

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1728 Session of
1999

INTRODUCED BY BROWNE, SEMMEL, ADOLPH, ARGALL, BARD, BELFANTI,
CORRIGAN, FREEMAN, GRUCELA, HENNESSEY, MANN, ROONEY,
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YUDICHAK, STEELMAN, RAYMOND AND SAMUELSON, JUNE 21, 1999

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED,
MAY 1, 2000

AN ACT

1 ~~Amending the act of December 7, 1990 (P.L.639, No.165), entitled <—~~
2 ~~"An act establishing a Statewide hazardous material safety~~
3 ~~program; creating the Hazardous Material Response Fund;~~
4 ~~providing for the creation of Hazardous Material Emergency~~
5 ~~Response Accounts in each county; further providing for the~~
6 ~~powers and duties of the Pennsylvania Emergency Management~~
7 ~~Agency, of the Pennsylvania Emergency Management Council and~~
8 ~~of the counties and local governments; imposing obligations~~
9 ~~on certain handlers of hazardous materials; and imposing~~
10 ~~penalties," further providing for purposes, for definitions,~~
11 ~~for program components, for reporting requirements, for~~
12 ~~penalties and for use of the Hazardous Material Response~~
13 ~~Fund; and establishing chemical industry advisory and~~
14 ~~mentoring councils.~~
15 AMENDING THE ACT OF DECEMBER 7, 1990 (P.L.639, NO.165), ENTITLED <—
16 "AN ACT ESTABLISHING A STATEWIDE HAZARDOUS MATERIAL SAFETY
17 PROGRAM; CREATING THE HAZARDOUS MATERIAL RESPONSE FUND;
18 PROVIDING FOR THE CREATION OF HAZARDOUS MATERIAL EMERGENCY
19 RESPONSE ACCOUNTS IN EACH COUNTY; FURTHER PROVIDING FOR THE
20 POWERS AND DUTIES OF THE PENNSYLVANIA EMERGENCY MANAGEMENT
21 AGENCY, OF THE PENNSYLVANIA EMERGENCY MANAGEMENT COUNCIL AND
22 OF THE COUNTIES AND LOCAL GOVERNMENTS; IMPOSING OBLIGATIONS
23 ON CERTAIN HANDLERS OF HAZARDOUS MATERIALS; AND IMPOSING
24 PENALTIES," FURTHER PROVIDING FOR ADDITIONAL POWERS AND
25 DUTIES FOR THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY, FOR
26 DEFINITIONS, FOR ESTABLISHMENT AND FUNCTIONS OF LOCAL
27 EMERGENCY PLANNING COMMITTEES, FOR HAZARDOUS MATERIAL SAFETY
28 PROGRAM, FOR EMERGENCY REPORTING AND NOTIFICATION
29 REQUIREMENTS, FOR ESTABLISHMENT OF FUNDS, FOR EMERGENCY
30 MANAGEMENT GRANTS, FOR FACILITY AND VEHICLE INSPECTION AND

1 TESTING, AND FOR ENFORCEMENT; AND MAKING EDITORIAL CHANGES.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 ~~Section 1. Section 103 of the act of December 7, 1990~~ <—
5 ~~(P.L.639, No.165), known as the Hazardous Material Emergency~~
6 ~~Planning and Response Act, is amended by adding a definition to~~
7 ~~read:~~

8 ~~Section 103. Definitions.~~

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

12 * * *

13 ~~"Hazardous substance exposure parameter." An area which~~
14 ~~poses danger to a community, as determined on a case by case~~
15 ~~basis by a local emergency planning committee, in relation to~~
16 ~~type and quantity of hazardous substances.~~

17 * * *

18 ~~Section 2. Section 204(a) of the act is amended by adding a~~
19 ~~paragraph to read:~~

20 ~~Section 204. Hazardous material safety program.~~

21 ~~(a) Program components. In conjunction with the Departments~~
22 ~~of Environmental Resources, Health, Transportation, Agriculture,~~
23 ~~Labor and Industry and Commerce, Pennsylvania Public Utility~~
24 ~~Commission, Fish Commission, Pennsylvania Turnpike Commission~~
25 ~~and the Pennsylvania State Police, or any other Commonwealth~~
26 ~~agencies as determined by the council, PEMA shall develop a~~
27 ~~hazardous material safety program for incorporation into the~~
28 ~~Pennsylvania Emergency Management Plan developed by PEMA under~~
29 ~~35 Pa.C.S. Pt. V (relating to emergency management services).~~

30 ~~The hazardous material safety program shall include an~~

~~assessment of the potential dangers and risks that hazardous material releases occurring at facilities and from transportation related accidents pose to the general public and the environment. The Pennsylvania State Fire Academy shall be utilized as a primary training facility pursuant to its duties under 35 Pa.C.S. § 7316(c) (relating to Pennsylvania State Fire Academy). The council may also utilize other institutions that have in place appropriate training resources, such as the Center for Hazardous Materials Research at the University of Pittsburgh's Applied Research Center, to fulfill its training responsibilities. The program shall also consider the impacts, consequences and necessary protective measures required to respond to and mitigate the effects of such releases and accidents. The program shall include, but not be limited to:~~

~~* * *~~

~~(12) Establishment of procedures for informing businesses and residences, which are within the hazardous substance exposure parameter, about the potential risks involved regarding the hazardous materials which are stored, manufactured, used or transferred close to their proximity.~~

~~Section 3. Sections 205 and 207(a) of the act are amended to read:~~

~~Section 205. Emergency reporting requirements.~~

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

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

~~(2) The owner or operator of a facility in this~~

1 ~~Commonwealth covered under section 311 of SARA, Title III,~~
2 ~~shall comply with the reporting requirements under sections~~
3 ~~311 and 312 of SARA, Title III.~~

4 ~~(3) The owner or operator of a facility in this~~
5 ~~Commonwealth subject to section 313 of SARA, Title III, shall~~
6 ~~comply with the toxic chemical release form requirements~~
7 ~~under section 313 of SARA, Title III.~~

8 ~~(4) The owner of a facility in this Commonwealth subject~~
9 ~~to the requirements of paragraphs (2) and (3) shall [comply~~
10 ~~with the procedures for providing information under section~~
11 ~~323 of SARA, Title III.] report the presence of hazardous~~
12 ~~materials to State and local authorities at the same time in~~
13 ~~which they inform employees working at the facility, as~~
14 ~~required by OSHA.~~

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

19 ~~(b) Document repository. For the purposes of complying with~~
20 ~~the reporting requirements set forth in sections 311, 312 and~~
21 ~~313 of SARA, Title III, the owner or operator of any facility~~
22 ~~shall submit its material safety data sheets or chemical lists,~~
23 ~~emergency and hazardous chemical inventory forms and toxic~~
24 ~~chemical release forms to the Department of Labor and Industry,~~
25 ~~which is the council's repository for those documents at the~~
26 ~~State level. The owner or operator shall also submit material~~
27 ~~safety data sheets (MSDS) to the local emergency planning~~
28 ~~committees, local fire departments and the governing local~~
29 ~~municipality, prior to obtaining permits or certificates of~~
30 ~~occupancy.~~

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

~~Section 207. Establishment of funds.~~

~~(a) Hazardous Material Response Fund.—~~

~~(1) There is hereby created in the State Treasury a nonlapsing restricted account to be known as the Hazardous Material Response Fund. The fund shall consist of the fees collected under subsections (c), (d) and (e), civil penalties and fines and funds appropriated by the General Assembly. Moneys in the fund and the interest it accrues shall be appropriated annually to PEMA to be disbursed by the council through PEMA and shall be used to carry out the purposes, goals and 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 10% shall be expended on training programs for hazardous material response teams.~~

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

programs.

~~(iii) No more than 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) Up to 10% shall be expended to facilitate the development of the chemical industry advisory and mentoring committee.~~

~~[(iv)](v) 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.~~

~~* * *~~

~~Section 4. Section 302 of this act is amended by adding a subsection to read:~~

~~Section 302. Penalties and fines.~~

~~* * *~~

~~(d) Voluntary disclosure waiver. Fines and penalties under this section may be waived at the discretion of PEMA, provided that the owner or operator of the facility voluntarily seeks compliance without prior enforcement contract by PEMA, and, the owner or operator of the facility agrees to come into compliance with all reporting, notification and fee requirements under this act. Failure to fulfill the requirements of this voluntary disclosure provision will result in the full reinstatement of all fines and penalties which were previously waived by PEMA.~~

~~Section 5. The act is amended by adding a section to read:
Section 303.1. Chemical industry advisory and mentoring councils.~~

~~(a) Establishment. There is hereby established a chemical industry advisory and mentoring council in each local emergency~~

~~planning district. Each council shall consist of 5 members
appointed by the Governor. The terms of the members shall be for
two years. The members shall serve without compensation but may
be reimbursed for their actual and necessary expenses.~~

~~(b) Purpose of council. The purpose of the council shall be
to establish a strong working relationship between business and
industry and the Commonwealth and its municipalities in order to
protect, to safeguard the citizens of this Commonwealth from the
health hazards resulting from the use, storage, distribution and
transportation of hazardous materials and to encourage Federal
action to improve hazardous substance emergency management and
response.~~

~~Section 6. This act shall take effect in 60 days.~~

SECTION 1. SECTIONS 102, 103, 201, 203, 204, 205, 206, 207, <—
208, 209, 210, 211, 212, 213 AND 303 OF THE ACT OF DECEMBER 7,
1990 (P.L.639, NO.165), KNOWN AS THE HAZARDOUS MATERIAL
EMERGENCY PLANNING AND RESPONSE ACT, ARE AMENDED TO READ:

SECTION 102. LEGISLATIVE FINDINGS AND PURPOSE.

(A) FINDINGS.--THE GENERAL ASSEMBLY HEREBY DETERMINES,
DECLARES AND FINDS THAT EXPOSURE TO HAZARDOUS MATERIALS HAS THE
POTENTIAL FOR CAUSING UNDESIRABLE HEALTH AND ENVIRONMENTAL
EFFECTS AND POSES A THREAT TO THE HEALTH, SAFETY AND WELFARE OF
THE CITIZENS OF THIS COMMONWEALTH, AND THAT THE CITIZENS OF THIS
COMMONWEALTH AND EMERGENCY SERVICE PERSONNEL WHO RESPOND TO
EMERGENCY SITUATIONS SHOULD BE PROTECTED FROM [THE] HEALTH
HAZARDS AND HARMFUL [EXPOSURE] EXPOSURES RESULTING FROM
HAZARDOUS MATERIAL RELEASES AT FACILITIES AND FROM
TRANSPORTATION-RELATED ACCIDENTS.

(B) PURPOSE.--IT IS THE PURPOSE OF THIS ACT TO:

(1) CREATE A STRONG WORKING RELATIONSHIP AND PARTNERSHIP

1 BETWEEN BUSINESS AND INDUSTRY AND THE COMMONWEALTH AND ITS
2 MUNICIPALITIES IN ORDER TO PROTECT AND SAFEGUARD THE CITIZENS
3 OF THIS COMMONWEALTH FROM THE HEALTH HAZARDS AND OTHER RISKS
4 OF HARM RESULTING FROM OR INCIDENT TO THE USE, STORAGE,
5 DISTRIBUTION AND TRANSPORTATION OF HAZARDOUS MATERIALS.

6 (2) DESIGNATE THE PENNSYLVANIA EMERGENCY MANAGEMENT
7 COUNCIL AS THE COMMONWEALTH'S EMERGENCY RESPONSE COMMISSION
8 AND ESTABLISH AN EMERGENCY PLANNING DISTRICT AND A LOCAL
9 EMERGENCY PLANNING COMMITTEE IN EACH COUNTY OF THIS
10 COMMONWEALTH TO ACT IN ACCORDANCE WITH THE PROVISIONS OF THE
11 EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986
12 (TITLE III OF PUBLIC LAW 99-499, 42 U.S.C. § 11001, ET SEQ.),
13 ALSO REFERRED TO IN THIS ACT AS SARA, TITLE III.

14 (3) ESTABLISH AND MAINTAIN A COMPREHENSIVE HAZARDOUS
15 MATERIAL SAFETY PROGRAM FOR THE COMMONWEALTH AND ITS
16 COUNTIES.

17 (4) CREATE THE HAZARDOUS MATERIAL RESPONSE FUND TO
18 PROVIDE FINANCIAL ASSISTANCE TO COMMONWEALTH AGENCIES AND
19 COUNTIES TO DEVELOP AN EFFECTIVE AND INTEGRATED RESPONSE
20 CAPABILITY TO THE HEALTH HAZARDS, DANGERS AND RISKS WHICH
21 HAZARDOUS MATERIAL RELEASES POSE TO THE GENERAL PUBLIC.

