

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

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 1, 1990

AN ACT

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

TABLE OF CONTENTS

10  
11 Chapter 1. General Provisions  
12 Section 101. Short title.  
13 Section 102. Legislative findings and purpose.  
14 Section 103. Definitions.  
15 Chapter 2. Hazardous Material Protection  
16 Section 201. Designation and functions of Pennsylvania  
17 Emergency Management Council.  
18 Section 202. Establishment of emergency planning districts.  
19 Section 203. Establishment and functions of local emergency

1                   planning committees.

2   Section 204.   Hazardous material safety program.

3   Section 205.   Emergency reporting requirements.

4   Section 206.   Emergency notification requirements.

5   Section 207.   Establishment of funds.

6   Section 208.   Emergency management grants.

7   Section 209.   Certified hazardous material

8                   response teams.

9   Section 210.   Recovery of response costs.

10   Section 211.   Facility and vehicle inspection and testing.

11   Section 212.   Annual report.

12   Section 213.   Changes in SARA, Title III, program.

13   Chapter 3.   Miscellaneous Provisions

14   Section 301.   Immunity from civil liability.

15   Section 302.   Penalties and fines.

16   Section 303.   Enforcement.

17   Section 304.   Relationship to other laws.

18   Section 305.   Facility insurance.

19   ~~Section 306.   Appropriation.~~                   <—

20   Section ~~307~~ 306.   Severability.                   <—

21   Section ~~308~~ 307.   Effective date.                   <—

22       The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24                                   CHAPTER 1

25                                   GENERAL PROVISIONS

26   Section 101.   Short title.

27       This act shall be known and may be cited as the Hazardous

28 Material Emergency Planning and Response Act.

29   Section 102.   Legislative findings and purpose.

30       (a) Findings.--The General Assembly hereby determines,

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 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 CERTIFIED hazardous material response teams OR SUPPORTING PAID AND VOLUNTEER EMERGENCY SERVICE ORGANIZATIONS 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 material response team." A team of individuals who are certified and organized by a Commonwealth agency, a local agency, a regional hazardous material organization, a transporter, a manufacturer, supplier, or user of hazardous materials, or a volunteer service organization, or

1 a private contractor, for the primary purpose of providing  
2 emergency services to mitigate actual or potential immediate  
3 threats to public health and the environment in response to the  
4 release or threat of a release of a hazardous material, which is  
5 certified, trained and equipped in accordance with this act or  
6 regulations promulgated under this act. Hazardous material  
7 response teams may also be certified to perform stabilization  
8 actions needed to remove threats to public health and the  
9 environment from hazardous material releases.

10 "Commonwealth agency." An executive agency or independent  
11 agency.

12 "Council." The Pennsylvania Emergency Management Council.

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

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

22 "County emergency management coordinator." The person  
23 designated to perform emergency management functions by the  
24 county under 35 Pa.C.S. Part V (relating to emergency management  
25 services).

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

1 "EMERGENCY SERVICE ORGANIZATION." A TEAM OF INDIVIDUALS  
2 ORGANIZED BY A COMMONWEALTH AGENCY, A LOCAL AGENCY OR ANY OTHER  
3 ENTITY FOR THE PRIMARY PURPOSE OF PROVIDING EMERGENCY SERVICES  
4 AS DEFINED IN 35 PA.C.S. § 7102 (RELATING TO DEFINITIONS).

5 "Executive agency." The Governor and the departments,  
6 boards, commissions, authorities and other non-legislative  
7 officers and agencies of the Commonwealth, except any court or  
8 other officer or agency of the unified judicial system or the  
9 General Assembly and its officers and agencies or any  
10 independent agency.

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

23 "Facility." All buildings, structures and other stationary  
24 items which are located on a single site or a contiguous or  
25 adjacent site which are owned or operated by the same person and  
26 which actually manufacture, produce, use, transfer, store,  
27 supply or distribute any hazardous material. The term includes  
28 railroad yards and truck terminals but does not include  
29 individual trucks, rolling stock, water vessels, airplanes or  
30 other transportation vehicles.

1 "Family farm enterprise." A natural person, family farm  
2 corporation or family farm partnership engaged in farming which  
3 processes and markets its agricultural commodities in either  
4 intrastate or interstate commerce.

5 "Hazardous chemical." Substances as defined within the  
6 meaning of 29 CFR 1910.1200(c), except that the term does not  
7 include the following:

8 (1) Any food, food additive, color additive, drug or  
9 cosmetic regulated by the Food and Drug Administration.

10 (2) Any substance present as a solid in any manufactured  
11 item to the extent that exposure to the substance does not  
12 occur under normal conditions of use.

13 (3) Any substance to the extent that it is used for  
14 personal, family or household purposes or is present in the  
15 same form and concentration as a product packaged for  
16 distribution and use by the general public.

17 (4) Any substance to the extent that it is used in a  
18 research laboratory or a hospital or other medical facility  
19 under the direct supervision of a technically qualified  
20 individual.

21 (5) Any substance to the extent that it is used in  
22 routine agricultural operations or is a fertilizer held for  
23 sale by a retailer to the ultimate consumer.

24 "Hazardous material." Any of the following, as defined in  
25 this act:

26 (1) A hazardous substance.

27 (2) An extremely hazardous substance.

28 (3) A hazardous chemical.

29 (4) A toxic chemical.

30 Except as provided in section 206, the term does not include the

1 transportation, including the storage incident to such  
2 transportation, of any substance or chemical subject to the  
3 requirements of this act, including the transportation and  
4 distribution of natural gas.

5 "Hazardous substance." A substance appearing on the list of  
6 hazardous substances prepared under section 102 of the  
7 Comprehensive Environmental Response, Compensation, and  
8 Liability Act of 1980 (P.L. 96-510, 94 Stat. 2767) as set forth  
9 at 40 CFR Part 302 ("Table 302.4 - List of Hazardous Substances  
10 and Reportable Quantities"), or appearing on any successor list  
11 of hazardous substances prepared under section 102 of the  
12 Comprehensive Environmental Response, Compensation, and  
13 Liability Act of 1980.

14 "Independent agency." Boards, commissions, authorities and  
15 other agencies and officers of the Commonwealth which are not  
16 subject to the policy supervision and control of the Governor,  
17 except any court or other officer or agency of the unified  
18 judicial system or the General Assembly and its officers and  
19 agencies.

20 "Local agency." A municipality or any officer or agency  
21 thereof.

22 "Local emergency planning committee" or "local committee."  
23 The local committee within each emergency planning district  
24 responsible for preparing hazardous material plans and  
25 performing other functions under The Emergency Planning and  
26 Community Right-To-Known Act of 1986 (Title III, Public Law 99-  
27 499, 42 U.S.C. § 11001 et seq.).

28 "PEMA." The Pennsylvania Emergency Management Agency.

29 "Person." An individual, corporation, firm, association,  
30 public utility, trust, estate, public or private institution,



group, Commonwealth or local agency, political subdivision, and any legal successor, representative or agency of the foregoing.

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

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

"Reportable quantity." The quantity of a hazardous material stated on the various lists of hazardous substances and extremely hazardous substances as defined in this section, the release of which shall be reported under this act.

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

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

"Service stations." A motor vehicle service station, filling

1 station, garage or similar operation engaged in the retail sale  
2 of motor fuels that are regulated by the act of July 6, 1989  
3 (P.L.169, No.32), known as the Storage Tank and Spill Prevention  
4 Act.

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

11 "Unified judicial system." The unified judicial system  
12 existing under section 1 of Article V of the Constitution of  
13 Pennsylvania.

14 "Vehicle." Any truck, railroad car, water vessel, airplane  
15 or other transportation vehicle that ships, carries or  
16 transports a hazardous material on any highway, rail line or  
17 waterway within the jurisdictional boundaries of this  
18 Commonwealth.

## 19 CHAPTER 2

### 20 HAZARDOUS MATERIAL PROTECTION

21 Section 201. Designation and functions of Pennsylvania

#### 22 Emergency Management Council

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

1 responsibilities of the local emergency planning committees.

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

5 (c) Chairperson.--The Governor shall designate a member of  
6 the council to serve as chairperson of the council. In the  
7 absence of the chairperson, the director of PEMA shall serve as  
8 chairperson. The chairperson shall have the authority to assign,  
9 delegate or transfer tasks, duties and responsibilities to  
10 members of the council. The chairperson shall approve the  
11 appointment of members to the council who are designated through <—  
12 ~~a delegation of authority from their respective department or~~  
13 ~~office.~~ BY THEIR RESPECTIVE DEPARTMENT OR OFFICE AND AUTHORIZED <—  
14 TO FULFILL THE DUTIES AND RESPONSIBILITIES OF THE APPOINTED  
15 MEMBER OF THE COUNCIL.

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

20 (e) Meetings.--For the conduct of routine or emergency  
21 business, the council shall meet at the call of the chairperson.  
22 Five members of the council shall constitute a quorum for the  
23 purpose of conducting the business of the council and for all  
24 other purposes. All actions of the council shall be taken by a  
25 majority of the council members present. The council shall be  
26 subject to the act of July 3, 1986 (P.L.388, No.212), known as  
27 the Sunshine Act.

