COUNTY, FEDERAL OR STATE FUNDS, GRANTS, LOANS OR PENALTIES AND ANY PRIVATE DONATIONS PROVIDED TO FINANCE THE HAZARDOUS MATERIALS SAFETY PROGRAM. EXPENDITURES FROM THE ACCOUNT SHALL BE AUTHORIZED BY THE COUNTY CONSISTENT WITH THE NEEDS IDENTIFIED IN THE COUNTY HAZARDOUS MATERIALS EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT APPROVED BY THE COUNCIL.

(2) BY MARCH 1 OF EACH YEAR, EACH OWNER OR OPERATOR OF A FACILITY SHALL PAY TO THE COUNTY TREASURER WHERE THE FACILITY IS LOCATED A LOCAL HAZARDOUS CHEMICAL FEE OF FROM \$35 TO \$75, AS ESTABLISHED BY THE COUNTY BY ORDINANCE, FOR EACH HAZARDOUS CHEMICAL WITHIN THE MEANING OF 29 CFR 1910.1200(C) OR ITS SUCCESSOR WHICH IS REQUIRED BY SECTION 312 OF SARA, TITLE III, TO BE LISTED ON THE HAZARDOUS CHEMICAL INVENTORY FORM (TIER II) WHICH THE OWNER OR OPERATOR OF THE FACILITY SUBMITS TO THE LOCAL EMERGENCY PLANNING COMMITTEE. COUNTIES MAY GRANT FACILITY OWNERS UP TO A 50% CREDIT TOWARD THEIR CHEMICAL FEE OBLIGATION IF THE FACILITY OWNER VOLUNTARILY DONATES TRAINING, EQUIPMENT OR OTHER IN-KIND SERVICES TO SUPPORT THE COUNTY HAZARDOUS MATERIALS SAFETY PROGRAM.

(3) COUNTIES MAY ESTABLISH A PROGRAM TO PROVIDE FUNDING THROUGH THE HAZARDOUS MATERIALS EMERGENCY RESPONSE ACCOUNT FOR CERTIFIED HAZARDOUS MATERIALS RESPONSE TEAMS WITHIN THE COUNTY CONSISTENT WITH THE HAZARDOUS MATERIALS EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT. THIS GRANT PROGRAM SHALL

1 NOT BE BOUND BY ANY DOLLAR LIMITS ON ASSISTANCE TO LOCAL FIRE
2 PROTECTION SERVICES IMPOSED BY OTHER STATUTES.

3 ~~(d)~~ (C) Hazardous chemical fee.--Each owner or operator of a <—
4 facility shall pay a fee, to be known as a hazardous chemical
5 fee, of \$10 by March 1 of each year to the council for each
6 hazardous chemical within the meaning of 29 CFR ~~1912.1200(e)~~ <—
7 1910.1200(C) or its successor which is required by section 312 <—
8 of SARA, Title III, to be listed on the hazardous chemical
9 inventory form (Tier II) which the owner or operator of the
10 facility submits to the council. The fees collected under this
11 subsection shall be deposited by the council into the Hazardous
12 Material Response Fund.

13 ~~(e)~~ (D) Exemptions.--The owners or operators of family farm <—
14 enterprises, SERVICE STATIONS AND FACILITIES OWNED BY STATE AND <—
15 LOCAL GOVERNMENTS shall be exempt from payment of the fees
16 required under subsections ~~(e)~~ and ~~(d)~~ (B) AND (C). <—

17 ~~(f)~~ (E) Federal funds, grants or other gifts.--The council <—
18 is authorized to accept and may deposit into the Hazardous
19 ~~Materials~~ MATERIAL Response Fund grants, gifts and Federal <—
20 funds, for the purpose of carrying out the provisions of this
21 act.

22 (F) CHANGES IN THRESHOLD QUANTITIES AND CHEMICALS.--FOR <—
23 PURPOSES OF THE FEES ESTABLISHED IN THIS SECTION, THE TERM
24 "HAZARDOUS CHEMICAL" SHALL MEAN CHEMICALS ON LISTS ESTABLISHED
25 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY EFFECTIVE
26 ON JULY 1, 1989. NO FEE MAY BE APPLIED TO ADDITIONAL FACILITIES
27 OR CHEMICALS BECAUSE OF CHANGES MADE BY THE UNITED STATES
28 ENVIRONMENTAL PROTECTION AGENCY IN LISTS OF CHEMICALS,
29 THRESHOLDS OR OTHER REQUIREMENTS UNDER SARA, TITLE III, WITHOUT
30 COMPLYING WITH THE PROVISIONS OF SECTION 213.