22 (5) ESTABLISH AN EMERGENCY NOTIFICATION SYSTEM WHEREBY
23 THE RELEASE OF HAZARDOUS MATERIALS OCCURRING AT A FACILITY OR
24 RESULTING FROM A TRANSPORTATION ACCIDENT WILL BE PROMPTLY
25 REPORTED TO THE [PROPER COMMONWEALTH] PENNSYLVANIA EMERGENCY
26 MANAGEMENT AGENCY AND COUNTY EMERGENCY [RESPONSE OFFICIALS]
27 MANAGEMENT AGENCY.

28 (6) ASSIGN RESPONSIBILITIES TO VARIOUS COMMONWEALTH
29 AGENCIES AND LOCAL AGENCIES TO ENSURE THE DEVELOPMENT AND
30 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] AND SUPPORTING PAID AND VOLUNTEER EMERGENCY SERVICE ORGANIZATIONS FOR EMERGENCY RESPONSE ACTIVITIES [NECESSITATED] CAUSED 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 A PRIVATE CONTRACTOR, FOR THE PRIMARY PURPOSE OF PROVIDING EMERGENCY RESPONSE SERVICES TO MITIGATE ACTUAL OR POTENTIAL IMMEDIATE THREATS TO PUBLIC HEALTH AND THE ENVIRONMENT IN RESPONSE TO THE RELEASE OR THREAT OF A RELEASE OF A HAZARDOUS MATERIAL, WHICH IS CERTIFIED, TRAINED AND EQUIPPED IN ACCORDANCE WITH THIS ACT [OR REGULATIONS PROMULGATED UNDER THIS ACT]. HAZARDOUS MATERIAL RESPONSE TEAMS MAY ALSO BE CERTIFIED TO PERFORM STABILIZATION ACTIONS NEEDED TO REMOVE THREATS TO PUBLIC HEALTH AND THE ENVIRONMENT FROM HAZARDOUS MATERIAL RELEASES.

1 "COMMONWEALTH AGENCY." AN EXECUTIVE AGENCY OR INDEPENDENT
2 AGENCY.

3 "COUNCIL." THE PENNSYLVANIA EMERGENCY MANAGEMENT COUNCIL.

4 "COUNTY." INCLUDES, BUT IS NOT LIMITED TO, A CITY OF THE
5 FIRST CLASS COTERMINOUS WITH A COUNTY OF THE FIRST CLASS.

6 "COUNTY COMMISSIONER." INCLUDES, BUT IS NOT LIMITED TO, THE
7 MAYOR OF A CITY OF THE FIRST CLASS COTERMINOUS WITH A COUNTY OF
8 THE FIRST CLASS, OR THE DESIGNEE OF SUCH MAYOR, AND THE
9 EQUIVALENT COUNTY OFFICIAL DESIGNATED UNDER A HOME RULE CHARTER
10 OR OPTIONAL PLAN ADOPTED UNDER THE ACT OF APRIL 13, 1972
11 (P.L.184, NO. 62), KNOWN AS THE HOME RULE CHARTER AND OPTIONAL
12 PLANS LAW.

13 "COUNTY EMERGENCY MANAGEMENT COORDINATOR." THE PERSON
14 DESIGNATED TO PERFORM EMERGENCY MANAGEMENT FUNCTIONS BY THE
15 COUNTY UNDER 35 PA.C.S. PART V (RELATING TO EMERGENCY MANAGEMENT
16 SERVICES).

17 "EMERGENCY MANAGEMENT." THE JUDICIOUS PLANNING, ASSIGNMENT
18 AND COORDINATION OF ALL AVAILABLE RESOURCES IN AN INTEGRATED
19 PROGRAM OF PREVENTION, MITIGATION, PREPAREDNESS, RESPONSE AND
20 RECOVERY FOR EMERGENCIES OF ANY KIND, WHETHER FROM ATTACK,
21 MANMADE OR NATURAL SOURCES.

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

26 "EXECUTIVE AGENCY." [THE GOVERNOR AND THE DEPARTMENTS,
27 BOARDS, COMMISSIONS, AUTHORITIES AND OTHER NONLEGISLATIVE
28 OFFICERS AND AGENCIES OF THE COMMONWEALTH, EXCEPT ANY COURT OR
29 OTHER OFFICER OR AGENCY OF THE UNIFIED JUDICIAL SYSTEM OR THE
30 GENERAL ASSEMBLY AND ITS OFFICERS AND AGENCIES OR ANY

INDEPENDENT AGENCY] A DEPARTMENT, BOARD, COMMISSION, AUTHORITY,
OFFICER OR AGENCY OF THE EXECUTIVE DEPARTMENT, SUBJECT TO THE
POLICY, SUPERVISION AND CONTROL OF THE GOVERNOR.

"EXTREMELY HAZARDOUS SUBSTANCE." A SUBSTANCE APPEARING ON
THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES PUBLISHED BY THE
ADMINISTRATOR OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY
UNDER THE AUTHORITY OF SECTION 302 OF THE FEDERAL EMERGENCY
PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986 (TITLE III,
PUBLIC LAW 99-499, 42 U.S.C. § 11002), AS SET FORTH AT 40 CFR
PART 355 ("APPENDIX A - THE LIST OF EXTREMELY HAZARDOUS
SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES"), OR
APPEARING ON ANY SUCCESSOR LIST OF EXTREMELY HAZARDOUS
SUBSTANCES PUBLISHED BY THE ADMINISTRATOR OF THE FEDERAL
ENVIRONMENTAL PROTECTION AGENCY UNDER THE AUTHORITY OF SECTION
302 OF SARA, TITLE III.

"FACILITY." ALL BUILDINGS, STRUCTURES AND OTHER STATIONARY
ITEMS WHICH ARE LOCATED ON A SINGLE SITE OR A CONTIGUOUS OR
ADJACENT SITE WHICH ARE OWNED OR OPERATED BY THE SAME PERSON AND
WHICH ACTUALLY MANUFACTURE, PRODUCE, USE, TRANSFER, STORE,
SUPPLY OR DISTRIBUTE ANY HAZARDOUS MATERIAL. THE TERM INCLUDES
RAILROAD YARDS AND TRUCK TERMINALS BUT DOES NOT INCLUDE
INDIVIDUAL TRUCKS, ROLLING STOCK, WATER VESSELS, AIRPLANES OR
OTHER TRANSPORTATION VEHICLES.

"FAMILY FARM ENTERPRISE." A NATURAL PERSON, FAMILY FARM
CORPORATION OR FAMILY FARM PARTNERSHIP ENGAGED IN FARMING WHICH
PROCESSES AND MARKETS ITS AGRICULTURAL COMMODITIES IN EITHER
INTRASTATE OR INTERSTATE COMMERCE.

"HAZARDOUS CHEMICAL." SUBSTANCES AS DEFINED WITHIN THE
MEANING OF 29 CFR 1910.1200(C), EXCEPT THAT THE TERM DOES NOT
INCLUDE THE FOLLOWING:

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

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

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

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

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

"HAZARDOUS MATERIAL." ANY OF THE FOLLOWING, AS DEFINED IN
THIS ACT:

(1) A HAZARDOUS SUBSTANCE.

(2) AN EXTREMELY HAZARDOUS SUBSTANCE.

(3) A HAZARDOUS CHEMICAL.

(4) A TOXIC CHEMICAL.

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

"HAZARDOUS SUBSTANCE." A SUBSTANCE APPEARING ON THE LIST OF
HAZARDOUS SUBSTANCES PREPARED UNDER SECTION 102 OF THE
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND

1 LIABILITY ACT OF 1980 (PUBLIC LAW 96-510, 94 STAT. 2767), AS SET
2 FORTH AT 40 CFR PART 302 ("TABLE 302.4 - LIST OF HAZARDOUS
3 SUBSTANCES AND REPORTABLE QUANTITIES"), OR APPEARING ON ANY
4 SUCCESSOR LIST OF HAZARDOUS SUBSTANCES PREPARED UNDER SECTION
5 102 OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION,
6 AND LIABILITY ACT OF 1980.

7 "INDEPENDENT AGENCY." [BOARDS, COMMISSIONS, AUTHORITIES AND
8 OTHER AGENCIES AND OFFICERS OF THE COMMONWEALTH WHICH ARE] A
9 BOARD, COMMISSION, AUTHORITY OR OFFICER OF THE EXECUTIVE
10 DEPARTMENT WHICH IS NOT SUBJECT TO THE POLICY, SUPERVISION AND
11 CONTROL OF THE GOVERNOR[, EXCEPT]. THE TERM DOES NOT INCLUDE ANY
12 COURT OR OTHER OFFICER OR AGENCY OF THE UNIFIED JUDICIAL SYSTEM
13 OR THE GENERAL ASSEMBLY AND ITS OFFICERS AND AGENCIES.

14 "LOCAL AGENCY." A MUNICIPALITY OR ANY OFFICER OR AGENCY
15 THEREOF.

16 "LOCAL EMERGENCY PLANNING COMMITTEE" OR "LOCAL COMMITTEE."
17 THE LOCAL COMMITTEE WITHIN EACH EMERGENCY PLANNING DISTRICT
18 RESPONSIBLE FOR PREPARING HAZARDOUS MATERIAL PLANS AND
19 PERFORMING OTHER FUNCTIONS UNDER THE EMERGENCY PLANNING AND
20 COMMUNITY RIGHT-TO-KNOW ACT OF 1986 (TITLE III, PUBLIC LAW 99-
21 499, 42 U.S.C. § 11001 ET SEQ.).

22 "PEMA." THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY.

23 "PERSON." AN INDIVIDUAL, CORPORATION, FIRM, ASSOCIATION,
24 PUBLIC UTILITY, TRUST, ESTATE, PUBLIC OR PRIVATE INSTITUTION,
25 GROUP, COMMONWEALTH OR LOCAL AGENCY, POLITICAL SUBDIVISION, AND
26 ANY LEGAL SUCCESSOR, REPRESENTATIVE OR AGENCY OF THE FOREGOING.

27 "REGIONAL HAZARDOUS MATERIAL ORGANIZATION." A NONPROFIT
28 CORPORATION, JOINT VENTURE OR AUTHORITY FORMED UNDER THE LAWS OF
29 THIS COMMONWEALTH WHICH EITHER CONTRACTS WITH OR IS ORGANIZED BY
30 ONE OR MORE COMMONWEALTH AGENCIES, LOCAL AGENCIES OR VOLUNTEER

1 SERVICE ORGANIZATIONS FOR THE PURPOSE OF CREATING, TRAINING,
2 EQUIPPING, MAINTAINING AND PROVIDING ONE OR MORE HAZARDOUS
3 MATERIAL RESPONSE TEAMS TO SERVE ANY SPECIFIC GEOGRAPHIC AREA AS
4 APPROVED BY THE PENNSYLVANIA EMERGENCY MANAGEMENT COUNCIL
5 WITHIN, BUT NOT LIMITED TO, THE COMMONWEALTH UNDER THIS ACT.

6 "RELEASE." ANY SPILLING, LEAKING, PUMPING, POURING,
7 EMITTING, EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING,
8 DUMPING OR DISPOSING INTO THE ENVIRONMENT OF A HAZARDOUS
9 MATERIAL, INCLUDING, BUT NOT LIMITED TO, THE ABANDONMENT OR
10 DISCARDING OF BARRELS, CONTAINERS AND OTHER RECEPTACLES
11 CONTAINING A HAZARDOUS MATERIAL.

12 "REPORTABLE QUANTITY." THE QUANTITY OF A HAZARDOUS MATERIAL
13 STATED ON THE VARIOUS LISTS OF HAZARDOUS SUBSTANCES AND
14 EXTREMELY HAZARDOUS SUBSTANCES AS DEFINED IN THIS SECTION, THE
15 RELEASE OF WHICH SHALL BE REPORTED UNDER THIS ACT.

16 "ROLLING STOCK." ANY RAILROAD TANK CAR, RAILROAD BOXCAR OR
17 OTHER RAILROAD FREIGHT CAR AS DEFINED IN 49 CFR 215, OR ITS
18 SUCCESSOR, THAT CONTAINS AN EXTREMELY HAZARDOUS SUBSTANCE IN
19 EXCESS OF THE THRESHOLD PLANNING QUANTITY ESTABLISHED FOR SUCH
20 SUBSTANCE AND IS USED AS A STORAGE SITE FOR SUCH SUBSTANCE.

21 "SARA, TITLE III." THE EMERGENCY PLANNING AND COMMUNITY
22 RIGHT-TO-KNOW ACT OF 1986 (TITLE III, PUBLIC LAW 99-499, 42
23 U.S.C. § 11001 ET SEQ.).