28 (f) Staff.--The council shall supervise PEMA as its primary  
29 agent responsible for performing the functions and duties of the  
30 council established under this act. For this purpose, PEMA shall

1 employ such professional, technical, administrative and other  
2 staff personnel as may be deemed essential to carry out the  
3 purposes of this act and the development and maintenance of a  
4 comprehensive Commonwealth hazardous material safety program and  
5 report directly to the council.

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

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

11 (2) Promulgate as provided by law any rules and  
12 regulations necessary to carry out and implement this act and  
13 SARA, Title III.

14 (3) Develop Commonwealth agency contingency plans  
15 relating to the implementation of this act and SARA, Title  
16 III.

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

19 (5) Supervise the operation of local committees and  
20 ensure that local committees meet all Federal and  
21 Commonwealth standards and requirements as provided by law.

22 (6) Develop a Commonwealth comprehensive hazardous  
23 material safety program.

24 (7) Delegate authority and assign primary responsibility  
25 to the Department of Labor and Industry for receiving,  
26 processing and managing hazardous chemical information forms  
27 and data, trade secrets, and public information requests  
28 under this act and in coordination with the act of October 5,  
29 1984 (P.L.734, No.159), known as the Worker and Community  
30 Right-to-Know Act. Emphasis should be given to electronically

1 processing the information reported under this act to  
2 maximize its use in emergency response and to enhance its  
3 availability to the public.

4 (8) Delegate authority and assign responsibility to the  
5 Department of Environmental Resources and the Department of  
6 Health for providing technical advice and assistance  
7 consistent with established departmental responsibilities in  
8 the alleviation of public health and environmental hazards  
9 associated with hazardous material releases or threatened  
10 releases of hazardous materials, including, but not limited  
11 to, dispatching emergency response personnel to accident  
12 sites during emergency situations when requested by PEMA.  
13 This act shall not affect any existing authority these  
14 agencies have to respond to hazardous material releases.

15 (9) Prescribe duties and responsibilities for  
16 Commonwealth agencies, counties and local emergency planning  
17 committees to conduct comprehensive emergency management  
18 activities consistent with this act.

19 (10) Prescribe standards for hazardous material response  
20 team training or certification, the equipping of hazardous  
21 material response team units and other matters involving  
22 hazardous material response activities.

23 (11) Develop a public information, education and  
24 participation program for the public and facility owners  
25 covering the requirements of this act and the Worker and  
26 Community Right-to-Know Act and interpretation of the  
27 chemical information collected under this act and the risks  
28 those chemicals pose to the public health and environment.

29 (12) DEVELOP A MECHANISM OR GUIDELINES FOR THE USE OF  
30 LOCAL EMERGENCY PLANNING COMMITTEES TO ACT AS BOARDS OF

<—

1 ARBITRATION FOR RESOLVING COST RECOVERY DISPUTES CONCERNING  
2 THOSE COSTS DEFINED IN SECTION 210(C) THAT ARISE BETWEEN A  
3 PERSON WHO CAUSES A RELEASE OF A HAZARDOUS MATERIAL AND THE  
4 ORGANIZERS OF ANY CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS  
5 AND OR EMERGENCY SERVICE ORGANIZATIONS THAT RESPONDED TO THE  
6 HAZARDOUS MATERIAL RELEASE.

7 ~~(12)~~ (13) Do all other acts and things necessary for the <—  
8 exercise of the powers and duties of the council and for the  
9 implementation of this act and SARA, Title III.

10 (h) Council expenses.--The council shall develop a specific  
11 operating budget to implement the provisions of this act which  
12 shall be submitted SEPARATELY by PEMA with its regular budget <—  
13 each year, subject to the requirements of section 207.

14 ~~(i) Advisory committee.~~ <—

15 ~~(1) The council shall appoint a 19 member Hazardous~~  
16 ~~Material Emergency Planning and Response Advisory Committee.~~  
17 ~~Meetings of the committee shall be convened by PEMA for the~~  
18 ~~purpose of reviewing guidelines, standards or regulations~~  
19 ~~developed to implement this act. PEMA shall participate in~~  
20 ~~all meetings of the committee and provide administrative~~  
21 ~~support.~~

22 ~~(2) Four members shall be representatives of county~~  
23 ~~government selected from a list of eight names submitted by~~  
24 ~~the State Association of County Commissioners; three members,~~  
25 ~~including one each from a city of the first, second and third~~  
26 ~~class; one member from a local emergency planning committee;~~  
27 ~~five members representing facility owners or operators~~  
28 ~~affected by this act, including one small business~~  
29 ~~representative; two members from fire protection services;~~  
30 ~~three members of the general public, including~~

1 ~~representatives of environmental and public interest groups;~~  
2 ~~and the State Fire Commissioner, or his designee. The~~  
3 ~~Secretary of Environmental Resources, the Secretary of~~  
4 ~~Health, the Secretary of Transportation and the Commissioner~~  
5 ~~of the Pennsylvania State Police, or their designees, shall~~  
6 ~~be ex officio members.~~

7 ~~(3) The committee shall select a chairman from among its~~  
8 ~~members. A quorum shall consist of a majority of the~~  
9 ~~appointed members present.~~

10 ~~(4) Committee members shall serve without compensation,~~  
11 ~~but shall be reimbursed for all reasonable and necessary~~  
12 ~~expenses from the Hazardous Material Response Fund, in~~  
13 ~~accordance with the rules of the Executive Board.~~

14 ~~(5) Prior to the formalization of any guideline,~~  
15 ~~standard or proposed or final regulation to implement this~~  
16 ~~act, the council shall consult with the advisory committee~~  
17 ~~and give the committee a reasonable opportunity to review and~~  
18 ~~comment on the proposal. A written report, including the~~  
19 ~~comments of the committee on any guideline, standard or~~  
20 ~~proposed or final regulation, shall be provided to the~~  
21 ~~council prior to any final actions. The chairman of the~~  
22 ~~advisory committee shall be invited to participate in all~~  
23 ~~council meetings and discussions concerning implementation of~~  
24 ~~this act.~~

25 Section 202. Establishment of emergency planning districts.

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

28 Section 203. Establishment and functions of local emergency  
29 planning committees.

30 (a) Local emergency planning committees.--In order to carry

1 out the provisions of Federal and Commonwealth law, a minimum of  
2 one local emergency planning committee shall be established in  
3 each county. The local committee shall elect a chairman from  
4 among its members. The local committee shall be subject to the  
5 supervision of the council and shall cooperate with the county  
6 emergency management agency and SARA facilities to prepare the  
7 emergency response plans required by section 303 of SARA, Title  
8 III, for facilities where extremely hazardous chemicals are  
9 present.

10 (b) Membership.--A local committee shall be composed of the  
11 county emergency management coordinator, one county commissioner  
12 and at least one person selected from each of the following  
13 groups:

14 (1) Elected officials representing local governments  
15 within the county.

16 (2) Law enforcement, first aid, health, local  
17 environmental, hospital and transportation personnel.

18 (3) Firefighting personnel.

19 (4) Civil defense and emergency management personnel.

20 (5) Broadcast and print media.

21 (6) Community groups not affiliated with emergency  
22 service groups.

23 (7) Owners and operators of facilities subject to the  
24 requirements of SARA, Title III.

25 (c) Coordinator.--The county emergency management  
26 coordinator, as supervised by the county commissioners, shall  
27 have the lead responsibility for ensuring that the plans and  
28 activities of the local committee comply with SARA, Title III,  
29 this act, and other applicable statutes and laws.

30 (d) Appointment.--The members of a local committee shall be



1 appointed by the council from a list of nominees submitted by  
2 the governing body of the county. The list of nominees shall  
3 contain the names of at least one person from each of the groups  
4 enumerated in subsection (b). Upon the failure of the governing  
5 body of a county to submit a list of nominees to the council  
6 within a time fixed by the council, the council may appoint  
7 members at its pleasure.

8 (e) Vacancies.--Within 60 days of the occurrence of a  
9 vacancy, the council shall appoint in the manner provided in  
10 subsection (d) a successor member to a local committee for the  
11 remainder of the unexpired term of the member for which the  
12 vacancy exists. A vacancy shall occur upon the death,  
13 resignation, disqualification or removal of a member of a local  
14 committee.

15 (f) Meetings.--For the conduct of routine or emergency  
16 business, the local committee shall meet at the call of the  
17 chairperson. A majority of the members of the local committee,  
18 or such other number of members of the local committee as set by  
19 the local committee, shall constitute a quorum for the purpose  
20 of conducting the business of the local committee and for all  
21 other purposes. All actions of the local committee shall be  
22 taken by a majority of the local committee members present. The  
23 local committee shall be subject to the act of July 3, 1986  
24 (P.L.388, No.212), known as the Sunshine Act.

25 (g) Duties.--A local committee shall have the duty and  
26 authority to:

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

1           (2) Take appropriate actions to ensure the  
2           implementation and updating of the local emergency response  
3           plan required by this act.