1 (G) TERMINATION.--THE FEES ESTABLISHED IN THIS SECTION OR IN
2 SECTION 213 SHALL TERMINATE TEN YEARS AFTER THE EFFECTIVE DATE
3 OF THIS ACT UNLESS REESTABLISHED BY THE GENERAL ASSEMBLY BY
4 STATUTE.

5 (H) TRANSPORTATION FEE STUDY.--WITHIN ONE YEAR OF THE
6 EFFECTIVE DATE OF THIS ACT, THE COUNCIL SHALL REPORT TO THE
7 GENERAL ASSEMBLY ON THE FEASIBILITY OF ESTABLISHING A FEE ON THE
8 TRANSPORTERS OF HAZARDOUS MATERIALS REGULATED UNDER THIS ACT.
9 THE PURPOSE OF THIS FEE WOULD BE TO SUPPLEMENT THE FUNDS
10 PROVIDED BY FIXED FACILITY OWNERS OR OPERATORS TO THE HAZARDOUS
11 MATERIAL RESPONSE FUND.

12 (I) STATUS OF FUND.--THE HAZARDOUS MATERIAL RESPONSE FUND
13 SHALL NOT BE SUBJECT TO 42 PA.C.S. CH. 37 SUBCH. C (RELATING TO
14 JUDICIAL COMPUTER SYSTEM).

15 Section 208. Emergency management grants.

16 (a) General.--Each county shall participate in the hazardous
17 material safety program and may be eligible to receive an
18 emergency management grant from the Hazardous Material Response
19 Fund in order to comply with the requirements of SARA, Title
20 III, and the Commonwealth's hazardous material safety program.

21 (b) Applications.--A county or ~~Commonwealth agency~~ GROUP OF <—
22 COUNTIES may apply annually to the council for an emergency
23 management grant. Applications shall be made in the manner
24 specified by the council in regulations promulgated under
25 section 201(g) CONSISTENT WITH THE COUNTY PREPAREDNESS <—
26 ASSESSMENT.

27 (c) Eligible Costs.--Eligible costs for emergency management
28 grants are limited to the cost of:

29 (1) DEVELOPING A COUNTY HAZARDOUS MATERIALS EMERGENCY <—
30 RESPONSE PREPAREDNESS ASSESSMENT REQUIRED IN SECTION 204(B).

1 ~~(1)~~ (2) Developing, updating and exercising emergency <—
2 response plans required under section 303 of SARA, Title III.
3 ~~(2)~~ (3) Performing public information functions as <—
4 required by section 324 of SARA, Title III.
5 ~~(3)~~ (4) Collecting, documenting and processing chemical <—
6 inventory forms and other documents required by SARA, Title
7 III.
8 ~~(4)~~ (5) Developing an emergency planning and response <—
9 capability for responding to hazardous material releases and
10 meeting the requirements of the Commonwealth's hazardous
11 material safety program, INCLUDING TRAINING, EQUIPMENT, <—
12 MATERIAL AND OTHER SUPPLIES NEEDED TO RESPOND TO A RELEASE.
13 ~~(5)~~ (6) Supporting the operation and administration of <—
14 local committees.
15 (d) Grant amount.--The amount of the annual grant from the
16 Hazardous Material Response Fund shall not exceed the amount of
17 the funds of local revenues made available by the county for the
18 purpose of complying with the requirements and provisions of
19 SARA, Title III, ~~and this act.~~ AND THE EMERGENCY MANAGEMENT <—
20 SERVICES CODE WITH RESPECT TO HAZARDOUS MATERIAL RELEASES,
21 RETROACTIVE TO NOVEMBER 1986. COUNTIES MAY ALSO USE FUNDS IN THE
22 HAZARDOUS MATERIALS EMERGENCY RESPONSE ACCOUNT TO MATCH STATE
23 FUNDS FOR THE ANNUAL GRANT.
24 (e) Payment of grants.--The council shall review annually
25 all applications received under this section and may make grants
26 to the counties ~~and Commonwealth agencies~~ from the Hazardous <—
27 Material Response Fund. The council shall prioritize the
28 available funds among the eligible applicants based upon the
29 following criteria:
30 (1) COMPLETION OF INITIAL COUNTY HAZARDOUS MATERIALS <—

EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT.

~~(1) Compliance with the requirements of SARA, Title III, and the Commonwealth's hazardous material safety program and emergency management services program.~~

(2) COMPLIANCE WITH THE REQUIREMENTS OF SARA, TITLE III, AND THE COMMONWEALTH'S HAZARDOUS MATERIAL SAFETY PROGRAM AND EMERGENCY MANAGEMENT SERVICES CODE WITH RESPECT TO HAZARDOUS MATERIALS RELEASES.

~~(2)~~ (3) The number of facilities located within the county, or the existence of unique or special circumstances that pose a threat to the health and safety of the general public OR THE ENVIRONMENT, or both.