24 "SERVICE STATIONS." A MOTOR VEHICLE SERVICE STATION, FILLING
25 STATION, GARAGE OR SIMILAR OPERATION ENGAGED IN THE RETAIL SALE
26 OF MOTOR FUELS THAT ARE REGULATED BY THE ACT OF JULY 6, 1989
27 (P.L.169, NO.32), KNOWN AS THE STORAGE TANK AND SPILL PREVENTION
28 ACT, OR A FACILITY WHOSE PRIMARY FUNCTION IS AUTO BODY REPAIR.

29 "TOXIC CHEMICAL." A SUBSTANCE APPEARING ON THE LIST OF
30 CHEMICALS DESCRIBED IN SECTION 313 OF SARA (TITLE III, PUBLIC

1 LAW 99-499, 42 U.S.C. § 11023), AS SET FORTH AT 40 CFR PART 372,
2 OR APPEARING ON ANY SUCCESSOR LIST OF CHEMICALS SET FORTH IN THE
3 CODE OF FEDERAL REGULATIONS UNDER THE AUTHORITY OF SECTION 313
4 OF SARA, TITLE III.

5 "UNIFIED JUDICIAL SYSTEM." THE UNIFIED JUDICIAL SYSTEM
6 EXISTING UNDER SECTION 1 OF ARTICLE V OF THE CONSTITUTION OF
7 PENNSYLVANIA.

8 "VEHICLE." ANY TRUCK, RAILROAD CAR, WATER VESSEL, AIRPLANE
9 OR OTHER TRANSPORTATION VEHICLE THAT SHIPS, CARRIES OR
10 TRANSPORTS A HAZARDOUS MATERIAL ON ANY HIGHWAY, RAIL LINE OR
11 WATERWAY WITHIN THE JURISDICTIONAL BOUNDARIES OF THIS
12 COMMONWEALTH.

13 SECTION 201. DESIGNATION AND FUNCTIONS OF PENNSYLVANIA
14 EMERGENCY MANAGEMENT COUNCIL.

15 (A) COUNCIL.--THE PENNSYLVANIA EMERGENCY MANAGEMENT COUNCIL,
16 ESTABLISHED AND ORGANIZED UNDER THE ACT OF NOVEMBER 26, 1978
17 (P.L.1332, NO.323), KNOWN AS THE EMERGENCY MANAGEMENT SERVICES
18 CODE, IS DESIGNATED AND SHALL CONSTITUTE THE COMMONWEALTH'S
19 EMERGENCY RESPONSE COMMISSION TO CARRY OUT THE RESPONSIBILITIES
20 ASSIGNED TO THE COMMONWEALTH BY SARA, TITLE III, TO DEVELOP
21 OVERALL POLICY AND DIRECTION FOR A STATEWIDE HAZARDOUS MATERIAL
22 SAFETY PROGRAM AND TO SUPERVISE AND COORDINATE THE
23 RESPONSIBILITIES OF THE LOCAL EMERGENCY PLANNING COMMITTEES.

24 (B) MEMBERSHIP.--THE COUNCIL SHALL BE COMPOSED OF THE
25 CURRENT MEMBERS OF THE PENNSYLVANIA EMERGENCY MANAGEMENT COUNCIL
26 AS NOW PROVIDED BY LAW AND THE SECRETARY OF LABOR AND INDUSTRY.

27 (C) CHAIRPERSON.--THE GOVERNOR SHALL DESIGNATE A MEMBER OF
28 THE COUNCIL TO SERVE AS CHAIRPERSON OF THE COUNCIL. IN THE
29 ABSENCE OF THE CHAIRPERSON, THE DIRECTOR OF PEMA SHALL SERVE AS
30 CHAIRPERSON. THE CHAIRPERSON SHALL HAVE THE AUTHORITY TO ASSIGN,

1 DELEGATE OR TRANSFER TASKS, DUTIES AND RESPONSIBILITIES TO
2 MEMBERS OF THE COUNCIL. THE CHAIRPERSON SHALL APPROVE THE
3 APPOINTMENT OF MEMBERS TO THE COUNCIL WHO ARE DESIGNATED BY
4 THEIR RESPECTIVE DEPARTMENT OR OFFICE AND AUTHORIZED TO FULFILL
5 THE DUTIES AND RESPONSIBILITIES OF THE APPOINTED MEMBER OF THE
6 COUNCIL.

7 (D) COMPENSATION AND EXPENSES.--MEMBERS SHALL SERVE WITHOUT
8 COMPENSATION BUT SHALL BE REIMBURSED FOR NECESSARY AND
9 REASONABLE ACTUAL EXPENSES, SUCH AS TRAVEL EXPENSES, INCURRED IN
10 CONNECTION WITH ATTENDANCE AT COUNCIL MEETINGS.

11 (E) MEETINGS.--FOR THE CONDUCT OF ROUTINE OR EMERGENCY
12 BUSINESS, THE COUNCIL SHALL MEET AT THE CALL OF THE CHAIRPERSON.
13 FIVE MEMBERS OF THE COUNCIL SHALL CONSTITUTE A QUORUM FOR THE
14 PURPOSE OF CONDUCTING THE BUSINESS OF THE COUNCIL AND FOR ALL
15 OTHER PURPOSES. ALL ACTIONS OF THE COUNCIL SHALL BE TAKEN BY A
16 MAJORITY OF THE COUNCIL MEMBERS PRESENT. THE COUNCIL SHALL BE
17 SUBJECT TO THE ACT OF JULY 3, 1986 (P.L.388, NO.212), KNOWN AS
18 THE SUNSHINE ACT.

19 (F) STAFF.--THE COUNCIL SHALL SUPERVISE PEMA AS ITS PRIMARY
20 AGENT RESPONSIBLE FOR PERFORMING THE FUNCTIONS AND DUTIES OF THE
21 COUNCIL ESTABLISHED UNDER THIS ACT. FOR THIS PURPOSE, PEMA SHALL
22 EMPLOY SUCH PROFESSIONAL, TECHNICAL, ADMINISTRATIVE AND OTHER
23 STAFF PERSONNEL AS MAY BE DEEMED ESSENTIAL TO CARRY OUT THE
24 PURPOSES OF THIS ACT AND THE DEVELOPMENT AND MAINTENANCE OF A
25 COMPREHENSIVE COMMONWEALTH HAZARDOUS MATERIAL SAFETY PROGRAM AND
26 REPORT DIRECTLY TO THE COUNCIL.

27 (G) POWERS AND DUTIES.--THE COUNCIL SHALL HAVE THE DUTY AND
28 POWER TO:

29 (1) CARRY OUT ALL OF THE DUTIES AND RESPONSIBILITIES OF
30 A STATE EMERGENCY RESPONSE COMMISSION AS SPECIFIED IN SARA,

1 TITLE III.

2 (2) PROMULGATE AS PROVIDED BY LAW ANY RULES AND
3 REGULATIONS NECESSARY TO CARRY OUT AND IMPLEMENT THIS ACT AND
4 SARA, TITLE III.

5 (3) DEVELOP COMMONWEALTH AGENCY CONTINGENCY PLANS
6 RELATING TO THE IMPLEMENTATION OF THIS ACT AND SARA, TITLE
7 III.

8 (4) PROVIDE GUIDANCE AND DIRECTION TO COUNTIES FOR THE
9 IMPLEMENTATION OF THIS ACT AND SARA, TITLE III.

10 (5) SUPERVISE THE OPERATION OF LOCAL COMMITTEES AND
11 ENSURE THAT LOCAL COMMITTEES MEET ALL FEDERAL AND
12 COMMONWEALTH STANDARDS AND REQUIREMENTS AS PROVIDED BY LAW.

13 (6) DEVELOP A COMMONWEALTH COMPREHENSIVE HAZARDOUS
14 MATERIAL SAFETY PROGRAM.

15 (7) DELEGATE AUTHORITY AND ASSIGN PRIMARY RESPONSIBILITY
16 TO THE DEPARTMENT OF LABOR AND INDUSTRY FOR RECEIVING,
17 PROCESSING AND MANAGING HAZARDOUS CHEMICAL INFORMATION FORMS
18 AND DATA, TRADE SECRETS AND PUBLIC INFORMATION REQUESTS UNDER
19 THIS ACT AND IN COORDINATION WITH THE ACT OF OCTOBER 5, 1984
20 (P.L.734, NO.159), KNOWN AS THE WORKER AND COMMUNITY RIGHT-
21 TO-KNOW ACT. EMPHASIS SHOULD BE GIVEN TO ELECTRONICALLY
22 PROCESSING THE INFORMATION REPORTED UNDER THIS ACT TO
23 MAXIMIZE ITS USE IN EMERGENCY RESPONSE AND TO ENHANCE ITS
24 AVAILABILITY TO THE PUBLIC.

25 (8) DELEGATE AUTHORITY AND ASSIGN RESPONSIBILITY TO THE
26 DEPARTMENT OF ENVIRONMENTAL [RESOURCES] PROTECTION AND THE
27 DEPARTMENT OF HEALTH FOR PROVIDING TECHNICAL ADVICE AND
28 ASSISTANCE CONSISTENT WITH ESTABLISHED DEPARTMENTAL
29 RESPONSIBILITIES IN THE ALLEVIATION OF PUBLIC HEALTH AND
30 ENVIRONMENTAL HAZARDS ASSOCIATED WITH HAZARDOUS MATERIAL

1 RELEASES OR THREATENED RELEASES OF HAZARDOUS MATERIALS,
2 INCLUDING, BUT NOT LIMITED TO, DISPATCHING EMERGENCY RESPONSE
3 PERSONNEL TO ACCIDENT SITES DURING EMERGENCY SITUATIONS WHEN
4 REQUESTED BY PEMA. THIS ACT SHALL NOT AFFECT ANY EXISTING
5 AUTHORITY THESE AGENCIES HAVE TO RESPOND TO HAZARDOUS
6 MATERIAL RELEASES.

7 (9) PRESCRIBE DUTIES AND RESPONSIBILITIES FOR
8 COMMONWEALTH AGENCIES, COUNTIES AND LOCAL EMERGENCY PLANNING
9 COMMITTEES TO CONDUCT COMPREHENSIVE EMERGENCY MANAGEMENT
10 ACTIVITIES CONSISTENT WITH THIS ACT.

11 (10) PRESCRIBE STANDARDS FOR HAZARDOUS MATERIAL RESPONSE
12 TEAM TRAINING OR CERTIFICATION, THE EQUIPPING OF HAZARDOUS
13 MATERIAL RESPONSE TEAM UNITS AND OTHER MATTERS INVOLVING
14 HAZARDOUS MATERIAL RESPONSE ACTIVITIES.

15 (11) DEVELOP A PUBLIC INFORMATION, EDUCATION AND
16 PARTICIPATION PROGRAM FOR THE PUBLIC AND FACILITY OWNERS
17 COVERING THE REQUIREMENTS OF THIS ACT AND THE WORKER AND
18 COMMUNITY RIGHT-TO-KNOW ACT AND INTERPRETATION OF THE
19 CHEMICAL INFORMATION COLLECTED UNDER THIS ACT AND THE RISKS
20 THOSE CHEMICALS POSE TO THE PUBLIC HEALTH AND ENVIRONMENT.

21 (12) DEVELOP A MECHANISM OR GUIDELINES FOR THE USE OF
22 LOCAL EMERGENCY PLANNING COMMITTEES TO ACT AS BOARDS OF
23 ARBITRATION FOR RESOLVING COST RECOVERY DISPUTES CONCERNING
24 THOSE COSTS DEFINED IN SECTION 210(C) THAT ARISE BETWEEN A
25 PERSON WHO CAUSES A RELEASE OF A HAZARDOUS MATERIAL AND THE
26 ORGANIZERS OF ANY CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS
27 [AND/OR] OR EMERGENCY SERVICE ORGANIZATIONS THAT RESPONDED TO
28 THE HAZARDOUS MATERIAL RELEASE.

29 (13) DO ALL OTHER ACTS AND THINGS NECESSARY FOR THE
30 EXERCISE OF THE POWERS AND DUTIES OF THE COUNCIL AND FOR THE

1 IMPLEMENTATION OF THIS ACT AND SARA, TITLE III.

2 (H) COUNCIL EXPENSES.--THE COUNCIL SHALL DEVELOP A SPECIFIC
3 OPERATING BUDGET TO IMPLEMENT THE PROVISIONS OF THIS ACT WHICH
4 SHALL BE SUBMITTED SEPARATELY BY PEMA WITH ITS REGULAR BUDGET
5 EACH YEAR, SUBJECT TO THE REQUIREMENTS OF SECTION 207.