4           (3) Report TO THE COUNCIL on alleged violations of this     <—  
5           act.

6           (4) Prepare reports, recommendations or other  
7           information related to the implementation of this act, as  
8           requested by the council.

9           (5) Meet, ~~if~~ WHEN appropriate, with any Commonwealth     <—  
10          agency or local or regional agency which is empowered to  
11          exercise the governmental functions of planning and zoning,  
12          to regulate land use and land use development, or to  
13          authorize the siting of a facility within the county to  
14          discuss and review with the Commonwealth agency and local  
15          agency all mitigation factors necessary to protect the  
16          health, safety and welfare of the general public from a  
17          potential release of hazardous materials from a proposed  
18          facility. Mitigation factors include, but are not limited to,  
19          environmental impacts, shelter and evacuation feasibility,  
20          emergency warning and communications, availability of  
21          response equipment and future population and economic growth  
22          in the area of the proposed facility.

23          (6) Accept and deposit into its county Hazardous  
24          Material Emergency Response Account any grants, gifts or  
25          other funds received ~~from a Federal, State or county agency~~     <—  
26          ~~or any person, as defined in section 103,~~ which are intended  
27          for the purpose of carrying out this act.

28          (7) ACT AS A BOARD OF ARBITRATION, IN ACCORDANCE WITH     <—  
29          GUIDELINES DEVELOPED BY THE COUNCIL, TO RESOLVE COST RECOVERY  
30          DISPUTES CONCERNING THOSE COSTS DEFINED IN SECTION 210(C)

1 THAT ARISE BETWEEN A PERSON WHO CAUSES A RELEASE OF A  
2 HAZARDOUS MATERIAL AND THE ORGANIZERS OF ANY CERTIFIED  
3 HAZARDOUS MATERIAL RESPONSE TEAMS AND OR EMERGENCY SERVICE  
4 ORGANIZATIONS THAT RESPONDED TO THE HAZARDOUS MATERIAL  
5 RELEASE, PROVIDED THAT THE RELEASE ORIGINATED WITHIN THE  
6 JURISDICTIONAL BOUNDARIES OF ITS EMERGENCY PLANNING DISTRICT.

7 (h) Expenses.--The administrative and operational expenses  
8 of a local committee may be paid through a combination of  
9 sources by the county from the fees collected by the county,  
10 from grants received from the council in accordance with the  
11 provisions of sections 207 and 208, respectively, or by  
12 accepting private donations.

13 (i) Agency and compensation for injury.--A member of a local  
14 committee shall be an agent of the council and shall be deemed a  
15 duly enrolled emergency management volunteer for the purposes of  
16 35 Pa.C.S. § 7706 (relating to compensation for accidental  
17 injury).

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

21 (k) Plan provisions.--Each emergency plan shall include, but  
22 not be limited to, each of the following:

23 (1) Identification of facilities subject to the  
24 requirements of section 303 of SARA, Title III, within the  
25 county, identification of routes likely to be used for the  
26 transportation of substances on the list of extremely  
27 hazardous substances and identification of additional  
28 facilities contributing or subjected to additional risk due  
29 to their proximity to facilities subject to the requirements  
30 of this section, such as hospitals or natural gas facilities.

1           (2) Methods and procedures to be followed by facility  
2 owners and operators and local emergency and medical  
3 personnel to respond to any release of such substances.

4           (3) Designation of a county emergency management  
5 coordinator and facility emergency coordinators, who shall  
6 make determinations necessary to implement the plan.

7           (4) Procedures providing reliable, effective and timely  
8 notification by the facility emergency coordinators and the  
9 county emergency management coordinator to persons designated  
10 in the emergency plan, and to the public, that a release has  
11 occurred, consistent with the notification requirements of  
12 section 304 of SARA, Title III.

13           (5) Methods for determining the occurrence of a release,  
14 and the area or population likely to be affected by such  
15 release.

16           (6) A description of emergency equipment and facilities  
17 in the county and at each facility in the county subject to  
18 the requirements of this section, and an identification of  
19 the persons responsible for such equipment and facilities.

20           (7) Evacuation plans, including provisions for a  
21 precautionary evacuation and alternative traffic routes.

22           (8) Training programs, including schedules for training  
23 of local emergency response and medical personnel.

24           (9) Methods and schedules for exercising the emergency  
25 plan.

26 Section 204. Hazardous material safety program.

27           (a) Program components.--In conjunction with the Departments  
28 of Environmental Resources, Health, Transportation, Agriculture,  
29 Labor and Industry and Commerce, Pennsylvania Public Utility  
30 Commission, Fish Commission, Pennsylvania Turnpike Commission

1 and the Pennsylvania State Police, or any other Commonwealth  
2 agencies as determined by the council, PEMA shall develop a  
3 hazardous material safety program for incorporation into the  
4 Pennsylvania Emergency Management Plan developed by PEMA under  
5 35 Pa.C.S. Pt. V (relating to emergency management services).  
6 The hazardous material safety program shall include an  
7 assessment of the potential dangers and risks that hazardous  
8 material releases occurring at facilities and from  
9 transportation-related accidents pose to the general public and  
10 the environment. The Pennsylvania State Fire Academy shall be  
11 utilized as a primary training facility pursuant to its duties  
12 under 35 Pa.C.S. § 7316(c) (relating to Pennsylvania State Fire  
13 Academy). The council may also utilize other institutions that  
14 have in place appropriate training resources, such as the Center  
15 for Hazardous Materials Research at the University of  
16 Pittsburgh's Applied Research Center, to fulfill its training  
17 responsibilities. The program shall also consider the impacts,  
18 consequences and necessary protective measures required to  
19 respond to and mitigate the effects of such releases and  
20 accidents. The program shall include, but not be limited to:

21       (1) Development of comprehensive emergency management  
22       guidance for hazardous materials for the Commonwealth and  
23       Commonwealth agencies which sets forth the specific duties,  
24       responsibilities, roles and missions of Commonwealth  
25       agencies.

26       (2) Development of comprehensive emergency management  
27       guidance consistent with the Emergency Management Services  
28       Code for hazardous materials that can be used by the local  
29       committees to meet the requirements of Federal and  
30       Commonwealth statutes and laws.

1           (3) Development of specific procedures for counties to  
2 complete the Hazardous Material Emergency Response  
3 Preparedness Assessment within 30 days of the effective date  
4 of this act.

5           (4) Development of a notification system whereby the  
6 owners and operators of a facility will report the occurrence  
7 of any hazardous substance or extremely hazardous substance  
8 release to the appropriate Commonwealth agencies, local  
9 agencies, and Commonwealth and local officials designated in  
10 the Commonwealth and local emergency plans. The reporting  
11 requirements for this notification system are set forth in  
12 section 206.

13           (5) Development of a notification system whereby the  
14 transporters of any hazardous substance or extremely  
15 hazardous substance will report the occurrence of any  
16 hazardous material release to the Commonwealth agencies,  
17 local agencies and Commonwealth and local officials  
18 designated in the Commonwealth and local plans. The reporting  
19 requirements for this notification system are set forth in  
20 section 206.

21           (6) Training and equipping local agency public safety  
22 and emergency response personnel.

23           (7) Establishing training standards and a certification  
24 program for the formation of Commonwealth agency, local  
25 agency or regional hazardous material response teams. All  
26 Commonwealth agency, SUPPORTING PAID AND VOLUNTEER EMERGENCY <—  
27 SERVICE ORGANIZATIONS, local agency or other agencies and  
28 committees that establish training standards for emergency  
29 service, law enforcement, firefighting or other personnel  
30 shall cooperate with the council in the implementation of

1 these training standards and certification program.

2 (8) Periodical exercise of hazardous material release  
3 scenarios at facilities and transportation sites that are  
4 designed to test the response capabilities of Commonwealth  
5 agency, local agency and regional public safety and emergency  
6 response personnel.

7 (9) ~~Finance the procurement~~ ASSISTANCE IN PROCURING of <—  
8 specialized hazardous material response supplies and  
9 equipment to be used by local and regional public safety and  
10 emergency response personnel.

11 (10) PEMA's staffing and operation of a 24-hour State  
12 emergency operations center to provide effective emergency  
13 response coordination for all types of natural and man-made  
14 disaster emergencies, including the ability to receive and  
15 monitor the emergency notification reports required under  
16 sections 205 and 206 from all facilities and transporters  
17 involved with hazardous material incidents.

18 (11) Provisions for financial assistance to counties as  
19 provided in sections 207 and 208 and for the payment of  
20 compensation benefits awarded to duly enrolled emergency  
21 management volunteers under 35 Pa. C.S. § 7706 (relating to  
22 compensation for accidental injury).

23 (b) County preparedness assessment.--

24 (1) Within one year of the completion of procedures  
25 called for in subsection (a)(3), counties shall develop and  
26 submit to the council a Hazardous Material Emergency Response  
27 Preparedness Assessment. The assessment shall be updated  
28 annually.

29 (2) The county shall assess the potential dangers and  
30 risks that hazardous material releases from facilities and

1 transportation accidents pose to public health and the  
2 environment, identify the county's needs AND RESOURCES for <—  
3 hazardous material response teams to deal with those dangers  
4 and risks and outline its plan for implementing county and  
5 local emergency planning functions under this act.