~~(3)~~ (4) Availability of financial, technical or other assistance to the applicant from other governmental, business or private sources.

(5) NO MORE THAN 10% OF THE GRANT FUNDS SHALL BE EXPENDED IN ANY ONE COUNTY IN ANY YEAR UNLESS MORE THAN ONE COUNTY APPLIES FOR FUNDS IN A JOINT APPLICATION.

Section 209. ~~Hazardous~~ CERTIFIED HAZARDOUS material response teams.

~~(a) Hazardous material response zones. The council or its designated agent may establish hazardous material response zones consisting of portions of counties or multiple counties that may be served by hazardous material response teams that are certified by the council.~~

~~(b) Grants. Each certified hazardous material response team may be eligible to receive, through an application submitted by either a Commonwealth agency or county, an emergency management grant from the Hazardous Material Response Fund.~~

~~(c) Compliance with guidelines and regulations. Hazardous~~

1 ~~material response teams shall comply with any guidelines,~~
2 ~~regulations, directives or other documents developed by the~~
3 ~~council for incorporation into the Commonwealth's hazardous~~
4 ~~material safety program.~~

5 ~~(d) Compliance with act. Each county shall comply with its~~
6 ~~duty to respond to hazardous material releases or incidents~~
7 ~~under the provisions of this act and the emergency management~~
8 ~~services code by doing any of the following:~~

9 ~~(1) Individually organizing and operating a certified~~
10 ~~hazardous materials response team.~~

11 ~~(2) Contracting with a certified hazardous material~~
12 ~~response team, such as those formed by a regional hazardous~~
13 ~~materials organization.~~

14 ~~(3) Participating as a member of a regional hazardous~~
15 ~~materials organization for the purpose of creating and~~
16 ~~organizing a certified hazardous material response team.~~

17 (A) GENERAL RULE.--THE COUNCIL SHALL ESTABLISH A PROGRAM FOR <—
18 CERTIFYING HAZARDOUS MATERIALS RESPONSE TEAMS SETTING STANDARDS
19 FOR TRAINING, EQUIPMENT, SAFETY, OPERATIONS AND ADMINISTRATION
20 OF THE TEAMS. THE CERTIFICATION PROGRAM SHALL INCLUDE, BUT NOT
21 BE LIMITED TO:

22 (1) STANDARDS FOR CERTIFYING RESPONSE TEAMS WITH SEVERAL
23 PREPAREDNESS LEVELS PATTERNED AFTER LEVELS ESTABLISHED BY THE
24 UNITED STATES OCCUPATIONAL HEALTH AND SAFETY ADMINISTRATION
25 AT 20 CFR PART 1910.120.

26 (2) REVIEWING EXISTING HAZARDOUS MATERIALS TRAINING AND
27 CERTIFICATION PROGRAMS TO ESTABLISH SPECIFIC PROCEDURES FOR
28 CREDITING THAT TRAINING AND CERTIFICATION UNDER THE PROGRAM
29 ESTABLISHED BY THIS SECTION.

30 (B) HAZARDOUS MATERIAL RESPONSE ZONES.--THE COUNCIL MAY

1 ESTABLISH HAZARDOUS MATERIAL RESPONSE ZONES, CONSISTING OF
2 PORTIONS OF COUNTIES OR MULTIPLE COUNTIES, THAT MAY BE SERVED BY
3 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS THAT ARE CERTIFIED
4 BY THE COUNCIL WHERE COUNTIES HAVE NOT IDENTIFIED ZONES IN THEIR
5 HAZARDOUS MATERIALS EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT.

6 (C) GRANTS.--EACH CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM
7 MAY BE ELIGIBLE TO RECEIVE, THROUGH AN APPLICATION SUBMITTED BY
8 A COUNTY, AN EMERGENCY MANAGEMENT GRANT FROM THE HAZARDOUS
9 MATERIAL RESPONSE FUND. COUNTIES ARE REQUIRED TO SUBMIT COPIES
10 OF ALL APPLICATIONS AND REQUESTS THEY RECEIVE FROM CERTIFIED
11 HAZARDOUS MATERIALS RESPONSE TEAMS AS PART OF THEIR APPLICATION.

12 (D) COMPLIANCE WITH GUIDELINES AND REGULATIONS.--HAZARDOUS
13 MATERIAL RESPONSE TEAMS SHALL COMPLY WITH ANY GUIDELINES,
14 REGULATIONS, DIRECTIVES OR OTHER DOCUMENTS DEVELOPED BY THE
15 COUNCIL FOR INCORPORATION INTO THE COMMONWEALTH'S HAZARDOUS
16 MATERIAL SAFETY PROGRAM AND SHALL BE CONSISTENT WITH THE COUNTY
17 HAZARDOUS MATERIALS EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT
18 APPROVED BY THE COUNCIL.