6 [(I) ADVISORY COMMITTEE.--THE COUNCIL SHALL APPOINT A
7 HAZARDOUS MATERIAL EMERGENCY PLANNING AND RESPONSE ADVISORY
8 COMMITTEE FROM THE MEMBERS OF THE COUNCIL AND OTHER PERSONS
9 REPRESENTATIVE OF THOSE GROUPS AFFECTED BY THIS ACT AS THE
10 COUNCIL CHAIRMAN MAY DETERMINE. MEETINGS OF THE COMMITTEE SHALL
11 BE CONVENED BY PEMA FOR THE PURPOSE OF REVIEWING GUIDELINES,
12 STANDARDS OR REGULATIONS DEVELOPED TO IMPLEMENT THIS ACT. PEMA
13 SHALL PARTICIPATE IN ALL MEETINGS OF THE ADVISORY COMMITTEE AND
14 PROVIDE ADMINISTRATIVE SUPPORT. FOR THE PURPOSE OF CONVENING
15 MEETINGS, A MAJORITY OF THE ADVISORY COMMITTEE MEMBERS SHALL
16 CONSTITUTE A QUORUM.]

17 SECTION 203. ESTABLISHMENT AND FUNCTIONS OF LOCAL EMERGENCY
18 PLANNING COMMITTEES.

19 (A) LOCAL EMERGENCY PLANNING COMMITTEES.--IN ORDER TO CARRY
20 OUT THE PROVISIONS OF FEDERAL AND COMMONWEALTH LAW, A MINIMUM OF
21 ONE LOCAL EMERGENCY PLANNING COMMITTEE SHALL BE ESTABLISHED IN
22 EACH COUNTY. THE LOCAL COMMITTEE SHALL ELECT A CHAIRMAN FROM
23 AMONG ITS MEMBERS. THE LOCAL COMMITTEE SHALL BE SUBJECT TO THE
24 SUPERVISION OF THE COUNCIL AND SHALL COOPERATE WITH THE COUNTY
25 EMERGENCY MANAGEMENT AGENCY AND SARA FACILITIES TO PREPARE THE
26 EMERGENCY RESPONSE PLANS REQUIRED BY SECTION 303 OF SARA, TITLE
27 III, FOR FACILITIES WHERE EXTREMELY HAZARDOUS CHEMICALS ARE
28 PRESENT.

29 (B) MEMBERSHIP.--A LOCAL COMMITTEE SHALL BE COMPOSED OF THE
30 COUNTY EMERGENCY MANAGEMENT COORDINATOR, ONE COUNTY COMMISSIONER

1 AND AT LEAST ONE PERSON SELECTED FROM EACH OF THE FOLLOWING
2 GROUPS:

3 (1) ELECTED OFFICIALS REPRESENTING LOCAL GOVERNMENTS
4 WITHIN THE COUNTY.

5 (2) LAW ENFORCEMENT, FIRST AID, HEALTH, LOCAL
6 ENVIRONMENTAL, HOSPITAL AND TRANSPORTATION PERSONNEL.

7 (3) FIREFIGHTING PERSONNEL.

8 (4) CIVIL DEFENSE AND EMERGENCY MANAGEMENT PERSONNEL.

9 (5) BROADCAST AND PRINT MEDIA.

10 (6) COMMUNITY GROUPS NOT AFFILIATED WITH EMERGENCY
11 SERVICE GROUPS.

12 (7) OWNERS AND OPERATORS OF FACILITIES SUBJECT TO THE
13 REQUIREMENTS OF SARA, TITLE III.

14 (C) COORDINATOR.--THE COUNTY EMERGENCY MANAGEMENT
15 COORDINATOR, AS SUPERVISED BY THE COUNTY COMMISSIONERS, SHALL
16 HAVE THE LEAD RESPONSIBILITY FOR ENSURING THAT THE PLANS AND
17 ACTIVITIES OF THE LOCAL COMMITTEE COMPLY WITH SARA, TITLE III,
18 THIS ACT, AND OTHER APPLICABLE STATUTES AND LAWS.

19 (D) APPOINTMENT.--THE MEMBERS OF A LOCAL COMMITTEE SHALL BE
20 APPOINTED BY THE COUNCIL FROM A LIST OF NOMINEES SUBMITTED BY
21 THE GOVERNING BODY OF THE COUNTY. THE LIST OF NOMINEES SHALL
22 CONTAIN THE NAMES OF AT LEAST ONE PERSON FROM EACH OF THE GROUPS
23 ENUMERATED IN SUBSECTION (B). UPON THE FAILURE OF THE GOVERNING
24 BODY OF A COUNTY TO SUBMIT A LIST OF NOMINEES TO THE COUNCIL
25 WITHIN A TIME FIXED BY THE COUNCIL, THE COUNCIL MAY APPOINT
26 MEMBERS AT ITS PLEASURE.

27 (E) VACANCIES.--[WITHIN 60 DAYS OF] AS SOON AS PRACTICABLE
28 AFTER THE OCCURRENCE OF A VACANCY, THE COUNCIL SHALL APPOINT, IN
29 THE MANNER PROVIDED IN SUBSECTION (D), A SUCCESSOR MEMBER TO A
30 LOCAL COMMITTEE FOR THE REMAINDER OF THE UNEXPIRED TERM OF THE

1 MEMBER FOR WHICH THE VACANCY EXISTS. A VACANCY SHALL OCCUR UPON
2 THE DEATH, RESIGNATION, DISQUALIFICATION OR REMOVAL OF A MEMBER
3 OF A LOCAL COMMITTEE.

4 (F) MEETINGS.--FOR THE CONDUCT OF ROUTINE OR EMERGENCY
5 BUSINESS, THE LOCAL COMMITTEE SHALL MEET AT THE CALL OF THE
6 CHAIRPERSON. A MAJORITY OF THE MEMBERS OF THE LOCAL COMMITTEE,
7 OR SUCH OTHER NUMBER OF MEMBERS OF THE LOCAL COMMITTEE AS SET BY
8 THE LOCAL COMMITTEE, SHALL CONSTITUTE A QUORUM FOR THE PURPOSE
9 OF CONDUCTING THE BUSINESS OF THE LOCAL COMMITTEE AND FOR ALL
10 OTHER PURPOSES. ALL ACTIONS OF THE LOCAL COMMITTEE SHALL BE
11 TAKEN BY A MAJORITY OF THE LOCAL COMMITTEE MEMBERS PRESENT. THE
12 LOCAL COMMITTEE SHALL BE SUBJECT TO THE ACT OF JULY 3, 1986
13 (P.L.388, NO.84), KNOWN AS THE SUNSHINE ACT.

14 (G) DUTIES.--A LOCAL COMMITTEE SHALL HAVE THE DUTY AND
15 AUTHORITY TO:

16 (1) MAKE, AMEND AND REPEAL BYLAWS AND OTHER PROCEDURES
17 IN ORDER TO CARRY OUT THE DUTIES, REQUIREMENTS AND
18 RESPONSIBILITIES OF A LOCAL COMMITTEE AS SET FORTH IN SARA,
19 TITLE III, AND AS REQUIRED BY THE COUNCIL.

20 (2) TAKE APPROPRIATE ACTIONS TO ENSURE THE
21 IMPLEMENTATION AND UPDATING OF THE LOCAL EMERGENCY RESPONSE
22 [PLAN] PLANS REQUIRED BY THIS ACT.

23 (3) REPORT TO THE COUNCIL ON ALLEGED VIOLATIONS OF THIS
24 ACT.

25 (4) PREPARE REPORTS, RECOMMENDATIONS OR OTHER
26 INFORMATION RELATED TO THE IMPLEMENTATION OF THIS ACT, AS
27 REQUESTED BY THE COUNCIL.

28 (5) MEET, WHEN APPROPRIATE, WITH ANY COMMONWEALTH AGENCY
29 OR LOCAL OR REGIONAL AGENCY WHICH IS EMPOWERED TO EXERCISE
30 THE GOVERNMENTAL FUNCTIONS OF PLANNING AND ZONING, TO

1 REGULATE LAND USE AND LAND USE DEVELOPMENT, OR TO AUTHORIZE
2 THE SITING OF A FACILITY WITHIN THE COUNTY TO DISCUSS AND
3 REVIEW WITH THE COMMONWEALTH AGENCY AND LOCAL AGENCY ALL
4 MITIGATION FACTORS NECESSARY TO PROTECT THE HEALTH, SAFETY
5 AND WELFARE OF THE GENERAL PUBLIC FROM A POTENTIAL RELEASE OF
6 HAZARDOUS MATERIALS FROM A PROPOSED FACILITY. MITIGATION
7 FACTORS INCLUDE, BUT ARE NOT LIMITED TO, ENVIRONMENTAL
8 IMPACTS, SHELTER AND EVACUATION FEASIBILITY, EMERGENCY
9 WARNING AND COMMUNICATIONS, AVAILABILITY OF RESPONSE
10 EQUIPMENT AND FUTURE POPULATION AND ECONOMIC GROWTH IN THE
11 AREA OF THE PROPOSED FACILITY.

12 (6) ACCEPT AND DEPOSIT INTO ITS COUNTY HAZARDOUS
13 MATERIAL EMERGENCY RESPONSE ACCOUNT ANY GRANTS, GIFTS OR
14 OTHER FUNDS RECEIVED WHICH ARE INTENDED FOR THE PURPOSE OF
15 CARRYING OUT THIS ACT.

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

22 (I) AGENCY AND COMPENSATION FOR INJURY.--A MEMBER OF A LOCAL
23 COMMITTEE SHALL BE AN AGENT OF THE COUNCIL AND SHALL BE DEEMED A
24 DULY ENROLLED EMERGENCY MANAGEMENT VOLUNTEER FOR THE PURPOSES OF
25 35 PA.C.S. § 7706 (RELATING TO COMPENSATION FOR ACCIDENTAL
26 INJURY).

27 (J) ADVISORY CAPACITY.--THE LOCAL COMMITTEE MAY PERFORM
28 OTHER EMERGENCY MANAGEMENT ADVISORY DUTIES AS REQUESTED BY
29 COUNTY ELECTED OFFICIALS.

30 (K) PLAN PROVISIONS.--EACH EMERGENCY PLAN SHALL INCLUDE, BUT

1 NOT BE LIMITED TO, EACH OF THE FOLLOWING:

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

1 COMMUNITY EQUIPMENT LISTS MAY BE MAINTAINED IN THE
2 COUNTY/MUNICIPAL EMERGENCY OPERATIONS CENTERS.

3 (7) EVACUATION PLANS, INCLUDING PROVISIONS FOR A
4 PRECAUTIONARY EVACUATION AND ALTERNATIVE TRAFFIC ROUTES.

5 (8) [TRAINING] REFER TO THE LOCATION OF TRAINING
6 PROGRAMS, INCLUDING SCHEDULES FOR TRAINING OF LOCAL EMERGENCY
7 RESPONSE AND MEDICAL PERSONNEL.

8 (9) [METHODS AND] REFER TO THE LOCATION OF SCHEDULES FOR
9 EXERCISING THE EMERGENCY PLAN.

10 (10) THE LATITUDE AND LONGITUDE OF THE FACILITY.

11 (11) THE VULNERABILITY RADIUS FOR EACH EXTREMELY
12 HAZARDOUS SUBSTANCE THAT MEETS THRESHOLD PLANNING QUANTITY
13 REQUIREMENTS.

14 (12) ALL APPROPRIATE RESPONSE ORGANIZATIONS THAT WOULD
15 LIKELY BE CALLED TO THE FACILITY IN THE EVENT OF AN
16 EMERGENCY.

17 (13) THE LOCATION, QUANTITY AND TYPE OF ANY EXTREMELY
18 HAZARDOUS SUBSTANCE THAT MEETS THE THRESHOLD PLANNING
19 QUANTITY AT THE FACILITY.

20 (14) A STANDARD LIST OF INFORMATION TO BE COLLECTED FOR
21 EACH EMERGENCY IN THE INITIAL NOTIFICATION SYSTEM.

22 (15) A STATEMENT THE LOCAL EMERGENCY PLANNING COMMITTEE
23 WILL REVIEW THE RESULTS OF EMERGENCY RESPONSE ACTIVITIES AND
24 HAZARDOUS MATERIAL EXERCISES TO INCORPORATE RELEVANT
25 ADJUSTMENTS TO THE PLAN.