6 (3) The assessment shall include the following:

7 (i) Potential threats posed by facilities requiring  
8 emergency response plans under section 303 of SARA, Title  
9 III, and other concentrations of hazardous materials in  
10 the county or in areas immediately adjacent to the county  
11 that may pose a threat.

12 (ii) Potential threats posed by hazardous material  
13 transported by highway and railroad in the county.

14 (iii) Identification of existing capabilities to  
15 respond to hazardous material releases, including  
16 personnel, equipment, training, planning and  
17 identification of existing hazardous material response  
18 zones.

19 (iv) Selection of an option to comply with this act  
20 under section 209(e) and identification of the need for  
21 personnel, equipment, training and planning needed to  
22 respond to the potential threats, including the  
23 designation of proposed levels of preparedness for local  
24 or regional response teams and proposed local or regional  
25 response zones.

26 (v) Identification of other resources needed to  
27 implement the provisions of this act and to support the  
28 local emergency planning committee.

29 (vi) An audit of the Hazardous Material Emergency  
30 Response Account.



1           (4) The local emergency planning committee shall assist  
2 the county in the preparation of the Hazardous Material  
3 Emergency Response Preparedness Assessment.

4           (5) The council shall review and approve the assessment  
5 if it determines the assessment is complete and fulfills the  
6 county's obligations under this act to respond to releases of  
7 hazardous materials.

8           (6) If an assessment is not approved by the council, it  
9 shall be returned to the county with an explanation of its  
10 deficiencies. The county shall have 90 days to return the  
11 assessment to the council with either changes or further  
12 explanation or justification. The council shall then review  
13 the assessment.

14 Section 205. Emergency reporting requirements.

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

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

21           (2) The owner or operator of a facility in this  
22 Commonwealth covered under section 311 of SARA, Title III,  
23 shall comply with the reporting requirements under sections  
24 311 and 312 of SARA, Title III.

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

29           (4) The owner of a facility in this Commonwealth subject  
30 to the requirements of paragraphs (2) and (3) shall comply

1 with the procedures for providing information under section  
2 323 of SARA, Title III.

3 (5) The owner or operator of a facility in this  
4 Commonwealth covered under section 304 of SARA, Title III,  
5 shall comply with the notification requirements of section  
6 304 of SARA, Title III, and section 206 of this act.

7 (b) Document repository.--For the purposes of complying with  
8 the reporting requirements set forth in sections 311, 312 and  
9 313 of SARA, Title III, the owner or operator of any facility  
10 shall submit its material safety data sheets or chemical lists,  
11 emergency and hazardous chemical inventory forms and toxic  
12 chemical release forms to the Department of Labor and Industry,  
13 which is the council's repository for those documents at the  
14 State level.

15 (c) Rolling stock.--The owner or operator of a property that  
16 has one or more rolling stock, whether owned or leased, located  
17 within its property boundaries for any period of time in excess  
18 of 30 continuous days and containing an extremely hazardous  
19 substance in excess of the threshold planning quantity shall  
20 notify the council and the appropriate local committee of that  
21 fact and shall prepare an emergency response plan, which  
22 contains those provisions that either the council or the  
23 appropriate local committee directs, in order to deal with any  
24 potential release of an extremely hazardous substance from that  
25 rolling stock.

26 Section 206. Emergency notification requirements.

27 (a) Facility or transportation accident or incident.--Except  
28 as provided in subsection (e), the owner or operator of a  
29 facility that manufactures, produces, uses, imports, exports,  
30 stores, supplies or distributes any hazardous substance or

1 extremely hazardous substance, and the owner or operator of a  
2 vehicle that ships, transports or carries any hazardous  
3 substance or extremely hazardous substance to, within, through  
4 or across this Commonwealth shall immediately report the release  
5 of the substance which exceeds the reportable quantity and which  
6 extends beyond the property boundaries of the facility or which  
7 results from a transportation accident or incident to the  
8 appropriate Commonwealth and county emergency response office as  
9 follows:

10           (1) Two notifications shall be made by the owner or  
11 operator of a facility. The first call shall be to the 24-  
12 hour response telephone number of the county office  
13 designated and acting as the emergency response coordinator  
14 for the local committee, which may be known as the county  
15 emergency management office 24-hour response number. The  
16 second call shall be made to the PEMA 24-hour response  
17 number.

18           (2) Notification shall be made by the owner or operator  
19 of a vehicle by dialing 911 or, in the absence of a 911  
20 emergency telephone number, calling the operator in order to  
21 notify the county emergency management office 24-hour  
22 response number within whose jurisdiction the transportation  
23 accident or incident has occurred, and reporting that a  
24 hazardous substance or an extremely hazardous substance  
25 release has occurred. The county emergency management office  
26 shall report any notification made under this subsection to  
27 the PEMA 24-hour response number within one hour of its  
28 receipt.

29           (b) Contents.--The notification required by this section  
30 shall include each of the following to the extent known at the

1 time of the notice and so long as no delay in responding to the  
2 emergency results:

3 (1) The name and telephone number of the person making  
4 the notification.

5 (2) The name of the person employed by the owner or  
6 operator of the facility or vehicle who has the authority or  
7 responsibility to supervise, conduct or perform any cleanup  
8 activities required at the facility or transportation  
9 accident site or to contract for the performance of any  
10 cleanup activities at the facility or transportation accident  
11 site.

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

14 (4) An indication of whether the substance is an  
15 extremely hazardous substance or other hazardous material or  
16 appears on a Federal or Commonwealth list of hazardous  
17 materials as periodically amended.

18 (5) An estimate of the quantity of the substance that  
19 was released into the environment.

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

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

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

26 (9) Proper precautions to take as a result of the  
27 release, including evacuation, unless the information is  
28 readily available to the community emergency coordinator  
29 under an emergency plan, and any other relevant information  
30 which may be requested.

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

3 (11) Additional information required by Federal or  
4 Commonwealth law or regulation.

5 (c) PEMA notice.--The notification to PEMA shall be made to  
6 the PEMA 24-hour response number. This notification shall  
7 contain the information required by subsection (b). The notice  
8 to PEMA shall fulfill the requirements in SARA, Title III, to  
9 notify the council. ~~and any requirements in other State laws to~~ <—

10 ~~notify the Department of Environmental Resources or any other~~  
11 ~~State agency of the spill or release of hazardous chemicals~~  
12 ~~requiring notification under section 206. PEMA shall immediately~~  
13 ~~notify the Department of Environmental Resources or any other~~  
14 ~~appropriate State agency of the occurrence or accident. NOTICE~~ <—

15 UNDER THIS SECTION SHALL NOT FULFILL ANY REQUIREMENTS IN OTHER  
16 STATE LAWS TO NOTIFY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES  
17 OR ANY OTHER STATE AGENCY OF A SPILL OR RELEASE OF A HAZARDOUS  
18 CHEMICAL.

19 (d) Written report.--Within 14 calendar days after a release  
20 which required notice under this section, the owner or operator  
21 of a facility and the owner or operator of a vehicle shall  
22 provide a written follow-up emergency notice, or notices if more  
23 information becomes available, to PEMA and the county emergency  
24 management office setting forth and updating the information  
25 required under subsection (b), and including additional  
26 information with respect to:

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

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

30 (3) Advice regarding medical attention necessary for

1 exposed individuals, where appropriate.

2 (4) Actions to be taken to mitigate potential future  
3 incidents.

4 (e) Exception.--The provisions of this section shall not  
5 apply to a release of a hazardous substance or an extremely  
6 hazardous substance if the release of such substance is  
7 exempted, excluded or permitted by Federal or Commonwealth  
8 statute, law, rule or regulation.

9 (f) Council study.--The council shall conduct a study to  
10 determine the feasibility of establishing a single notification  
11 center in this Commonwealth to receive all hazardous material,  
12 hazardous substance, hazardous waste, as defined in the act of  
13 October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites  
14 Cleanup Act, or other toxic chemical release reports that are  
15 currently required to be reported to all Commonwealth agencies  
16 and departments by Federal and State law. THE COUNCIL SHALL <—  
17 CONSIDER ANY IMPACT THIS SINGLE NOTIFICATION CENTER MAY HAVE ON  
18 THE REGULATED COMMUNITY AND ANY ENFORCEMENT PROGRAMS WITHIN THE  
19 DEPARTMENT OF ENVIRONMENTAL RESOURCES.

20 Section 207. Establishment of funds.

21 (a) Hazardous Material Response Fund.--

22 (1) There is hereby created in the State Treasury a  
23 nonlapsing restricted account to be known as the Hazardous  
24 Material Response Fund. The fund shall consist of the fees  
25 collected under subsection (c), civil penalties, and fines  
26 and funds appropriated by the General Assembly. Moneys in the  
27 fund AND THE INTEREST IT ACCRUES shall be appropriated <—  
28 annually to PEMA to be disbursed by the council through PEMA  
29 and shall be used to carry out the purposes, goals and  
30 objectives of SARA, Title III, and the Commonwealth's

hazardous material safety program.