19 (E) COMPLIANCE WITH ACT.--EACH COUNTY SHALL COMPLY WITH THE
20 HAZARDOUS MATERIALS SAFETY PROGRAM AND 35 PA.C.S. PT. V
21 (RELATING TO EMERGENCY MANAGEMENT SERVICES) BY DOING ANY OF THE
22 FOLLOWING, CONSISTENT WITH THE COUNTY HAZARDOUS MATERIALS
23 EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT:

24 (1) INDIVIDUALLY ORGANIZING AND OPERATING A CERTIFIED
25 HAZARDOUS MATERIALS RESPONSE TEAM.

26 (2) CONTRACTING OR HAVING FORMAL AGREEMENTS WITH A
27 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM, INCLUDING THOSE
28 FORMED BY A REGIONAL HAZARDOUS MATERIALS ORGANIZATION OR
29 PRIVATE COMPANIES.

30 (3) PARTICIPATING AS A MEMBER OF A REGIONAL HAZARDOUS

MATERIALS ORGANIZATION FOR THE PURPOSE OF CREATING AND
ORGANIZING A CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM.

(F) GRANTS TO COUNTIES.--A COUNTY MAY BE ELIGIBLE FOR A
GRANT FROM THE HAZARDOUS MATERIAL RESPONSE FUND FOR A COST THAT
WOULD OTHERWISE BE ELIGIBLE UNDER SECTION 208(C) BUT WAS
ACTUALLY INCURRED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND
AFTER THE EFFECTIVE DATE OF SARA, TITLE III, PROVIDED THAT NO
SUCH GRANT SHALL TAKE PRIORITY OVER GRANTS FOR ELIGIBLE COSTS
INCURRED AFTER THE EFFECTIVE DATE OF THIS ACT.

~~(e)~~ (G) Regional hazardous materials organizations.--
Regional hazardous materials organizations formed solely by a
county or counties may be funded fully or in part by
proportional contributions from the political subdivisions
included within the hazardous material response zone serviced by
the regional hazardous materials organization or as otherwise
agreed to by contract between the regional hazardous materials
organization and those political subdivisions AND APPROVED IN
THE COUNTY PREPAREDNESS ASSESSMENT.

~~(f)~~ (H) Insurance.--Each Commonwealth agency, local agency,
regional hazardous materials organization, volunteer service
organization, hazardous material transporter, manufacturer,
supplier or user, or other entity that organizes a CERTIFIED
hazardous material response team AS IDENTIFIED ON THE TEAM
CERTIFICATION, shall be responsible for providing workers'
compensation and ORDINARY PUBLIC liability insurance for its
CERTIFIED hazardous material response team OR OTHER AGREEMENT BY
THE SPONSOR OF THE TEAM THAT PROVIDES THIS COVERAGE. THE
COMMONWEALTH, A COUNTY OR MUNICIPALITY MAY SELF-INSURE TO MEET
THIS OBLIGATION TO THE EXTENT IT IS NOW AUTHORIZED BY STATE LAW.
A CERTIFIED hazardous material response team that meets the

1 training standards or certification requirements established
2 under the Commonwealth's hazardous material safety program shall
3 receive a discount from the applicable insurance company as that
4 insurance company's loss experience justifies BASED ON <—
5 GUIDELINES DEVELOPED BY THE INSURANCE COMMISSIONER.

6 ~~(g)~~ (I) Emergency response.--A certified hazardous materials <—
7 response team may, WHEN AUTHORIZED BY THE COUNTY EMERGENCY <—
8 MANAGEMENT COORDINATOR, enter onto any private or public
9 property on which a release of a hazardous material has occurred
10 or the occurrence or the threat of a hazardous material release
11 is imminent. A certified hazardous materials response team may
12 enter any adjacent or surrounding property to which the
13 hazardous material release has entered or threatens to enter. A
14 certified hazardous materials response team may enter any
15 private or public property in order to respond to the release or
16 threatened release of a hazardous material, to monitor and
17 contain the hazardous material release, to perform cleanup,
18 ~~removal and remedial~~ STABILIZATION actions, and to perform any <—
19 other emergency response activities deemed necessary by the
20 certified hazardous material response team or by the
21 representatives of PEMA, the county emergency management office
22 as established under 35 Pa.C.S. Pt. V (relating to emergency
23 management services), or the local committee.