26 SECTION 204. HAZARDOUS MATERIAL SAFETY PROGRAM.

27 (A) PROGRAM COMPONENTS.--IN CONJUNCTION WITH THE DEPARTMENTS
28 OF ENVIRONMENTAL [RESOURCES] PROTECTION, HEALTH, TRANSPORTATION,
29 AGRICULTURE, LABOR AND INDUSTRY AND [COMMERCE] COMMUNITY AND
30 ECONOMIC DEVELOPMENT, PENNSYLVANIA PUBLIC UTILITY COMMISSION,

1 FISH AND BOAT COMMISSION, PENNSYLVANIA TURNPIKE COMMISSION AND
2 THE PENNSYLVANIA STATE POLICE, OR ANY OTHER COMMONWEALTH
3 AGENCIES AS DETERMINED BY THE COUNCIL, PEMA SHALL DEVELOP A
4 HAZARDOUS MATERIAL SAFETY PROGRAM FOR INCORPORATION INTO THE
5 [PENNSYLVANIA] COMMONWEALTH EMERGENCY [MANAGEMENT] OPERATIONS
6 PLAN DEVELOPED BY PEMA UNDER 35 PA.C.S. PT. V (RELATING TO
7 EMERGENCY MANAGEMENT SERVICES). THE HAZARDOUS MATERIAL SAFETY
8 PROGRAM SHALL INCLUDE AN ASSESSMENT OF THE POTENTIAL DANGERS AND
9 RISKS THAT HAZARDOUS MATERIAL RELEASES OCCURRING AT FACILITIES
10 AND FROM TRANSPORTATION-RELATED ACCIDENTS POSE TO THE GENERAL
11 PUBLIC AND THE ENVIRONMENT. THE PENNSYLVANIA STATE FIRE ACADEMY
12 SHALL BE UTILIZED AS [A PRIMARY TRAINING FACILITY] THE
13 COMMONWEALTH'S CENTER FOR HAZARDOUS MATERIALS TRAINING PURSUANT
14 TO ITS DUTIES UNDER [35 PA.C.S. § 7316(C) (RELATING TO
15 PENNSYLVANIA STATE FIRE ACADEMY). THE COUNCIL MAY ALSO UTILIZE
16 OTHER INSTITUTIONS THAT HAVE IN PLACE APPROPRIATE TRAINING
17 RESOURCES, SUCH AS THE CENTER FOR HAZARDOUS MATERIALS RESEARCH
18 AT THE UNIVERSITY OF PITTSBURGH'S APPLIED RESEARCH CENTER, TO
19 FULFILL ITS TRAINING RESPONSIBILITIES] THE ACT OF NOVEMBER 13,
20 1995 (P.L.604, NO.61), KNOWN AS THE STATE FIRE COMMISSIONER ACT.
21 THE PROGRAM SHALL ALSO CONSIDER THE IMPACTS, CONSEQUENCES AND
22 NECESSARY PROTECTIVE MEASURES REQUIRED TO RESPOND TO AND
23 MITIGATE THE EFFECTS OF SUCH RELEASES AND ACCIDENTS. THE PROGRAM
24 SHALL INCLUDE, BUT NOT BE LIMITED TO:

25 (1) DEVELOPMENT OF COMPREHENSIVE EMERGENCY MANAGEMENT
26 GUIDANCE FOR HAZARDOUS MATERIALS FOR THE COMMONWEALTH AND
27 COMMONWEALTH AGENCIES WHICH SETS FORTH THE SPECIFIC DUTIES,
28 RESPONSIBILITIES, ROLES AND MISSIONS OF COMMONWEALTH
29 AGENCIES.

30 (2) DEVELOPMENT OF COMPREHENSIVE EMERGENCY MANAGEMENT

1 GUIDANCE CONSISTENT WITH THE EMERGENCY MANAGEMENT SERVICES
2 CODE FOR HAZARDOUS MATERIALS THAT CAN BE USED BY THE LOCAL
3 COMMITTEES TO MEET THE REQUIREMENTS OF FEDERAL AND
4 COMMONWEALTH STATUTES AND LAWS.

5 (3) DEVELOPMENT OF SPECIFIC PROCEDURES FOR COUNTIES TO
6 COMPLETE [THE HAZARDOUS MATERIAL EMERGENCY RESPONSE
7 PREPAREDNESS ASSESSMENT WITHIN 30 DAYS OF THE EFFECTIVE DATE
8 OF THIS ACT] PERIODIC REPORTS CONFORMING TO THE REQUIREMENTS
9 OF SUBSECTION (B.1) AS REQUIRED BY PEMA ON THE STATUS AND
10 CAPABILITIES OF EACH COUNTY'S HAZARDOUS MATERIALS SAFETY
11 PROGRAM.

12 (4) DEVELOPMENT OF A NOTIFICATION SYSTEM WHEREBY THE
13 OWNERS AND OPERATORS OF A FACILITY WILL REPORT THE OCCURRENCE
14 OF ANY HAZARDOUS SUBSTANCE OR EXTREMELY HAZARDOUS SUBSTANCE
15 RELEASE TO THE APPROPRIATE COMMONWEALTH AGENCIES, LOCAL
16 AGENCIES AND COMMONWEALTH AND LOCAL OFFICIALS DESIGNATED IN
17 THE COMMONWEALTH AND LOCAL EMERGENCY PLANS. THE REPORTING
18 REQUIREMENTS FOR THIS NOTIFICATION SYSTEM ARE SET FORTH IN
19 SECTION 206.

20 (5) DEVELOPMENT OF A NOTIFICATION SYSTEM WHEREBY THE
21 TRANSPORTERS OF ANY HAZARDOUS SUBSTANCE OR EXTREMELY
22 HAZARDOUS SUBSTANCE WILL REPORT THE OCCURRENCE OF ANY
23 HAZARDOUS MATERIAL RELEASE TO THE COMMONWEALTH AGENCIES,
24 LOCAL AGENCIES AND COMMONWEALTH AND LOCAL OFFICIALS
25 DESIGNATED IN THE COMMONWEALTH AND LOCAL PLANS. THE REPORTING
26 REQUIREMENTS FOR THIS NOTIFICATION SYSTEM ARE SET FORTH IN
27 SECTION 206.

28 (6) TRAINING AND EQUIPPING LOCAL AGENCY PUBLIC SAFETY
29 AND EMERGENCY RESPONSE PERSONNEL.

30 (7) ESTABLISHING TRAINING STANDARDS AND A CERTIFICATION

1 PROGRAM FOR THE FORMATION OF COMMONWEALTH AGENCY, LOCAL
2 AGENCY OR REGIONAL HAZARDOUS MATERIAL RESPONSE TEAMS. ALL
3 COMMONWEALTH AGENCY, SUPPORTING PAID AND VOLUNTEER EMERGENCY
4 SERVICE ORGANIZATIONS, LOCAL AGENCY OR OTHER AGENCIES AND
5 COMMITTEES THAT ESTABLISH TRAINING STANDARDS FOR EMERGENCY
6 SERVICE, LAW ENFORCEMENT, FIREFIGHTING OR OTHER PERSONNEL
7 SHALL COOPERATE WITH THE COUNCIL IN THE IMPLEMENTATION OF
8 THESE TRAINING STANDARDS AND CERTIFICATION PROGRAM.

9 (8) [PERIODICAL] PERIODIC EXERCISE OF HAZARDOUS MATERIAL
10 RELEASE SCENARIOS AT FACILITIES AND TRANSPORTATION SITES THAT
11 ARE DESIGNED TO TEST THE RESPONSE CAPABILITIES OF
12 COMMONWEALTH AGENCY, LOCAL AGENCY AND REGIONAL PUBLIC SAFETY
13 AND EMERGENCY RESPONSE PERSONNEL AND CERTIFIED HAZARDOUS
14 MATERIALS RESPONSE TEAMS.

15 (9) ASSISTANCE IN PROCURING OF SPECIALIZED HAZARDOUS
16 MATERIAL RESPONSE SUPPLIES AND EQUIPMENT TO BE USED BY LOCAL
17 AND REGIONAL PUBLIC SAFETY AND EMERGENCY RESPONSE PERSONNEL.

18 (10) PEMA'S STAFFING AND OPERATION OF A 24-HOUR STATE
19 EMERGENCY OPERATIONS CENTER TO PROVIDE EFFECTIVE EMERGENCY
20 RESPONSE COORDINATION FOR ALL TYPES OF NATURAL AND MANMADE
21 DISASTER EMERGENCIES, INCLUDING THE ABILITY TO RECEIVE AND
22 MONITOR THE EMERGENCY NOTIFICATION REPORTS REQUIRED UNDER
23 SECTIONS 205 AND 206 FROM ALL FACILITIES AND TRANSPORTERS
24 INVOLVED WITH HAZARDOUS MATERIAL INCIDENTS.

25 (11) PROVISIONS FOR FINANCIAL ASSISTANCE TO COUNTIES AS
26 PROVIDED IN SECTIONS 207 AND 208 AND FOR THE PAYMENT OF
27 COMPENSATION BENEFITS AWARDED TO DULY ENROLLED EMERGENCY
28 MANAGEMENT VOLUNTEERS UNDER 35 PA.C.S. § 7706 (RELATING TO
29 COMPENSATION FOR ACCIDENTAL INJURY).

30 [(B) COUNTY PREPAREDNESS ASSESSMENT.--

1 (1) WITHIN ONE YEAR OF THE COMPLETION OF PROCEDURES
2 CALLED FOR IN SUBSECTION (A)(3), COUNTIES SHALL DEVELOP AND
3 SUBMIT TO THE COUNCIL A HAZARDOUS MATERIAL EMERGENCY RESPONSE
4 PREPAREDNESS ASSESSMENT. THE ASSESSMENT SHALL BE UPDATED
5 ANNUALLY.

6 (2) THE COUNTY SHALL ASSESS THE POTENTIAL DANGERS AND
7 RISKS THAT HAZARDOUS MATERIAL RELEASES FROM FACILITIES AND
8 TRANSPORTATION ACCIDENTS POSE TO PUBLIC HEALTH AND THE
9 ENVIRONMENT, IDENTIFY THE COUNTY'S NEEDS AND RESOURCES FOR
10 HAZARDOUS MATERIAL RESPONSE TEAMS TO DEAL WITH THOSE DANGERS
11 AND RISKS AND OUTLINE ITS PLAN FOR IMPLEMENTING COUNTY AND
12 LOCAL EMERGENCY PLANNING FUNCTIONS UNDER THIS ACT.

13 (3) THE ASSESSMENT SHALL INCLUDE THE FOLLOWING:

14 (I) POTENTIAL THREATS POSED BY FACILITIES REQUIRING
15 EMERGENCY RESPONSE PLANS UNDER SECTION 303 OF SARA, TITLE
16 III, AND OTHER CONCENTRATIONS OF HAZARDOUS MATERIALS IN
17 THE COUNTY OR IN AREAS IMMEDIATELY ADJACENT TO THE COUNTY
18 THAT MAY POSE A THREAT.

19 (II) POTENTIAL THREATS POSED BY HAZARDOUS MATERIAL
20 TRANSPORTED BY HIGHWAY AND RAILROAD IN THE COUNTY.

21 (III) IDENTIFICATION OF EXISTING CAPABILITIES TO
22 RESPOND TO HAZARDOUS MATERIAL RELEASES, INCLUDING
23 PERSONNEL, EQUIPMENT, TRAINING, PLANNING AND
24 IDENTIFICATION OF EXISTING HAZARDOUS MATERIAL RESPONSE
25 ZONES.

26 (IV) SELECTION OF AN OPTION TO COMPLY WITH THIS ACT
27 UNDER SECTION 209(E) AND IDENTIFICATION OF THE NEED FOR
28 PERSONNEL, EQUIPMENT, TRAINING AND PLANNING NEEDED TO
29 RESPOND TO THE POTENTIAL THREATS, INCLUDING THE
30 DESIGNATION OF PROPOSED LEVELS OF PREPAREDNESS FOR LOCAL

OR REGIONAL RESPONSE TEAMS AND PROPOSED LOCAL OR REGIONAL
RESPONSE ZONES.

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

(VI) AN AUDIT OF THE HAZARDOUS MATERIAL EMERGENCY
RESPONSE ACCOUNT.

(4) THE LOCAL EMERGENCY PLANNING COMMITTEE SHALL ASSIST
THE COUNTY IN THE PREPARATION OF THE HAZARDOUS MATERIAL
EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT.

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

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

(B.1) REQUIREMENTS FOR PERIODIC REPORTS.--THE PERIODIC
REPORTS REQUIRED BY SUBSECTION (A)(3) SHALL INCLUDE THE
FOLLOWING:

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

(2) POTENTIAL THREATS POSED BY HAZARDOUS MATERIAL
TRANSPORTED BY HIGHWAY AND RAILROAD IN THE COUNTY.

1 (3) IDENTIFICATION OF EXISTING CAPABILITIES TO RESPOND
2 TO HAZARDOUS MATERIAL RELEASES, INCLUDING PERSONNEL,
3 EQUIPMENT, TRAINING, PLANNING AND IDENTIFICATION OF EXISTING
4 HAZARDOUS MATERIAL RESPONSE ZONES.