(2) The council, through PEMA, shall administer and allocate moneys in the fund, including all interest generated therein, in the following manner:

(i) Up to ~~5%~~ 10% shall be expended on training programs for hazardous material response teams. <—

(ii) Up to ~~5%~~ 10% shall be expended for public and facility owner education, information and participation programs. <—

(iii) No more than ~~5%~~ 10% shall be used for the general administrative and operational expenses of this act, excluding the expenses of the Hazardous Material Emergency Planning and Response Advisory Committee. <—

(iv) The remaining revenue in the fund shall be used 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 Material 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 material safety program. Expenditures from the account shall be authorized by the county consistent with the needs identified in the county Hazardous Material Emergency Response Preparedness Assessment approved by the council. THE HAZARDOUS MATERIAL EMERGENCY RESPONSE ACCOUNT SHALL ALSO BE UTILIZED BY THE LOCAL EMERGENCY PLANNING COMMITTEE TO RESOLVE COST RECOVERY DISPUTES THAT ARISE BETWEEN A PERSON WHO CAUSES <—

1 A RELEASE OF A HAZARDOUS MATERIAL AND A VOLUNTEER EMERGENCY  
2 SERVICES ORGANIZATION WHEN ACTING AS PART OF A CERTIFIED  
3 HAZARDOUS MATERIAL RESPONSE TEAM IN ACCORDANCE WITH THIS ACT.  
4 EACH VOLUNTEER SERVICES ORGANIZATION SHALL BE ELIGIBLE TO  
5 RECEIVE NO MORE THAN \$250 PER RESPONSE TO COVER EXPENSES  
6 RELATED TO A RESPONSE FROM THE HAZARDOUS MATERIAL EMERGENCY  
7 RESPONSE ACCOUNT, IF THE PERSON WHO CAUSES A RELEASE OF A  
8 HAZARDOUS MATERIAL IS FINANCIALLY UNABLE TO PAY COSTS AS  
9 DEFINED IN SECTION 210(B).

10 (2) By March 1 of each year, each owner or operator of a  
11 facility shall pay to the county treasurer where the facility  
12 is located a local hazardous chemical fee of from \$35 to \$75,  
13 as established by the county by ordinance, for each hazardous  
14 chemical within the meaning of 29 CFR 1910.1200(c) or its  
15 successor which is required by section 312 of SARA, Title  
16 III, to be listed on the hazardous chemical inventory form  
17 (Tier II) which the owner or operator of the facility submits  
18 to the local emergency planning committee. Counties may grant  
19 facility owners up to a 50% credit toward their chemical fee  
20 obligation if the facility owner voluntarily donates  
21 training, equipment or other in-kind services to support the  
22 county hazardous material safety program.

23 (3) Counties may establish a program to provide funding  
24 through the Hazardous Material Emergency Response Account for  
25 certified hazardous material response teams within the county  
26 consistent with the Hazardous Material Emergency Response  
27 Preparedness Assessment. This grant program shall not be  
28 bound by any dollar limits on assistance to local fire  
29 protection services imposed by other statutes.

30 (c) Hazardous chemical fee.--Each owner or operator of a



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

10 (D) TOXIC CHEMICAL REGISTRATION FEE.--EACH OWNER OR OPERATOR <—  
11 OF A FACILITY IN A COUNTY WHOSE HAZARDOUS MATERIAL EMERGENCY  
12 RESPONSE ACCOUNT RECEIVES MORE THAN \$80,000 PER YEAR FROM FEES  
13 UNDER SUBSECTION (B)(2) THAT SUBMITS A TOXIC CHEMICAL RELEASE  
14 FORM TO THE DEPARTMENT OF LABOR AND INDUSTRY ON OR BEFORE JULY  
15 1, 1990, AS REQUIRED BY SECTION 313 OF SARA, TITLE III, SHALL  
16 PAY A \$1,000 REGISTRATION FEE TO THE DEPARTMENT OF LABOR AND  
17 INDUSTRY. THE REGISTRATION FEES COLLECTED UNDER THIS SUBSECTION  
18 SHALL BE DEPOSITED BY THE DEPARTMENT OF LABOR AND INDUSTRY INTO  
19 THE HAZARDOUS MATERIAL RESPONSE FUND. THE DEPARTMENT OF LABOR  
20 AND INDUSTRY MAY RETAIN UP TO 10% OF THE FEES COLLECTED FOR  
21 ADMINISTRATION OF THE PROGRAM AND MANAGEMENT OF THE DATA  
22 COLLECTED.

23 (E) TOXIC CHEMICAL RELEASE FORM FEE.--EACH OWNER OR OPERATOR  
24 OF A FACILITY IN A COUNTY WHOSE HAZARDOUS MATERIAL EMERGENCY  
25 RESPONSE ACCOUNT RECEIVES MORE THAN \$80,000 PER YEAR FROM FEES  
26 UNDER SUBSECTION (B)(2) SHALL PAY A FEE OF \$250 ON OR BEFORE  
27 JULY 1, 1991, AND THE FIRST DAY OF JULY OF EVERY YEAR  
28 THEREAFTER, TO THE DEPARTMENT OF LABOR AND INDUSTRY FOR EACH  
29 TOXIC CHEMICAL WHICH IS REQUIRED BY SECTION 313 OF SARA, TITLE  
30 III, TO BE LISTED ON THE TOXIC CHEMICAL RELEASE FORM WHICH THE

1 OWNER OR OPERATOR OF THE FACILITY SUBMITS TO THE DEPARTMENT OF  
2 LABOR AND INDUSTRY. THE CUMULATIVE AMOUNT OF THIS FEE SHALL NOT  
3 EXCEED \$5,000 PER FACILITY. THE FEES COLLECTED UNDER THIS  
4 SUBSECTION SHALL BE DEPOSITED BY THE DEPARTMENT OF LABOR AND  
5 INDUSTRY INTO THE HAZARDOUS MATERIAL RESPONSE FUND. THE  
6 DEPARTMENT OF LABOR AND INDUSTRY MAY RETAIN UP TO 10% OF THE  
7 FEES COLLECTED FOR ADMINISTRATION OF THE PROGRAM AND MANAGEMENT  
8 OF THE DATA COLLECTED.

9 (F) EMERGENCY PLANNING FEE.--EACH OWNER OR OPERATOR OF A  
10 FACILITY IN A COUNTY WHOSE HAZARDOUS MATERIAL EMERGENCY RESPONSE  
11 ACCOUNT RECEIVES MORE THAN \$80,000 PER YEAR FROM FEES UNDER  
12 SUBSECTION (B)(2) THAT MANUFACTURES, PRODUCES, USES, STORES,  
13 SUPPLIES OR DISTRIBUTES ANY EXTREMELY HAZARDOUS SUBSTANCE IN  
14 QUANTITIES LARGER THAN THE THRESHOLD PLANNING QUANTITY SHALL PAY  
15 TO THE TREASURER OF THE COUNTY WHERE THE FACILITY IS LOCATED,  
16 FOR DEPOSIT INTO THE HAZARDOUS MATERIAL EMERGENCY RESPONSE  
17 ACCOUNT, AN ANNUAL FEE OF \$100 TO BE KNOWN AS AN EMERGENCY  
18 PLANNING FEE. THIS FEE SHALL BE PAYABLE ON OR BEFORE JULY 1,  
19 1990, AND THE FIRST DAY OF JULY OF EVERY YEAR THEREAFTER.

20 ~~(d)~~ (G) Exemptions.--The owners or operators of family farm <—  
21 enterprises, service stations and facilities owned by State and  
22 local governments shall be exempt from payment of the fees  
23 required under subsections (b) and (c).

24 ~~(e)~~ (H) Federal funds, grants or other gifts.--The council <—  
25 is authorized to accept and may deposit into the Hazardous  
26 Material Response Fund grants, gifts and Federal funds, for the  
27 purpose of carrying out the provisions of this act.

28 ~~(f)~~ (I) Changes in threshold quantities and chemicals.--For <—  
29 purposes of the fees established in this section, the term  
30 "hazardous chemical" shall mean chemicals on lists established

1 by the United States Environmental Protection Agency effective  
2 on July 1, 1989. ~~No fee may be applied to additional facilities~~ <—  
3 ~~or chemicals because of changes made by the United States~~  
4 ~~Environmental Protection Agency in lists of chemicals,~~  
5 ~~thresholds or other requirements under SARA, Title III, without~~  
6 ~~complying with the provisions of section 213.~~

7 ~~(g)~~ (J) Termination.--The fees established in this section <—  
8 or in section 213 shall terminate ten years after the effective  
9 date of this act unless reestablished by the General Assembly by  
10 statute.

11 ~~(h)~~ (K) Transportation fee study.--Within one year of the <—  
12 effective date of this act, the council shall report to the  
13 General Assembly on the feasibility of establishing a fee on the  
14 transporters of hazardous materials regulated under this act.  
15 The purpose of this fee would be to supplement the funds  
16 provided by fixed facility owners or operators to the Hazardous  
17 Material Response Fund.