24 Section 210. Recovery of response costs.

25 (a) General rule.--A person who causes a release of a
26 hazardous material shall be liable for the response costs
27 incurred by a CERTIFIED hazardous material response team. The <—
28 Commonwealth agency, local agency, regional hazardous materials
29 organization, volunteer emergency service organization, or
30 hazardous material transporter, manufacturer, supplier or user

1 that organized the CERTIFIED hazardous material response team, <—
2 AS IDENTIFIED ON THE TEAM CERTIFICATION, that undertakes a
3 response action may recover those response costs in an action in
4 equity brought before a court of competent jurisdiction. Should
5 more than one CERTIFIED hazardous material response team incur <—
6 response costs for the same hazardous material release or
7 incident, the organizing entities of those CERTIFIED hazardous <—
8 material response teams may file a joint action in equity and
9 may designate one entity to represent the others in the law
10 suit.

11 (b) Amount.--In an action to recover response costs, a
12 Commonwealth agency, local agency, regional hazardous materials
13 organization, or a hazardous material transporter, manufacturer,
14 supplier or user may include operational, administrative
15 personnel and legal costs incurred from its initial response
16 action up to the time that it recovers its costs. The amount
17 attributable to administrative and legal costs shall be 10% of
18 the amount paid for the response action or the actual costs,
19 whichever is greater. Volunteer emergency service organizations
20 may include only operational, administrative and legal costs
21 incurred from its initial response action up to the time that it
22 recovers its costs.

23 ~~(c) Civil penalty. If a Commonwealth agency or local agency <—~~
24 ~~files an action to recover the response costs incurred by its~~
25 ~~hazardous material response team, it may also seek civil~~
26 ~~penalties under section 302.~~

27 ~~(d)~~ (C) Definitions.--When used in this section, the term <—
28 "response cost" includes the following:

29 (1) Disposable materials and supplies acquired, consumed
30 and expended specifically for the purpose of the response to

1 the hazardous material release.

2 (2) Rental or leasing of equipment used specifically for
3 the response, for example, protective equipment or clothing
4 and scientific and technical equipment.

5 (3) Replacement costs for equipment that is contaminated
6 beyond reuse or repair during the response, for example,
7 self-contained breathing apparatus irretrievably contaminated
8 during the response.

9 (4) Decontamination of equipment contaminated during the
10 response.

11 (5) Compensation of employees or members of the
12 hazardous material response team, to include regular and
13 overtime pay for permanent full-time and other than full-time
14 employees or members.

15 (6) Special technical services specifically required for
16 the response, for example, costs associated with the time and
17 efforts of technical experts or specialists.

18 (7) Laboratory and testing costs for purposes of
19 analyzing samples or specimens taken during the response.

20 (8) Other special services specifically required for the
21 response, for example, utility costs.

22 (9) Costs associated with the services, supplies and
23 equipment used to conduct an evacuation during the response.

24 (10) COSTS ASSOCIATED WITH THE REMOVAL AND DISPOSAL OF
25 HAZARDOUS MATERIALS.

26 Section 211. Facility and vehicle inspection and testing.

27 (a) Inspection.--In order to determine compliance with this
28 act and SARA, Title III, either ~~PEMA or a local committee may~~
29 ~~send representatives to~~ THE QUALIFIED COUNCIL OR LOCAL COMMITTEE
30 MEMBER OR REPRESENTATIVE, AS DEFINED IN SUBSECTION (E), MAY

1 ENTER a facility or vehicle site, during normal business hours,
2 to inspect the facility or vehicle and to request information or
3 reports from the facility or vehicle owner or operator
4 concerning the chemical name, identity, amount, or any other
5 information necessary for emergency planning and response
6 purposes for any substance, liquid, mixture, compound, material
7 or product manufactured, produced, used, stored, supplied,
8 imported, exported or distributed at, to or from the facility or
9 vehicle.

10 (b) Testing.--Should ~~a representative of PEMA or the local~~ <—
11 ~~committee~~ THE QUALIFIED COUNCIL OR LOCAL COMMITTEE MEMBER OR <—
12 REPRESENTATIVE determine during the course of a facility or
13 vehicle inspection that the chemical name, identity, amount or
14 any other requested information for any substance, liquid,
15 mixture, compound, material or product present at the facility
16 or vehicle cannot be identified or determined to his
17 satisfaction, due to the lack of proper labeling, placarding,
18 record keeping or for any other reason, the representative shall
19 have the authority to ~~take a sample or specimen of the~~ <—
20 ~~substance, liquid, mixture, compound, material or product, in~~
21 ~~those amounts deemed necessary, in order to have the sample or~~
22 ~~specimen tested and analyzed either at the time of the~~
23 ~~inspection or subsequent to the inspection at a Commonwealth,~~
24 ~~county or private laboratory. The purpose of the test or~~
25 ~~analysis shall be to identify the chemical properties of the~~
26 ~~sample or specimen or to determine~~ ANALYZE OR ARRANGE FOR THE <—
27 ANALYSIS OF THE SUBSTANCE TO IDENTIFY THE CHEMICAL PROPERTIES OF
28 THE SAMPLE OR SPECIMEN, the amount of the substance, liquid,
29 mixture, compound, material or product manufactured, produced,
30 used, stored, supplied, imported, exported or distributed at, to