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

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

14 (6) AN AUDIT OF THE HAZARDOUS MATERIAL EMERGENCY
15 RESPONSE ACCOUNT.

16 (7) SUCH OTHER INFORMATION AS PEMA MAY DEEM NECESSARY.
17 SECTION 205. EMERGENCY REPORTING REQUIREMENTS.

18 (A) REQUIREMENTS.--THE OWNER OR OPERATOR OF A FACILITY IN
19 THIS COMMONWEALTH SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

20 (1) THE OWNER OR OPERATOR OF A FACILITY IN THIS
21 COMMONWEALTH COVERED UNDER SECTION 302 OF SARA, TITLE III,
22 SHALL COMPLY WITH THE EMERGENCY PLANNING AND NOTIFICATION
23 REQUIREMENTS UNDER SECTIONS 302 AND 303 OF SARA, TITLE III.

24 (2) THE OWNER OR OPERATOR OF A FACILITY IN THIS
25 COMMONWEALTH COVERED UNDER SECTION 311 OF SARA, TITLE III,
26 SHALL COMPLY WITH THE REPORTING REQUIREMENTS UNDER SECTIONS
27 311 AND 312 OF SARA, TITLE III.

28 (I) THE REPORTING THRESHOLD FOR ALL HAZARDOUS
29 CHEMICALS AS DEFINED BY THE OCCUPATIONAL SAFETY AND
30 HEALTH ADMINISTRATION SHALL BE 10,000 POUNDS.

1 (II) THE REPORTING THRESHOLD FOR ALL EXTREMELY
2 HAZARDOUS SUBSTANCES, AS DEFINED BY THE ENVIRONMENTAL
3 PROTECTION AGENCY SHALL BE 500 POUNDS.

4 (3) THE OWNER OR OPERATOR OF A FACILITY IN THIS
5 COMMONWEALTH SUBJECT TO SECTION 313 OF SARA, TITLE III, SHALL
6 COMPLY WITH THE TOXIC CHEMICAL RELEASE FORM REQUIREMENTS
7 UNDER SECTION 313 OF SARA, TITLE III.

8 (4) THE OWNER OF A FACILITY IN THIS COMMONWEALTH SUBJECT
9 TO THE REQUIREMENTS OF PARAGRAPHS (2) AND (3) SHALL COMPLY
10 WITH THE PROCEDURES FOR PROVIDING INFORMATION UNDER SECTION
11 323 OF SARA, TITLE III.

12 (5) THE OWNER OR OPERATOR OF A FACILITY IN THIS
13 COMMONWEALTH COVERED UNDER SECTION 304 OF SARA, TITLE III,
14 SHALL COMPLY WITH THE NOTIFICATION REQUIREMENTS OF SECTION
15 304 OF SARA, TITLE III, AND SECTION 206 OF THIS ACT.

16 (B) DOCUMENT REPOSITORY.--FOR THE PURPOSES OF COMPLYING WITH
17 THE REPORTING REQUIREMENTS SET FORTH IN SECTIONS 311, 312 AND
18 313 OF SARA, TITLE III, THE OWNER OR OPERATOR OF ANY FACILITY
19 SHALL SUBMIT ITS MATERIAL SAFETY DATA SHEETS OR CHEMICAL LISTS,
20 EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS AND TOXIC
21 CHEMICAL RELEASE FORMS TO THE DEPARTMENT OF LABOR AND INDUSTRY,
22 WHICH IS THE COUNCIL'S REPOSITORY FOR THOSE DOCUMENTS AT THE
23 STATE LEVEL.

24 (C) ROLLING STOCK.--THE OWNER OR OPERATOR OF A PROPERTY THAT
25 HAS ONE OR MORE ROLLING STOCK, WHETHER OWNED OR LEASED, LOCATED
26 WITHIN ITS PROPERTY BOUNDARIES FOR ANY PERIOD OF TIME IN EXCESS
27 OF [30] FIVE DAYS CONTINUOUS DAYS AND CONTAINING AN EXTREMELY
28 HAZARDOUS SUBSTANCE IN EXCESS OF THE THRESHOLD PLANNING QUANTITY
29 SHALL NOTIFY THE COUNCIL AND THE APPROPRIATE LOCAL COMMITTEE OF
30 THAT FACT AND SHALL [PREPARE] ASSIST THE LOCAL COMMITTEE IN

1 PREPARING AN EMERGENCY RESPONSE PLAN, WHICH CONTAINS THOSE
2 PROVISIONS THAT EITHER THE COUNCIL OR THE APPROPRIATE LOCAL
3 COMMITTEE DIRECTS, IN ORDER TO DEAL WITH ANY POTENTIAL RELEASE
4 OF AN EXTREMELY HAZARDOUS SUBSTANCE FROM THAT ROLLING STOCK.

5 (D) FACILITY DUTIES.--THE OWNER OR OPERATOR OF ANY FACILITY
6 THAT MANUFACTURES, PRODUCES, USES, TRANSFERS, STORES SUPPLIES OR
7 DISTRIBUTES ANY HAZARDOUS MATERIAL AFTER THE EFFECTIVE DATE OF
8 THIS SUBSECTION SHALL:

9 (1) PROVIDE THE EMERGENCY PLANNING NOTIFICATION AND
10 INFORMATION REQUIRED BY SECTION 302(C) AND 303(D) OF SARA,
11 TITLE III, TO THE COUNCIL AND THE APPROPRIATE LOCAL EMERGENCY
12 PLANNING COMMITTEE WITHIN FIVE BUSINESS DAYS AFTER AN
13 EXTREMELY HAZARDOUS SUBSTANCE IS FIRST PRESENT AT SUCH
14 FACILITY.

15 (2) SUBMIT ITS MATERIAL SAFETY DATA SHEETS OR CHEMICAL
16 LISTS AND EMERGENCY HAZARDOUS CHEMICAL INVENTORY FORMS TO THE
17 DEPARTMENT OF LABOR AND INDUSTRY, THE APPROPRIATE LOCAL
18 EMERGENCY PLANNING COMMITTEE, AND THE FIRE DEPARTMENT WITH
19 JURISDICTION OVER THE FACILITY WITHIN FIVE BUSINESS DAYS
20 AFTER THE HAZARDOUS CHEMICAL IS FIRST PRESENT AT THE
21 FACILITY. THE OWNER OR OPERATOR SHALL ALSO COMPLY WITH THE
22 REQUIREMENTS OF SECTION 311(D)(2) OF SARA, TITLE III WITHIN
23 FIVE BUSINESS DAYS.

24 SECTION 206. EMERGENCY NOTIFICATION REQUIREMENTS.

25 (A) FACILITY OR TRANSPORTATION ACCIDENT OR INCIDENT.--EXCEPT
26 AS PROVIDED IN SUBSECTION (E), THE OWNER OR OPERATOR OF A
27 FACILITY THAT MANUFACTURES, PRODUCES, USES, IMPORTS, EXPORTS,
28 STORES, SUPPLIES OR DISTRIBUTES ANY HAZARDOUS SUBSTANCE OR
29 EXTREMELY HAZARDOUS SUBSTANCE AND THE OWNER OR OPERATOR OF A
30 VEHICLE THAT SHIPS, TRANSPORTS OR CARRIES ANY HAZARDOUS

1 SUBSTANCE OR EXTREMELY HAZARDOUS SUBSTANCE TO, WITHIN, THROUGH
2 OR ACROSS THIS COMMONWEALTH SHALL IMMEDIATELY REPORT THE RELEASE
3 OF THE SUBSTANCE WHICH EXCEEDS THE REPORTABLE QUANTITY AND WHICH
4 EXTENDS BEYOND THE PROPERTY BOUNDARIES OF THE FACILITY OR WHICH
5 RESULTS FROM A TRANSPORTATION ACCIDENT OR INCIDENT TO THE
6 APPROPRIATE COMMONWEALTH AND COUNTY EMERGENCY RESPONSE OFFICE AS
7 FOLLOWS:

8 (1) TWO NOTIFICATIONS SHALL BE MADE BY THE OWNER OR
9 OPERATOR OF A FACILITY. THE FIRST CALL SHALL BE TO THE 24-
10 HOUR RESPONSE TELEPHONE NUMBER OF THE COUNTY OFFICE
11 DESIGNATED AND ACTING AS THE EMERGENCY RESPONSE COORDINATOR
12 FOR THE LOCAL COMMITTEE, WHICH MAY BE KNOWN AS THE COUNTY
13 EMERGENCY MANAGEMENT OFFICE 24-HOUR RESPONSE NUMBER. THE
14 SECOND CALL SHALL BE MADE TO THE PEMA 24-HOUR RESPONSE
15 NUMBER.

16 (2) NOTIFICATION SHALL BE MADE BY THE OWNER OR OPERATOR
17 OF A VEHICLE BY DIALING 911 OR, IN THE ABSENCE OF A 911
18 EMERGENCY TELEPHONE NUMBER, CALLING THE OPERATOR IN ORDER TO
19 NOTIFY THE COUNTY EMERGENCY MANAGEMENT OFFICE 24-HOUR
20 RESPONSE NUMBER WITHIN WHOSE JURISDICTION THE TRANSPORTATION
21 ACCIDENT OR INCIDENT HAS OCCURRED, AND REPORTING THAT A
22 HAZARDOUS SUBSTANCE OR AN EXTREMELY HAZARDOUS SUBSTANCE
23 RELEASE HAS OCCURRED. THE COUNTY EMERGENCY MANAGEMENT OFFICE
24 SHALL REPORT ANY NOTIFICATION MADE UNDER THIS SUBSECTION TO
25 THE PEMA 24-HOUR RESPONSE NUMBER WITHIN ONE HOUR OF ITS
26 RECEIPT.

27 (B) CONTENTS.--THE NOTIFICATION REQUIRED BY THIS SECTION
28 SHALL INCLUDE EACH OF THE FOLLOWING TO THE EXTENT KNOWN AT THE
29 TIME OF THE NOTICE AND SO LONG AS NO DELAY IN RESPONDING TO THE
30 EMERGENCY RESULTS:

1 (1) THE NAME AND TELEPHONE NUMBER OF THE PERSON MAKING
2 THE NOTIFICATION.

3 (2) THE NAME OF THE PERSON EMPLOYED BY THE OWNER OR
4 OPERATOR OF THE FACILITY OR VEHICLE WHO HAS THE AUTHORITY OR
5 RESPONSIBILITY TO SUPERVISE, CONDUCT OR PERFORM ANY CLEANUP
6 ACTIVITIES REQUIRED AT THE FACILITY OR TRANSPORTATION
7 ACCIDENT SITE OR TO CONTRACT FOR THE PERFORMANCE OF ANY
8 CLEANUP ACTIVITIES AT THE FACILITY OR TRANSPORTATION ACCIDENT
9 SITE.

10 (3) THE CHEMICAL NAME OR IDENTITY OF ANY SUBSTANCE
11 INVOLVED IN THE RELEASE.

12 (4) AN INDICATION OF WHETHER THE SUBSTANCE IS AN
13 EXTREMELY HAZARDOUS SUBSTANCE OR OTHER HAZARDOUS MATERIAL OR
14 APPEARS ON A FEDERAL OR COMMONWEALTH LIST OF HAZARDOUS
15 MATERIALS AS PERIODICALLY AMENDED.

16 (5) AN ESTIMATE OF THE QUANTITY OF THE SUBSTANCE THAT
17 WAS RELEASED INTO THE ENVIRONMENT.

18 (6) THE TIME, LOCATION AND DURATION OF THE RELEASE.

19 (7) THE MEDIUM OR MEDIA INTO WHICH THE RELEASE OCCURRED.

20 (8) ANY KNOWN OR ANTICIPATED ACUTE OR CHRONIC HEALTH
21 RISKS ASSOCIATED WITH THE EMERGENCY AND, WHERE APPROPRIATE,
22 ADVICE REGARDING MEDICAL ATTENTION NECESSARY FOR EXPOSED
23 INDIVIDUALS.

24 (9) PROPER PRECAUTIONS TO TAKE AS A RESULT OF THE
25 RELEASE, INCLUDING EVACUATION, UNLESS THE INFORMATION IS
26 READILY AVAILABLE TO THE COMMUNITY EMERGENCY COORDINATOR
27 UNDER AN EMERGENCY PLAN, AND ANY OTHER RELEVANT INFORMATION
28 WHICH MAY BE REQUESTED.

29 (10) THE NAME AND TELEPHONE NUMBER OF THE PERSON OR
30 PERSONS TO BE CONTACTED FOR FURTHER INFORMATION.

(11) ADDITIONAL INFORMATION REQUIRED BY FEDERAL OR
COMMONWEALTH LAW OR REGULATION.