18 ~~(i)~~ (L) Status of fund.--The Hazardous Material Response <—  
19 Fund shall not be subject to 42 Pa.C.S. Ch. 37 Subch. C  
20 (relating to judicial computer system).  
21 Section 208. Emergency management grants.

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

27 (b) Applications.--A county or group of counties may apply  
28 annually to the council for an emergency management grant.  
29 Applications shall be made in the manner specified by the  
30 council in regulations promulgated under section 201(g)

1 consistent with the county preparedness assessment.

2 (c) Eligible costs.--Eligible costs for emergency management  
3 grants are limited to the cost of:

4 (1) Developing a county Hazardous Material Emergency  
5 Response Preparedness Assessment required in section 204(b).

6 (2) Developing, updating and exercising emergency  
7 response plans required under section 303 of SARA, Title III.

8 (3) Performing public information functions as required  
9 by section 324 of SARA, Title III.

10 (4) Collecting, documenting and processing chemical  
11 inventory forms and other documents required by SARA, Title  
12 III.

13 (5) Developing an emergency planning and response  
14 capability for responding to hazardous material releases and  
15 meeting the requirements of the Commonwealth's hazardous  
16 material safety program, including training, equipment,  
17 material and other supplies needed to respond to a release.

18 (6) Supporting the operation and administration of local  
19 committees.

20 (d) Grant amount.--The amount of the annual grant from the  
21 Hazardous Material Response Fund shall not exceed the ~~amount~~ SUM <—  
22 of the funds of local revenues made available by the county for  
23 the purpose of complying with the requirements and provisions of  
24 SARA, Title III, and the Emergency Management Services Code with  
25 respect to hazardous material releases, retroactive to November  
26 1986. ~~Counties may also use funds in the Hazardous Material~~ <—  
27 ~~Emergency Response Account to match State funds for the annual~~  
28 ~~grant.~~ AND THE REVENUES COLLECTED UNDER SECTION 207(B)(2) AND <—  
29 (F); EXCEPT THAT ANY COUNTY EMERGENCY MANAGEMENT COORDINATOR  
30 WHOSE HAZARDOUS MATERIAL EMERGENCY RESPONSE ACCOUNT RECEIVES

1 LESS THAN \$10,000 ANNUALLY IN FEES ESTABLISHED IN THIS SECTION  
2 OR MEETS THE REQUIREMENTS OF SUBSECTION (E)(3) SHALL BE ELIGIBLE  
3 FOR ADDITIONAL GRANTS EQUAL TO COUNTY FUNDS SPECIFICALLY  
4 APPROPRIATED FOR COMPLIANCE WITH THIS ACT, NOT TO EXCEED \$5,000.

5 (e) Payment of grants.--The council shall review annually  
6 all applications received under this section and may make grants  
7 to the counties from the Hazardous Material Response Fund. The  
8 council shall prioritize the available funds among the eligible  
9 applicants based upon the following criteria:

10 (1) Completion of initial county Hazardous Material  
11 Emergency Response Preparedness Assessment.

12 (2) Compliance with the requirements of SARA, Title III,  
13 and the Commonwealth's hazardous material safety program and  
14 Emergency Management Services Code with respect to hazardous  
15 material releases.

16 (3) The number of facilities located within the county,  
17 or the existence of unique or special circumstances that pose  
18 a threat to the health and safety of the general public or  
19 the environment, or both. A COUNTY WITH LESS THAN 30 <—  
20 FACILITIES AND MORE THAN FIVE MILES OF INTERSTATE HIGHWAY  
21 WITHIN ITS JURISDICTIONAL BOUNDARIES MEETS BOTH CRITERIA  
22 LISTED IN THIS SUBSECTION AND WILL BE ENTITLED TO RECEIVE A  
23 FUNDING PRIORITY.

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

27 (5) No more than 10% of the grant funds shall be  
28 expended in any one county in any year unless more than one  
29 county applies for funds in a joint application.

30 (F) INITIAL GRANT.--IN ADDITION TO ANY OTHER GRANTS PROVIDED <—

1 FOR IN THIS SECTION, EACH COUNTY OF THE THIRD THROUGH EIGHTH  
2 CLASS SHALL, WITHIN 18 MONTHS OF THE EFFECTIVE DATE OF THIS ACT,  
3 RECEIVE AN INITIAL GRANT OF \$1,500 FOR THE PURPOSE OF COMPLYING  
4 WITH THE PROVISIONS OF THIS ACT. THE INITIAL GRANT SHALL BE MADE  
5 FROM THE HAZARDOUS MATERIAL RESPONSE FUND.

6 Section 209. Certified hazardous material response teams.

7 (a) General rule.--The council shall establish a program for  
8 certifying hazardous material response teams setting standards  
9 for training, equipment, safety, operations and administration  
10 of the teams. The certification program shall include, but not  
11 be limited to:

12 (1) Standards for certifying response teams with several  
13 preparedness levels patterned after levels established by the  
14 United States Occupational Health and Safety Administration  
15 at ~~20~~ 29 CFR Part 1910.120. <—

16 (2) Reviewing existing hazardous material training and  
17 certification programs to establish specific procedures for  
18 crediting that training and certification under the program  
19 established by this section.

20 (b) Hazardous material response zones.--The council may  
21 establish hazardous material response zones, consisting of  
22 portions of counties or multiple counties, that may be served by  
23 certified hazardous material response teams that are certified  
24 by the council where counties have not identified zones in their  
25 Hazardous Material Emergency Response Preparedness Assessment.

26 (c) Grants.--Each certified hazardous material response team  
27 may be eligible to receive, through an application submitted by  
28 a county, an emergency management grant from the Hazardous  
29 Material Response Fund. Counties are required to submit copies  
30 of all applications and requests they receive from certified

1 hazardous material response teams as part of their application.

2 (d) Compliance with guidelines and regulations.--Hazardous  
3 material response teams shall comply with any guidelines,  
4 regulations, directives or other documents developed by the  
5 council for incorporation into the Commonwealth's hazardous  
6 material safety program and shall be consistent with the county  
7 Hazardous Material Emergency Response Preparedness Assessment  
8 approved by the Council.

9 (e) Compliance with act.--Each county shall comply with the  
10 hazardous material safety program and 35 Pa.C.S. Pt. V (relating  
11 to emergency management services) by doing any of the following,  
12 consistent with the county Hazardous Material Emergency Response  
13 Preparedness Assessment:

14 (1) Individually organizing and operating a certified  
15 hazardous material response team.

16 (2) Contracting or having formal agreements with a  
17 certified hazardous material response team, including those  
18 formed by a regional hazardous material organization or  
19 private companies.

20 (3) Participating as a member of a regional hazardous  
21 material organization for the purpose of creating and  
22 organizing a certified hazardous material response team.

23 (f) Grants to counties.--A county may be eligible for a  
24 grant from the Hazardous Material Response Fund for a cost that  
25 would otherwise be eligible under section 208(c) but was  
26 actually incurred prior to the effective date of this act and  
27 after the effective date of SARA, Title III, provided that no  
28 such grant shall take priority over grants for eligible costs  
29 incurred after the effective date of this act.

30 (g) Regional hazardous material organizations.--Regional

1 hazardous material organizations formed solely by a county or  
2 counties may be funded fully or in part by proportional  
3 contributions from the political subdivisions included within  
4 the hazardous material response zone serviced by the regional  
5 hazardous material organization or as otherwise agreed to by  
6 contract between the regional hazardous material organization  
7 and those political subdivisions and approved in the county  
8 preparedness assessment.

9 (h) Insurance.--Each Commonwealth agency, local agency,  
10 regional hazardous material organization, volunteer service  
11 organization, hazardous material transporter, manufacturer,  
12 supplier or user, or other entity that organizes a certified  
13 hazardous material response team as identified on the team  
14 certification, shall be responsible for providing workers'  
15 compensation and ordinary public liability insurance for its  
16 certified hazardous material response team ~~or other agreement by~~ <—  
17 ~~the sponsor of the team that provides this coverage.~~ The  
18 Commonwealth, a county or municipality may self-insure to meet  
19 this obligation to the extent it is now authorized by State law.  
20 A certified hazardous material response team that meets the  
21 training standards or certification requirements established  
22 under the Commonwealth's hazardous material safety program shall  
23 receive a discount from the applicable insurance company as that  
24 insurance company's loss experience justifies based on  
25 guidelines developed by the Insurance Commissioner.

26 (i) Emergency response.--A certified hazardous material  
27 response team may, when authorized by the county emergency  
28 management coordinator, enter onto any private or public  
29 property on which a release of a hazardous material has occurred  
30 or the occurrence or the threat of a hazardous material release



1 is imminent. A certified hazardous material response team may  
2 enter any adjacent or surrounding property to which the  
3 hazardous material release has entered or threatens to enter. A  
4 certified hazardous material response team may enter any private  
5 or public property in order to respond to the release or  
6 threatened release of a hazardous material, to monitor and  
7 contain the hazardous material release, to perform cleanup,  
8 stabilization actions, and to perform any other emergency  
9 response activities deemed necessary by the certified hazardous  
10 material response team or by the representatives of PEMA, the  
11 county emergency management office as established under 35  
12 Pa.C.S. Pt. V (relating to emergency management services), or  
13 the local committee.