1 or from the facility or vehicle TO DETERMINE IF IT IS REGULATED <—
2 BY THIS ACT. The owner or operator of a facility or vehicle
3 shall pay any testing and laboratory analysis costs incurred by
4 ~~PEMA~~ THE COUNCIL or a local committee as performed under this <—
5 section. SAMPLES OF ANY SUBSTANCE REQUIRED TO BE TAKEN UNDER <—
6 THIS SECTION BY THE QUALIFIED COUNCIL OR LOCAL REPRESENTATIVE
7 SHALL BE SPLIT WITH THE FACILITY FOR ANALYSIS.

8 (c) Emergency situations.--Should a release or threatened
9 release of a known or unknown substance, liquid, mixture,
10 compound, material or product occur or appear to be imminent at
11 a facility or vehicle site, which endangers or has the potential
12 to endanger the health, safety and welfare of the public,
13 employees of the facility, or the vehicle's owner or operator,
14 or the employees of the owner or operator of the vehicle, ~~PEMA~~ <—
15 THE COUNCIL or the local committee may send QUALIFIED <—
16 representatives to the facility or vehicle site at any time in
17 order to inspect the facility or vehicle and to assess the
18 danger posed by the release or threatened release and to obtain
19 samples or specimens of the substance, liquid, mixture,
20 compound, material or product involved in the release or
21 threatened release and to perform any other emergency response
22 activities deemed necessary by the representatives of ~~PEMA~~ THE <—
23 COUNCIL or the local committee.

24 (d) Trade secrets.--A person shall provide the QUALIFIED <—
25 representative of ~~PEMA~~ THE COUNCIL or the local committee with <—
26 the chemical name, identity or any other information requested
27 concerning any substance, liquid, mixture, compound, material or
28 product present at the facility or vehicle, whether or not the
29 chemical name, identity or other information requested is
30 entitled to protection as a trade secret under section 322 of

1 SARA, Title III, UNLESS THE MANUFACTURER OF THE SUBSTANCE WILL <—
2 NOT PROVIDE THE INFORMATION REQUESTED TO THE FACILITY OWNER
3 BECAUSE IT HAS RECEIVED TRADE SECRET PROTECTION UNDER SARA,
4 TITLE III. For that information which has received trade secret
5 protection under section 322 of SARA, Title III, prior to the
6 date of the inspection or request, the QUALIFIED representative <—
7 shall give a written assurance to the person that reasonable
8 measures will be taken to protect the confidentiality of any
9 information provided to the QUALIFIED representative. <—

10 (E) QUALIFIED PERSON.--FOR PURPOSES OF THIS SECTION, THE <—
11 COUNCIL SHALL DEVELOP QUALIFICATION STANDARDS FOR MEMBERS OF THE
12 COUNCIL, LOCAL COMMITTEES OR THEIR REPRESENTATIVES WHO EXERCISE
13 THE REPORTING, INSPECTION AND TESTING AUTHORITY CONTAINED IN
14 THIS SECTION. AT A MINIMUM, THOSE QUALIFICATIONS SHALL INCLUDE:

15 (1) TRAINING IN INSPECTION AND ENFORCEMENT ACTIVITIES
16 RELATED TO ENFORCING ENVIRONMENTAL OR FIRE INCIDENT
17 INVESTIGATIONS.

18 (2) TRAINING IN THE HANDLING AND RECOGNITION OF
19 HAZARDOUS MATERIALS.

20 (3) CONFLICT OF INTEREST STANDARDS AND PROCEDURES
21 DESIGNED TO PREVENT A LOCAL COMMITTEE MEMBER OR
22 REPRESENTATIVE FROM USING THE AUTHORITY OF THIS SECTION TO
23 GATHER INFORMATION ON A BUSINESS COMPETITOR OR OTHER TRADE
24 SECRET INFORMATION.

25 (4) PROCEDURES FOR DECERTIFYING A MEMBER OR
26 REPRESENTATIVE WHO WAS DETERMINED TO BE A QUALIFIED
27 REPRESENTATIVE OF THE COUNCIL OR LOCAL COMMITTEE.