(C) PEMA NOTICE.--THE NOTIFICATION TO PEMA SHALL BE MADE TO
THE PEMA 24-HOUR RESPONSE NUMBER. THIS NOTIFICATION SHALL
CONTAIN THE INFORMATION REQUIRED BY SUBSECTION (B). THE NOTICE
TO PEMA SHALL FULFILL THE REQUIREMENTS IN SARA, TITLE III, TO
NOTIFY THE COUNCIL[. NOTICE UNDER THIS SECTION SHALL NOT] AND
SHALL FULFILL ANY REQUIREMENTS IN OTHER STATE LAWS TO NOTIFY THE
DEPARTMENT OF ENVIRONMENTAL [RESOURCES OR ANY OTHER STATE AGENCY
OF A SPILL OR RELEASE OF A HAZARDOUS CHEMICAL.] PROTECTION ABOUT
THE SAME HAZARDOUS CHEMICAL SPILL OR RELEASE. PEMA SHALL PROVIDE
NOTICE OF THE SPILL OR RELEASE TO THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION.

(D) WRITTEN REPORT.--WITHIN 14 CALENDAR DAYS AFTER A RELEASE
WHICH REQUIRED NOTICE UNDER THIS SECTION, THE OWNER OR OPERATOR
OF A FACILITY AND THE OWNER OR OPERATOR OF A VEHICLE SHALL
PROVIDE A WRITTEN FOLLOW-UP [EMERGENCY NOTICE, OR NOTICES]
REPORT OR REPORTS IF MORE INFORMATION BECOMES AVAILABLE, TO PEMA
AND THE COUNTY EMERGENCY MANAGEMENT OFFICE SETTING FORTH AND
UPDATING THE INFORMATION REQUIRED UNDER SUBSECTION (B), AND
INCLUDING ADDITIONAL INFORMATION WITH RESPECT TO:

(1) ACTIONS TAKEN TO RESPOND TO AND CONTAIN THE RELEASE.

(2) ANY KNOWN OR ANTICIPATED ACUTE OR CHRONIC HEALTH
RISKS ASSOCIATED WITH THE RELEASE.

(3) ADVICE REGARDING MEDICAL ATTENTION NECESSARY FOR
EXPOSED INDIVIDUALS, WHERE APPROPRIATE.

(4) ACTIONS TO BE TAKEN TO MITIGATE POTENTIAL FUTURE
INCIDENTS.

(E) EXCEPTION.--THE PROVISIONS OF THIS SECTION SHALL NOT
APPLY TO A RELEASE OF A HAZARDOUS SUBSTANCE OR AN EXTREMELY

HAZARDOUS SUBSTANCE IF THE RELEASE OF SUCH SUBSTANCE IS
EXEMPTED, EXCLUDED OR PERMITTED BY FEDERAL OR COMMONWEALTH
STATUTE, LAW, RULE OR REGULATION.

(F) COORDINATED NOTIFICATION SYSTEM.--

(1) THE COUNCIL SHALL, WITHIN ONE YEAR OF THE EFFECTIVE
DATE OF THIS ACT, COMPLETE A STUDY OF CURRENT NOTIFICATION
PROCEDURES TO DETERMINE THE FEASIBILITY OF ESTABLISHING A
SINGLE NOTIFICATION CENTER AND SIMPLIFIED ALTERNATIVE
NOTIFICATION PROCESSES FOR STATE AGENCIES TO RECEIVE
NOTIFICATION OF ALL EMERGENCIES INVOLVING HAZARDOUS OR
POTENTIALLY HAZARDOUS SUBSTANCES OR RELEASES INTO THE AIR OR
WATER OR ON THE LAND. THE COUNCIL SHALL STUDY THE FEASIBILITY
OF REPLACING NOTIFICATION OF INDIVIDUAL STATE AGENCIES WITH A
SINGLE POINT OF CONTACT AND SIMPLIFIED ALTERNATIVE
NOTIFICATION PROCEDURES COVERING SUBSTANCES REGULATED BY THIS
ACT, BY THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS
THE CLEAN STREAMS LAW, THE ACT OF JANUARY 8, 1960 (1959
P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT,
THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID
WASTE MANAGEMENT ACT, THE ACT OF OCTOBER 18, 1988 (P.L.756,
NO.108), KNOWN AS THE HAZARDOUS SITES CLEANUP ACT, THE ACT OF
JULY 6, 1989 (P.L.169, NO.32), KNOWN AS THE STORAGE TANK AND
SPILL PREVENTION ACT, OR BY ANY OTHER STATE STATUTE REQUIRING
NOTIFICATION OF ANY STATE AGENCY OF SPILLS AND RELEASES INTO
THE ENVIRONMENT. THE STUDY SHALL CONSIDER ANY IMPACT A SINGLE
POINT OF CONTACT AND ALTERNATIVE NOTIFICATION PROCEDURES MAY
HAVE ON THE REGULATED COMMUNITY, ANY ENFORCEMENT PROGRAMS
WITHIN THE DEPARTMENT OF ENVIRONMENTAL [RESOURCES] PROTECTION
OR OTHER AGENCIES AND NOTIFICATION REQUIREMENTS ESTABLISHED
IN FEDERAL LAW AND MAKE SPECIFIC RECOMMENDATIONS FOR

1 IMPLEMENTING ITS FINDINGS, INCLUDING RECOMMENDED CHANGES TO
2 STATE LAW. THE HAZARDOUS MATERIAL EMERGENCY PLANNING AND
3 RESPONSE ADVISORY COMMITTEE SHALL BE INVOLVED IN THE
4 DEVELOPMENT OF THE STUDY.

5 (2) THE COUNCIL SHALL FORWARD A COPY OF THE FINAL STUDY,
6 INCLUDING A RECOMMENDED TIMETABLE FOR IMPLEMENTING ANY
7 RECOMMENDATIONS, TO THE HOUSE CONSERVATION COMMITTEE AND THE
8 SENATE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE.

9 SECTION 207. ESTABLISHMENT OF FUNDS.

10 (A) HAZARDOUS MATERIAL RESPONSE FUND.--

11 (1) THERE IS HEREBY CREATED IN THE STATE TREASURY A
12 NONLAPSING RESTRICTED ACCOUNT TO BE KNOWN AS THE HAZARDOUS
13 MATERIAL RESPONSE FUND. THE FUND SHALL CONSIST OF THE FEES
14 COLLECTED UNDER SUBSECTIONS (C), (D) AND (E), CIVIL PENALTIES
15 AND FINES AND FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY.
16 MONEYS IN THE FUND AND THE INTEREST [IT] WHICH ACCRUES SHALL
17 BE APPROPRIATED ANNUALLY TO PEMA [TO BE DISBURSED BY THE
18 COUNCIL THROUGH PEMA] FOR DISBURSEMENT AND SHALL BE USED TO
19 CARRY OUT THE PURPOSES, GOALS AND OBJECTIVES OF SARA, TITLE
20 III, AND THE COMMONWEALTH'S HAZARDOUS MATERIAL SAFETY
21 PROGRAM.

22 (2) [THE COUNCIL, THROUGH] PEMA, SHALL ADMINISTER AND
23 ALLOCATE MONEYS IN THE FUND, INCLUDING ALL INTEREST GENERATED
24 THEREIN, IN THE FOLLOWING MANNER:

25 (I) UP TO 10% [SHALL] MAY BE EXPENDED ON TRAINING
26 PROGRAMS [FOR HAZARDOUS MATERIAL RESPONSE TEAMS].

27 (II) UP TO 10% [SHALL] MAY BE EXPENDED FOR PUBLIC
28 AND FACILITY OWNER EDUCATION, INFORMATION AND
29 PARTICIPATION PROGRAMS.

30 (III) [NO MORE THAN 10% SHALL] UP TO 10% MAY 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]
PERIODIC REPORT PREPARED IN ACCORDANCE WITH GUIDELINES
ESTABLISHED BY PEMA. 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 A RELEASE OF
A HAZARDOUS MATERIAL AND A VOLUNTEER EMERGENCY SERVICES
ORGANIZATION WHEN ACTING [AS PART] IN SUPPORT OF A CERTIFIED
HAZARDOUS MATERIAL RESPONSE TEAM IN ACCORDANCE WITH THIS ACT.
EACH VOLUNTEER SERVICES ORGANIZATION [SHALL BE] IS ELIGIBLE
TO RECEIVE [NO MORE THAN \$300] FROM THE HAZARDOUS MATERIAL
EMERGENCY RESPONSE ACCOUNT UP TO \$1,000 PER RESPONSE TO COVER
EXPENSES RELATED TO A RESPONSE [FROM THE HAZARDOUS MATERIAL

1 EMERGENCY RESPONSE ACCOUNT], IF THE PERSON WHO CAUSES A
2 RELEASE OF A HAZARDOUS MATERIAL CANNOT BE IDENTIFIED OR IS
3 FINANCIALLY UNABLE TO PAY COSTS AS DEFINED IN SECTION 210(B).

4 (2) BY MARCH 1 OF EACH YEAR, EACH OWNER OR OPERATOR OF A
5 FACILITY SHALL PAY TO THE COUNTY TREASURER WHERE THE FACILITY
6 IS LOCATED A LOCAL HAZARDOUS CHEMICAL FEE OF FROM \$35 TO \$75,
7 AS ESTABLISHED BY THE COUNTY BY ORDINANCE, FOR EACH HAZARDOUS
8 CHEMICAL WITHIN THE MEANING OF 29 CFR 1910.1200(C) OR ITS
9 SUCCESSOR WHICH IS REQUIRED BY SECTION 312 OF SARA, TITLE
10 III, TO BE LISTED ON THE HAZARDOUS CHEMICAL INVENTORY FORM
11 (TIER II) WHICH THE OWNER OR OPERATOR OF THE FACILITY SUBMITS
12 TO THE LOCAL EMERGENCY PLANNING COMMITTEE. COUNTIES SHALL
13 GRANT FACILITY OWNERS UP TO 100% CREDIT TOWARD THEIR CHEMICAL
14 FEE OBLIGATION UNDER THIS SECTION FOR TRAINING, EQUIPMENT OR
15 OTHER IN-KIND SERVICES DONATED TO THE COUNTY TO SUPPORT THE
16 HAZARDOUS MATERIAL SAFETY PROGRAM IF SUCH TRAINING, EQUIPMENT
17 OR IN-KIND SERVICES ARE ACCEPTED BY THE COUNTY. THE CREDIT
18 SHALL BE BASED ON THE FAIR MARKET VALUE OF EQUIPMENT DONATED
19 AND THE AGREED-UPON VALUE OF TRAINING OR IN-KIND SERVICES
20 DONATED.

21 (3) COUNTIES MAY ESTABLISH A PROGRAM TO PROVIDE FUNDING
22 THROUGH THE HAZARDOUS MATERIAL EMERGENCY RESPONSE ACCOUNT FOR
23 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS [WITHIN] SERVING
24 THE COUNTY [CONSISTENT WITH THE HAZARDOUS MATERIAL EMERGENCY
25 RESPONSE PREPAREDNESS ASSESSMENT]. THIS GRANT PROGRAM SHALL
26 NOT BE BOUND BY ANY DOLLAR LIMITS ON ASSISTANCE TO LOCAL FIRE
27 PROTECTION SERVICES IMPOSED BY OTHER STATUTES.

28 (C) HAZARDOUS CHEMICAL FEE.--EACH OWNER OR OPERATOR OF A
29 FACILITY SHALL PAY A FEE, TO BE KNOWN AS A HAZARDOUS CHEMICAL
30 FEE, OF \$10 BY MARCH 1 OF EACH YEAR TO THE COUNCIL FOR EACH

1 HAZARDOUS CHEMICAL WITHIN THE MEANING OF 29 CFR 1910.1200(C) OR
2 ITS SUCCESSOR WHICH IS REQUIRED BY SECTION 312 OF SARA, TITLE
3 III, TO BE LISTED ON THE HAZARDOUS CHEMICAL INVENTORY FORM (TIER
4 II) WHICH THE OWNER OR OPERATOR OF THE FACILITY SUBMITS TO THE
5 COUNCIL. THE FEES COLLECTED UNDER THIS SUBSECTION SHALL BE
6 DEPOSITED BY THE COUNCIL INTO THE HAZARDOUS MATERIAL RESPONSE
7 FUND.