14 (J) STATE AGENCY.--NOTWITHSTANDING ANY FEDERAL LAW TO THE <—  
15 CONTRARY, THE DEPARTMENT OF ENVIRONMENTAL RESOURCES, CONSISTENT  
16 WITH THE STATE EMERGENCY OPERATIONS PLAN IS DESIGNATED AS THE  
17 STATE AGENCY ASSIGNED THE RESPONSIBILITY TO DIRECT CLEANUP  
18 EFFORTS AT A RELEASE SITE UPON THE OCCURRENCE OF A RELEASE.  
19 Section 210. Recovery of response costs.

20 (a) General rule.--A person who causes a release of a  
21 hazardous material shall be liable for the response costs  
22 incurred by a certified hazardous material response team OR A <—  
23 SUPPORTING PAID OR VOLUNTEER EMERGENCY SERVICE ORGANIZATION. The  
24 Commonwealth agency, local agency, regional hazardous material  
25 organization, volunteer emergency service organization, or  
26 hazardous material transporter, manufacturer, supplier or user  
27 that organized the certified hazardous material response team,  
28 as identified on the team certification, OR SUPPORTING PAID OR <—  
29 VOLUNTEER EMERGENCY SERVICE ORGANIZATIONS, that undertakes a  
30 response action may recover those response costs in an action in

1 equity brought before a court of competent jurisdiction. Should  
2 more than one certified hazardous material response team incur  
3 response costs for the same hazardous material release or  
4 incident, the organizing entities of those certified hazardous  
5 material response teams may file a joint action in equity and  
6 may designate one entity to represent the others in the law  
7 suit. IN LIEU OF FILING A LAW SUIT IN COURT, THE PERSON WHO  
8 CAUSED A RELEASE OF A HAZARDOUS MATERIAL AND THE ORGANIZERS OF  
9 ANY CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS AND OR EMERGENCY  
10 SERVICE ORGANIZATIONS THAT RESPONDED TO THE HAZARDOUS MATERIAL  
11 RELEASE MAY AGREE TO SUBMIT ANY COST RECOVERY DISPUTES,  
12 CONCERNING THOSE COSTS DEFINED IN SUBSECTION (C), FOR BINDING  
13 ARBITRATION TO THE LOCAL EMERGENCY PLANNING COMMITTEE OF THE  
14 EMERGENCY PLANNING DISTRICT WITHIN WHICH THE RELEASE OCCURRED. A  
15 LOCAL COMMITTEE SHALL HAVE THE RIGHT TO DECLINE TO ARBITRATE THE  
16 COST RECOVERY DISPUTE ON A CASE BY CASE BASIS AFTER IT HAS MADE  
17 A PRELIMINARY REVIEW OF THE ISSUES INVOLVED IN THE DISPUTE.  
18 SHOULD THE LOCAL COMMITTEE ACCEPT THE COST RECOVERY DISPUTE FOR  
19 ARBITRATION, AND NOTIFY THE PARTIES TO THE DISPUTE OF ITS  
20 DECISION, THE NOTIFIED PARTIES SHALL HAVE WAIVED THEIR RIGHT TO  
21 FILE A LAW SUIT TO RECOVERY THOSE COSTS IN THE APPROPRIATE COURT  
22 OF COMPETENT JURISDICTION.

23 (b) Amount.--In an action to recover response costs, a  
24 Commonwealth agency, local agency, regional hazardous material  
25 organization, or a hazardous material transporter, manufacturer,  
26 supplier or user may include operational, administrative  
27 personnel and legal costs incurred from its initial response  
28 action up to the time that it recovers its costs. The amount  
29 attributable to administrative and legal costs shall be 10% of  
30 the amount paid for the response action or the actual costs,

1 whichever is greater. Volunteer emergency service organizations  
2 may include only operational, administrative and legal costs  
3 incurred from its initial response action up to the time that it  
4 recovers its costs. ONLY THOSE CERTIFIED HAZARDOUS MATERIAL <—  
5 RESPONSE TEAMS OR SUPPORTING PAID OR VOLUNTEER EMERGENCY SERVICE  
6 ORGANIZATIONS THAT ARE PROPERLY TRAINED IN ACCORDANCE WITH THE  
7 STANDARDS DEVELOPED UNDER THIS ACT AND THAT ARE PROPERLY  
8 REQUESTED AND DISPATCHED BY A LEGALLY CONSTITUTED AUTHORITY  
9 SHALL BE ELIGIBLE TO RECOVER THEIR RESPONSE COSTS.

10 (c) Definitions.--When used in this section, the term  
11 "response cost" includes the following:

12 (1) Disposable materials and supplies acquired, consumed  
13 and expended specifically for the purpose of the response to  
14 the hazardous material release.

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

18 (3) Replacement costs for equipment that is contaminated  
19 beyond reuse or repair during the response, for example,  
20 self-contained breathing apparatus irretrievably contaminated  
21 during the response.

22 (4) Decontamination of equipment contaminated during the  
23 response.

24 (5) Compensation of PAID employees or members of the <—  
25 hazardous material response team OR SUPPORTING PAID OR <—  
26 VOLUNTEER EMERGENCY SERVICE ORGANIZATION, to include regular  
27 and overtime pay for permanent full-time and other than full-  
28 time employees or members.

29 (6) Special technical services specifically required for  
30 the response, for example, costs associated with the time and

1 efforts of technical experts or specialists.

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

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

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

8 (10) Costs associated with the removal and disposal of  
9 hazardous materials.

10 Section 211. Facility and vehicle inspection and testing.

11 (a) Inspection.--In order to determine compliance with this  
12 act and SARA, Title III, either the qualified council or local  
13 committee member or representative, as defined in subsection  
14 (e), may enter a facility or vehicle site, during normal  
15 business hours, to inspect the facility or vehicle and to  
16 request information or reports from the facility or vehicle  
17 owner or operator concerning the chemical name, identity, amount  
18 or any other information necessary for emergency planning and  
19 response purposes for any substance, liquid, mixture, compound,  
20 material or product manufactured, produced, used, stored,  
21 supplied, imported, exported or distributed at, to or from the  
22 facility or vehicle.

23 (b) Testing.--Should the qualified council or local  
24 committee member or representative determine during the course  
25 of a facility or vehicle inspection that the chemical name,  
26 identity, amount or any other requested information for any  
27 substance, liquid, mixture, compound, material or product  
28 present at the facility or vehicle cannot be identified or  
29 determined to his satisfaction, due to the lack of proper  
30 labeling, placarding, recordkeeping or for any other reason, the

1 representative shall have the authority to analyze or arrange  
2 for the analysis of the substance to identify the chemical  
3 properties of the sample or specimen, the amount of the  
4 substance, liquid, mixture, compound, material or product  
5 manufactured, produced, used, stored, supplied, imported,  
6 exported or distributed at, to or from the facility or vehicle  
7 to determine if it is regulated by this act. The owner or  
8 operator of a facility or vehicle shall pay any testing and  
9 laboratory analysis costs incurred by the council or a local  
10 committee as performed under this section. Samples of any  
11 substance required to be taken under this section by the  
12 qualified council or local representative shall be split with  
13 the facility for analysis.

14 (c) Emergency situations.--Should a release or threatened  
15 release of a known or unknown substance, liquid, mixture,  
16 compound, material or product occur or appear to be imminent at  
17 a facility or vehicle site, which endangers or has the potential  
18 to endanger the health, safety and welfare of the public,  
19 employees of the facility, or the vehicle's owner or operator,  
20 or the employees of the owner or operator of the vehicle, the  
21 council or the local committee may send qualified  
22 representatives to the facility or vehicle site at any time in  
23 order to inspect the facility or vehicle and to assess the  
24 danger posed by the release or threatened release and to obtain  
25 samples or specimens of the substance, liquid, mixture,  
26 compound, material or product involved in the release or  
27 threatened release and to perform any other emergency response  
28 activities deemed necessary by the representatives of the  
29 council or the local committee.

30 (d) Trade secrets.--A person shall provide the qualified

1 representative of the council or the local committee with the  
2 chemical name, identity or any other information requested  
3 concerning any substance, liquid, mixture, compound, material or  
4 product present at the facility or vehicle, whether or not the  
5 chemical name, identity or other information requested is  
6 entitled to protection as a trade secret under section 322 of  
7 SARA, Title III, unless the manufacturer of the substance will  
8 not provide the information requested to the facility owner  
9 because it has received trade secret protection under SARA,  
10 Title III. For that information which has received trade secret  
11 protection under section 322 of SARA, Title III, prior to the  
12 date of the inspection or request, the qualified representative  
13 shall give a written assurance to the person that reasonable  
14 measures will be taken to protect the confidentiality of any  
15 information provided to the qualified representative.