28 SECTION 212. ANNUAL REPORT.

29 (A) GENERAL RULE.--THE COUNCIL SHALL SUBMIT AN ANNUAL REPORT
30 TO THE GENERAL ASSEMBLY BY OCTOBER 1 OF EACH YEAR ON THE

1 ACTIVITIES IT HAS UNDERTAKEN TO IMPLEMENT THIS ACT. THE REPORT
2 SHALL INCLUDE, BUT NOT BE LIMITED TO:

3 (1) AN ACCOUNTING OF REVENUES AND EXPENDITURES FROM THE
4 HAZARDOUS MATERIAL RESPONSE FUND AND THE COUNTY HAZARDOUS
5 MATERIALS EMERGENCY RESPONSE ACCOUNTS ALONG WITH A
6 DESCRIPTION OF THE PROJECTS UNDERTAKEN WITH THESE FUNDS AND A
7 PROJECTION OF FUTURE ACTIVITIES.

8 (2) THE STATUS OF LOCAL EMERGENCY PLANNING COMMITTEE
9 ACTIVITIES.

10 (3) THE STATUS OF FACILITIES REQUIRED TO COMPLY WITH
11 THIS ACT INCLUDING THEIR NUMBER, LOCATION, NUMBER OF
12 EMPLOYEES AND THE NUMBER AND AMOUNT OF CHEMICALS REPORTED.

13 (4) THE NUMBER AND NATURE OF EMERGENCY NOTIFICATIONS
14 HANDLED BY PEMA.

15 SECTION 213. CHANGES IN SARA, TITLE III, PROGRAM.

16 IF CHANGES MADE BY THE ENVIRONMENTAL PROTECTION AGENCY UNDER
17 SARA, TITLE III, RESULT IN THE FEES ESTABLISHED IN SECTION 207
18 BEING APPLIED TO ADDITIONAL FACILITIES BECAUSE OF CHANGES IN
19 THRESHOLD QUANTITIES, THE ADDITION OF CHEMICALS OR OTHER
20 CHANGES, NO FEES MAY BE COLLECTED FROM THESE FACILITIES UNTIL A
21 REVISED FEE STRUCTURE IS CONSIDERED BY THE GENERAL ASSEMBLY
22 UNDER PROCEDURES SET FORTH IN THE ACT OF APRIL 7, 1955 (P.L.23,
23 NO.8), KNOWN AS THE REORGANIZATION ACT OF 1955.

24 CHAPTER 3

25 MISCELLANEOUS PROVISIONS

26 Section 301. Immunity from civil liability.

27 (a) General.--No Commonwealth agency, local agency, regional
28 hazardous materials organization, volunteer emergency service
29 organization or hazardous material transporter, manufacturer,
30 supplier or user that organized the CERTIFIED hazardous material <—

1 response team nor their elected officers, officials, directors
2 and employees, and no CERTIFIED hazardous material response team <—
3 member, member of an industrial hazardous material response
4 team, law enforcement officer, ambulance service or rescue squad
5 member, firefighter or other emergency response OR PUBLIC WORKS <—
6 personnel engaged in any emergency service or response
7 activities involving a hazardous material release at a facility
8 or transportation accident site shall be liable for the death of
9 or any injury to persons or loss or damage to property OR THE <—
10 ENVIRONMENT resulting from that hazardous material release,
11 except for any acts or omissions which constitute willful
12 misconduct.

13 (b) Council and local committees.--No member of the council
14 or a local committee shall be liable for THE DEATH OF OR ANY <—
15 INJURY TO PERSONS OR LOSS OR DAMAGE TO PROPERTY OR THE
16 ENVIRONMENT OR any civil damages resulting from any act or
17 omission arising out of the performance of the functions, duties
18 and responsibilities of the council or local committee, except
19 for acts or omissions which constitute willful misconduct.

20 (c) Other.--No employee, representative or agent of a
21 Commonwealth agency or local agency engaged in any emergency
22 service or response activities involving a hazardous material
23 release at a facility or transportation accident site shall be
24 liable for the death of or any injury to persons or loss or
25 damage to property resulting from that hazardous material
26 release, except for any acts or omissions which constitute
27 willful misconduct.

28 Section 302. Penalties and fines.

29 (a) Civil penalty.--A person who violates any of the
30 emergency reporting, planning or notification requirements of, <—

1 OR FAILS TO PAY THE FEES OUTLINED IN sections 201 through 206 <—
2 207, NOT INCLUDING ANY VIOLATIONS OF SECTION 313 OF SARA, TITLE <—
3 III, or any regulations promulgated under those sections shall
4 be subject to a civil penalty of not less than \$1,000 and not
5 more than \$25,000., ~~plus \$5,000 for each day of continued~~ <—
6 ~~violation.~~ EACH DAY OF A CONTINUING VIOLATION SHALL BE <—
7 CONSIDERED A SEPARATE OFFENSE.

8 (b) Misdemeanor.--A person who:

9 (1) Knowingly and willfully fails to report the release
10 of a hazardous substance or extremely hazardous substance as
11 required by sections 205 and 206 commits a misdemeanor of the
12 third degree and shall, upon conviction, be sentenced to pay
13 a fine of not less than \$1,000 and not more than \$25,000 for
14 each separate offense or imprisonment in the county jail for
15 a period of not more than one year, or both. For the purposes
16 of this paragraph, each day of continued violation
17 constitutes a separate offense.

18 (2) Intentionally obstructs or impairs, by force,
19 violence, physical interference or obstacle, a representative
20 of PEMA, A CERTIFIED HAZARDOUS MATERIALS RESPONSE TEAM or the <—
21 local committee attempting to perform the duties and
22 functions set forth in section 211, commits a misdemeanor of
23 the second degree and shall, upon conviction, be sentenced to
24 pay a fine of not less than \$1,000 and not more than \$5,000
25 for each separate offense or imprisonment in the county jail
26 for a period of not more than two years, or both.

27 (c) Disposition.--One half of all civil penalties and fines
28 collected under this section shall be deposited into the
29 Hazardous Material Response Fund and one half shall be deposited
30 into the appropriate county ~~Emergency Planning Fee~~ HAZARDOUS <—

1 MATERIALS EMERGENCY RESPONSE Account.

2 Section 303. Enforcement.

3 (a) Civil actions.--The Office of Attorney General, or the
4 Office of General Counsel may commence a civil action against
5 any person for failure to comply with this act or its
6 regulations 60 DAYS AFTER NOTICE OF A VIOLATION. The council, a <—
7 county or a municipality may commence a civil action against any
8 person for failure to comply with this act or its regulations if
9 the Office of Attorney General or the Office of General Counsel
10 has not commenced such action and more than ~~60~~ 120 days have <—
11 elapsed since the plaintiff gave notice of the alleged violation
12 to the alleged violator.

13 (b) Criminal actions.--The Office of Attorney General under
14 the act of October 15, 1980 (P.L.950, No.164), known as the
15 Commonwealth Attorneys Act, or the district attorney for the
16 county in which the violation is alleged to have occurred, may
17 commence criminal proceedings for the enforcement of this act
18 and its regulations 60 DAYS AFTER NOTICE OF A VIOLATION. <—

19 (c) Venue.--A proceeding under subsection (a) or (b) may be
20 brought in the court of common pleas for the county in which the
21 defendant is located or for the county in which the violation is
22 alleged to have occurred.

23 Section 304. Relationship to other laws.

24 (a) Federal law.--This law shall be read in conjunction with
25 Federal acts, laws or regulations providing for the
26 identification, labeling or reporting of information concerning
27 hazardous material releases, and any other health and safety
28 matters related to hazardous materials, and is intended to
29 supplement Federal acts, laws and regulations in the interests
30 of protecting the health and safety of the citizens of this

1 Commonwealth. In those instances where the provisions of this
2 act are more comprehensive or stringent than the provisions of
3 an applicable Federal act, law or regulation, the provision of
4 this act shall be controlling.

5 (b) State law.--Nothing in this act shall affect or modify
6 in any way the obligations or liabilities of any person under
7 other statutes of this Commonwealth.

8 (c) Local law.--This act shall preempt any ordinances or
9 resolutions passed or adopted by any political subdivision that
10 is effective on or before the effective date of this act to the
11 extent that such ordinance or resolution conflicts or is
12 inconsistent with the provisions of this act.

13 Section 305. Facility insurance.

14 A facility that complies with the emergency reporting
15 requirements of section 205(a), (b), (c), (e) and (g) of this
16 act, as applicable to that facility, may receive a discount from
17 that facility's insurance company as that insurance company loss
18 experience justifies.

19 Section 306. Appropriation.

20 ~~The sum of \$650,000 is appropriated to the Pennsylvania~~ <—
21 ~~Emergency Management Agency for fiscal year July 1, 1989, to~~
22 ~~June 30, 1990, and shall likewise be appropriated each fiscal~~
23 ~~year thereafter in order to carry out the various provisions of~~
24 ~~SARA, Title III, and this act.~~

25 THE SUM OF \$1,000,000 IS APPROPRIATED TO THE HAZARDOUS <—
26 MATERIAL RESPONSE FUND FOR FISCAL YEAR JULY 1, 1990, TO JUNE 30,
27 1991, IN ORDER TO CARRY OUT THE HAZARDOUS MATERIALS SAFETY
28 PROGRAM.

29 Section 307. Severability.

30 The provisions of this act are severable. If any provision of

1 this act or its application to any person or circumstance is
2 held invalid, the invalidity shall not affect other provisions
3 or applications of this act which can be given effect without
4 the invalid provision or application.

5 Section 308. Effective date.

6 This act shall take effect ~~immediately~~ IN 60 DAYS.

<—