16 (e) Qualified person.--For purposes of this section, the  
17 council shall develop qualification standards for members of the  
18 council, local committees or their representatives who exercise  
19 the reporting, inspection and testing authority contained in  
20 this section. At a minimum, those qualifications shall include:

21 (1) Training in inspection and enforcement activities  
22 related to enforcing environmental or fire incident  
23 investigations.

24 (2) Training in the handling and recognition of  
25 hazardous materials.

26 (3) Conflict of interest standards and procedures  
27 designed to prevent a local committee member or  
28 representative from using the authority of this section to  
29 gather information on a business competitor or other trade  
30 secret information.

(4) Procedures for decertifying a member or representative who was determined to be a qualified representative of the council or local committee.

Section 212. Annual report.

(a) General rule.--The council shall submit an annual report to the General Assembly by October 1 of each year on the activities it has undertaken to implement this act. The report shall include, but not be limited to:

(1) An accounting of revenues and expenditures from the Hazardous Material Response Fund and the county Hazardous Material Emergency Response Accounts along with a description of the projects undertaken with these funds and a projection of future activities.

(2) The status of local emergency planning committee activities.

(3) The status of facilities required to comply with this act, including their number, location, number of employees and the number and amount of chemicals reported.

(4) The number and nature of emergency notifications handled by PEMA.

Section 213. Changes in SARA, Title III, program.

If changes made by the Environmental Protection Agency under SARA, Title III, result in the fees established in section 207 being applied to additional facilities because of changes in threshold quantities, ~~the addition of chemicals or other changes, no fees may be collected from these facilities until a revised fee structure is considered by the General Assembly under procedures set forth in the act of April 7, 1955 (P.L.23, No.8), known as the Reorganization Act of 1955.~~ THE OWNER OR OPERATOR SHALL PAY THE FEE BY JULY 1 FOLLOWING THE EFFECTIVE

<—

<—

1 DATE OF THE CHANGES MADE BY THE ENVIRONMENTAL PROTECTION AGENCY  
2 AND JULY 1 OF EVERY YEAR THEREAFTER.

3 CHAPTER 3

4 MISCELLANEOUS PROVISIONS

5 Section 301. Immunity from civil liability.

6 (a) General.--No Commonwealth agency, local agency, regional  
7 hazardous material organization, volunteer emergency service  
8 organization or hazardous material transporter, manufacturer,  
9 supplier or user that organized the certified hazardous material  
10 response team nor their elected officers, officials, directors  
11 and employees, and no certified hazardous material response team  
12 member, member of an industrial hazardous material response  
13 team, law enforcement officer, ambulance service or rescue squad  
14 member, firefighter or other emergency response or public works  
15 personnel engaged in any emergency service or response  
16 activities involving a hazardous material release at a facility  
17 or transportation accident site shall be liable for the death of  
18 or any injury to persons or loss or damage to property or the  
19 environment resulting from ~~that~~ A RESPONSE TO A hazardous <—  
20 material release, except for any acts or omissions which  
21 constitute willful misconduct. NOTHING IN THIS SECTION SHALL <—  
22 EXEMPT ANY HAZARDOUS MATERIAL TRANSPORTER, MANUFACTURER,  
23 SUPPLIES OR USER FROM LIABILITY FOR THE DEATH OF OR ANY INJURY  
24 TO PERSONS OR LOSS OR DAMAGE TO PROPERTY OR THE ENVIRONMENT  
25 RESULTING FROM THE RELEASE OF ANY HAZARDOUS MATERIAL.

26 (b) Council and local committees.--No member of the council  
27 or a local committee shall be liable for the death of or any  
28 injury to persons or loss or damage to property or the  
29 environment or any civil damages resulting from any act or  
30 omission arising out of the performance of the functions, duties



1 and responsibilities of the council or local committee, except  
2 for acts or omissions which constitute willful misconduct.

3 (c) Other.--No employee, representative or agent of a  
4 Commonwealth agency or local agency engaged in any emergency  
5 service or response activities involving a hazardous material  
6 release at a facility or transportation accident site shall be  
7 liable for the death of or any injury to persons or loss or  
8 damage to property resulting from that hazardous material  
9 release, except for any acts or omissions which constitute  
10 willful misconduct.

11 Section 302. Penalties and fines.

12 (a) Civil penalty.--A person who violates any of the  
13 emergency reporting, planning or notification requirements of,  
14 or fails to pay the fees outlined in sections 201 through 207,  
15 ~~not including any violations of section 313 of SARA, Title III,~~ <—  
16 or any regulations promulgated under those sections shall be  
17 subject to a civil penalty of not less than \$1,000 and not more  
18 than \$25,000. Each day of a continuing violation shall be  
19 considered a separate offense.

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

21 (1) Knowingly and willfully fails to report the release  
22 of a hazardous substance or extremely hazardous substance as  
23 required by sections 205 and 206 commits a misdemeanor of the  
24 third degree and shall, upon conviction, be sentenced to pay  
25 a fine of not less than \$1,000 and not more than ~~\$25,000~~ <—  
26 \$2,500 for each separate offense or imprisonment in the <—  
27 county jail for a period of not more than one year, or both.  
28 For the purposes of this paragraph, each day of continued  
29 violation constitutes a separate offense.

30 (2) Intentionally obstructs or impairs, by force,

1 violence, physical interference or obstacle, a representative  
2 of PEMA, a certified hazardous material response team or the  
3 local committee attempting to perform the duties and  
4 functions set forth in section 211, commits a misdemeanor of  
5 the second degree and shall, upon conviction, be sentenced to  
6 pay a fine of not less than \$1,000 and not more than \$5,000  
7 for each separate offense or imprisonment in the county jail  
8 for a period of not more than two years, or both.

9 (c) Disposition.--One half of all civil penalties and fines  
10 collected under this section shall be deposited into the  
11 Hazardous Material Response Fund and one-half shall be deposited  
12 into the appropriate county Hazardous Material Emergency  
13 Response Account.

14 Section 303. Enforcement.

15 (a) Civil actions.--The Office of Attorney General, or the  
16 Office of General Counsel may commence a civil action against  
17 any person for failure to comply with this act or its  
18 regulations. ~~60 days after notice of a violation.~~ NO ACTION MAY <—  
19 BE COMMENCED UNDER THIS SUBSECTION PRIOR TO 60 DAYS AFTER THE  
20 OFFICE OF ATTORNEY GENERAL OR OFFICE OF GENERAL COUNSEL HAS  
21 GIVEN WRITTEN NOTICE OF THE ALLEGED VIOLATION TO THE ALLEGED  
22 VIOLATOR. The council, a county or a municipality may commence a  
23 civil action against any person for failure to comply with this  
24 act or its regulations if the Office of Attorney General or the  
25 Office of General Counsel has not commenced such action and more  
26 than 120 days have elapsed since the ~~plaintiff~~ COUNCIL, A <—  
27 COUNTY, OR A MUNICIPALITY gave notice of the alleged violation  
28 to the alleged violator.

29 (b) Criminal actions.--The Office of Attorney General under  
30 the act of October 15, 1980 (P.L.950, No.164), known as the

1 Commonwealth Attorneys Act, or the district attorney for the  
2 county in which the violation is alleged to have occurred, may  
3 commence criminal proceedings for the enforcement of this act  
4 and its regulations ~~60 days after notice of a violation.~~ <—

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

9 Section 304. Relationship to other laws.

10 (a) Federal law.--This law shall be read in conjunction with  
11 Federal acts, laws or regulations providing for the  
12 identification, labeling or reporting of information concerning  
13 hazardous material releases, and any other health and safety  
14 matters related to hazardous materials, and is intended to  
15 supplement Federal acts, laws and regulations in the interests  
16 of protecting the health and safety of the citizens of this  
17 Commonwealth. In those instances where the provisions of this  
18 act are more comprehensive or stringent than the provisions of  
19 an applicable Federal act, law or regulation, the provisions of  
20 this act shall be controlling.

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

24 (c) Local law.--This act shall preempt any ordinances or  
25 resolutions passed or adopted by any political subdivision that  
26 is effective on or before OR AFTER the effective date of this <—  
27 act to the extent that such ordinance or resolution conflicts or  
28 is inconsistent with the provisions of this act.

29 Section 305. Facility insurance.

30 A facility that complies with the emergency reporting

1 requirements of section 205(a), (b) AND (c), ~~(e) and (g) of this~~ <—  
2 ~~act~~, as applicable to that facility, may receive a discount from  
3 that facility's insurance company as that insurance company loss  
4 experience justifies.

5 ~~Section 306. Appropriation.~~ <—

6 ~~The sum of \$1,000,000 \$650,000 is appropriated to the~~ <—  
7 ~~Hazardous Material Response Fund for fiscal year July 1, 1990,~~  
8 ~~to June 30, 1991, in order to carry out the hazardous material~~  
9 ~~safety program.~~

10 ~~Section 307~~ 306. Severability. <—

11 The provisions of this act are severable. If any provision of  
12 this act or its application to any person or circumstance is  
13 held invalid, the invalidity shall not affect other provisions  
14 or applications of this act which can be given effect without  
15 the invalid provision or application.

16 ~~Section 308~~ 307. Effective date. <—

17 This act shall take effect in 60 days.