8 (D) TOXIC CHEMICAL REGISTRATION FEE.--EACH OWNER OR OPERATOR
9 OF A FACILITY THAT SUBMITS A TOXIC CHEMICAL RELEASE FORM TO THE
10 DEPARTMENT OF LABOR AND INDUSTRY ON OR BEFORE JULY 1, 1990, AS
11 REQUIRED BY SECTION 313 OF SARA, TITLE III, SHALL PAY A \$1,000
12 REGISTRATION FEE TO THE DEPARTMENT OF LABOR AND INDUSTRY. THE
13 REGISTRATION FEES COLLECTED UNDER THIS SUBSECTION SHALL BE
14 DEPOSITED BY THE DEPARTMENT OF LABOR AND INDUSTRY INTO THE
15 HAZARDOUS MATERIAL RESPONSE FUND. THE DEPARTMENT OF LABOR AND
16 INDUSTRY MAY RETAIN UP TO 10% OF THE FEES COLLECTED FOR
17 ADMINISTRATION OF THE PROGRAM AND MANAGEMENT OF THE DATA
18 COLLECTED.

19 (E) TOXIC CHEMICAL RELEASE FORM FEE.--EACH OWNER OR OPERATOR
20 OF A FACILITY SHALL PAY A FEE OF \$250 ON OR BEFORE JULY 1, 1991,
21 AND THE FIRST DAY OF JULY OF EVERY YEAR THEREAFTER, TO THE
22 DEPARTMENT OF LABOR AND INDUSTRY FOR EACH TOXIC CHEMICAL WHICH
23 IS REQUIRED BY SECTION 313 OF SARA, TITLE III, TO BE LISTED ON
24 THE TOXIC CHEMICAL RELEASE FORM WHICH THE OWNER OR OPERATOR OF
25 THE FACILITY SUBMITS TO THE DEPARTMENT OF LABOR AND INDUSTRY.
26 THE CUMULATIVE AMOUNT OF THIS FEE SHALL NOT EXCEED \$5,000 PER
27 FACILITY. THE FEES COLLECTED UNDER THIS SUBSECTION SHALL BE
28 DEPOSITED BY THE DEPARTMENT OF LABOR AND INDUSTRY INTO THE
29 HAZARDOUS MATERIAL RESPONSE FUND. THE DEPARTMENT OF LABOR AND
30 INDUSTRY MAY RETAIN UP TO 10% OF THE FEES COLLECTED FOR

1 ADMINISTRATION OF THE PROGRAM AND MANAGEMENT OF THE DATA
2 COLLECTED.

3 (F) EMERGENCY PLANNING FEE.--BY MARCH 1 OF EACH YEAR, EACH
4 OWNER OR OPERATOR OF A FACILITY THAT MANUFACTURES, PRODUCES,
5 USES, STORES, SUPPLIES OR DISTRIBUTES ANY EXTREMELY HAZARDOUS
6 SUBSTANCE IN QUANTITIES LARGER THAN THE THRESHOLD PLANNING
7 QUANTITIES SHALL BE REQUIRED TO PAY TO THE COUNTY TREASURER
8 WHERE THE FACILITY IS LOCATED AN EMERGENCY PLANNING FEE OF UP TO
9 \$100 AS ESTABLISHED BY THE COUNTY BY ORDINANCE. COUNTIES SHALL
10 GRANT FACILITY OWNERS UP TO 100% CREDIT TOWARD ANY EMERGENCY
11 PLANNING FEE OBLIGATION UNDER THIS SECTION FOR TRAINING,
12 EQUIPMENT OR OTHER IN-KIND SERVICES DONATED TO THE COUNTY TO
13 SUPPORT THE HAZARDOUS MATERIAL SAFETY PROGRAM IF SUCH TRAINING,
14 EQUIPMENT OR IN-KIND SERVICES ARE ACCEPTED BY THE COUNTY, IN
15 ADDITION TO THOSE FOR WHICH A CREDIT IS CLAIMED UNDER SUBSECTION
16 (B)(2). THE CREDIT SHALL BE BASED ON THE FAIR MARKET VALUE OF
17 EQUIPMENT DONATED AND THE AGREED-UPON VALUE OF TRAINING OR IN-
18 KIND SERVICES DONATED.

19 (G) EXEMPTIONS.--THE OWNERS OR OPERATORS OF FAMILY FARM
20 ENTERPRISES, SERVICE STATIONS AND FACILITIES OWNED BY STATE AND
21 LOCAL GOVERNMENTS SHALL BE EXEMPT FROM PAYMENT OF THE FEES
22 REQUIRED UNDER SUBSECTIONS (B), (C), (D), (E) AND (F).

23 (H) FEDERAL FUNDS, GRANTS OR OTHER GIFTS.--THE COUNCIL IS
24 AUTHORIZED TO ACCEPT AND MAY DEPOSIT INTO THE HAZARDOUS MATERIAL
25 RESPONSE FUND GRANTS, GIFTS AND FEDERAL FUNDS FOR THE PURPOSE OF
26 CARRYING OUT THE PROVISIONS OF THIS ACT.

27 [(I) CHANGES IN THRESHOLD QUANTITIES AND CHEMICALS.--FOR
28 PURPOSES OF THE FEES ESTABLISHED IN THIS SECTION, THE TERM
29 "HAZARDOUS CHEMICAL" SHALL MEAN CHEMICALS ON LISTS ESTABLISHED
30 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY EFFECTIVE

1 ON JULY 1, 1989. NO FEE MAY BE APPLIED TO ADDITIONAL FACILITIES
2 OR HAZARDOUS MATERIALS BECAUSE OF CHANGES MADE BY THE UNITED
3 STATES ENVIRONMENTAL PROTECTION AGENCY IN LISTS OF HAZARDOUS
4 MATERIALS, THRESHOLD PLANNING QUANTITIES OR OTHER REQUIREMENTS
5 UNDER SARA, TITLE III, WITHOUT COMPLYING WITH THE PROVISIONS OF
6 SECTION 213.

7 (J) TERMINATION.--THE FEES ESTABLISHED IN THIS SECTION OR
8 PURSUANT TO SECTION 213 SHALL TERMINATE TEN YEARS AFTER THE
9 EFFECTIVE DATE OF THIS ACT UNLESS REESTABLISHED BY THE GENERAL
10 ASSEMBLY BY STATUTE.]

11 (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 (L) STATUS OF FUND.--THE HAZARDOUS MATERIAL RESPONSE FUND
19 SHALL NOT BE SUBJECT TO 42 PA.C.S. CH. 37 SUBCH. C (RELATING TO
20 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] PEMA FOR AN EMERGENCY MANAGEMENT
29 GRANT. APPLICATIONS SHALL BE MADE IN [THE MANNER SPECIFIED BY
30 THE COUNCIL IN REGULATIONS PROMULGATED UNDER SECTION 201(G)]

CONSISTENT WITH THE COUNTY PREPAREDNESS ASSESSMENT] ACCORDANCE
WITH THE GUIDELINES ESTABLISHED BY PEMA.

(C) ELIGIBLE COSTS.--ELIGIBLE COSTS FOR EMERGENCY MANAGEMENT
GRANTS ARE LIMITED TO THE COST OF:

(1) DEVELOPING [A COUNTY HAZARDOUS MATERIAL EMERGENCY
RESPONSE PREPAREDNESS ASSESSMENT REQUIRED IN SECTION 204(B).]
PERIODIC REPORTS CONFORMING TO THE REQUIREMENTS OF SECTION
204(B.1).

(2) DEVELOPING, UPDATING AND EXERCISING EMERGENCY
RESPONSE PLANS REQUIRED UNDER SECTION 303 OF SARA, TITLE III.

(3) PERFORMING PUBLIC INFORMATION FUNCTIONS AS REQUIRED
BY SECTION 324 OF SARA, TITLE III.

(4) COLLECTING, DOCUMENTING AND PROCESSING CHEMICAL
INVENTORY FORMS AND OTHER DOCUMENTS REQUIRED BY SARA, TITLE
III.

(5) DEVELOPING AN EMERGENCY PLANNING AND RESPONSE
CAPABILITY FOR RESPONDING TO HAZARDOUS MATERIAL RELEASES AND
MEETING THE REQUIREMENTS OF THE COMMONWEALTH'S HAZARDOUS
MATERIAL SAFETY PROGRAM, INCLUDING TRAINING, EQUIPMENT,
MATERIAL AND OTHER SUPPLIES NEEDED TO RESPOND TO A RELEASE.

(6) SUPPORTING THE OPERATION AND ADMINISTRATION OF LOCAL
COMMITTEES.

(7) REIMBURSING CERTAIN RESPONSE COSTS OF SUPPORTING
VOLUNTEER EMERGENCY SERVICE ORGANIZATIONS IN ACCORDANCE WITH
SECTION 207(B)(1).

(D) GRANT AMOUNT.--THE AMOUNT OF THE ANNUAL GRANT FROM THE
HAZARDOUS MATERIAL RESPONSE FUND SHALL NOT EXCEED THE SUM OF:

(1) THE FUNDS OF LOCAL REVENUES MADE AVAILABLE BY THE
COUNTY FOR THE PURPOSE OF COMPLYING WITH THE REQUIREMENTS AND
PROVISIONS OF SARA, TITLE III, AND THE EMERGENCY MANAGEMENT

SERVICES CODE WITH RESPECT TO HAZARDOUS MATERIAL RELEASES,
RETROACTIVE TO NOVEMBER 1986 [AND]; AND

(2) THE REVENUES COLLECTED UNDER SECTION 207(B)(2) AND
(F)[,];

EXCEPT THAT ANY COUNTY EMERGENCY MANAGEMENT COORDINATOR WHOSE
HAZARDOUS MATERIAL EMERGENCY RESPONSE ACCOUNT RECEIVES LESS THAN
\$10,000 ANNUALLY IN FEES ESTABLISHED IN THIS SECTION OR MEETS
THE REQUIREMENTS OF SUBSECTION (E)(3) SHALL BE ELIGIBLE FOR
ADDITIONAL GRANTS EQUAL TO COUNTY FUNDS SPECIFICALLY
APPROPRIATED FOR COMPLIANCE WITH THIS ACT, NOT TO EXCEED \$5,000.

(E) PAYMENT OF GRANTS.--[THE COUNCIL] PEMA SHALL REVIEW
ANNUALLY ALL APPLICATIONS RECEIVED UNDER THIS SECTION AND MAY
MAKE GRANTS TO THE COUNTIES FROM THE HAZARDOUS MATERIAL RESPONSE
FUND. [THE COUNCIL] PEMA SHALL PRIORITIZE THE AVAILABLE FUNDS
AMONG THE ELIGIBLE APPLICANTS BASED UPON THE FOLLOWING CRITERIA:

[(1) COMPLETION OF INITIAL COUNTY HAZARDOUS MATERIAL
EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT.]

(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
MATERIAL RELEASES.

(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. THE EXISTENCE OF UNIQUE OR SPECIAL
CIRCUMSTANCES UNDER THIS SECTION AS DETERMINED BY PEMA SHALL
INCLUDE AN INTERSTATE HIGHWAY, THE PENNSYLVANIA TURNPIKE OR
ANY SECONDARY ROUTE USED BY A TRANSPORTER BECAUSE OF LOAD
RESTRICTIONS ON PRIMARY ROUTES.

(4) AVAILABILITY OF FINANCIAL, TECHNICAL OR OTHER

1 ASSISTANCE TO THE APPLICANT FROM OTHER GOVERNMENTAL, BUSINESS
2 OR PRIVATE SOURCES.

3 (5) NO MORE THAN 10% OF THE GRANT FUNDS SHALL BE
4 [EXPENDED IN] ALLOCATED TO ANY ONE COUNTY IN ANY YEAR.
5 [UNLESS MORE THAN ONE COUNTY APPLIES FOR FUNDS IN A JOINT
6 APPLICATION.

7 (F) INITIAL GRANT.--IN ADDITION TO ANY OTHER GRANTS PROVIDED
8 FOR IN THIS SECTION, EACH COUNTY OF THE THIRD THROUGH EIGHTH
9 CLASS SHALL, WITHIN 18 MONTHS OF THE EFFECTIVE DATE OF THIS ACT,
10 RECEIVE AN INITIAL GRANT OF \$1,500 FOR THE PURPOSE OF COMPLYING
11 WITH THE PROVISIONS OF THIS ACT. THE INITIAL GRANT SHALL BE MADE
12 FROM THE HAZARDOUS MATERIAL RESPONSE FUND.]

13 SECTION 209. CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS.

14 (A) GENERAL RULE.--THE COUNCIL SHALL ESTABLISH A PROGRAM FOR
15 CERTIFYING HAZARDOUS MATERIAL RESPONSE TEAMS, SETTING STANDARDS
16 FOR TRAINING, EQUIPMENT, SAFETY, OPERATIONS AND ADMINISTRATION
17 OF THE TEAMS. THE CERTIFICATION PROGRAM SHALL INCLUDE, BUT NOT
18 BE LIMITED TO:

19 (1) STANDARDS FOR CERTIFYING RESPONSE TEAMS WITH SEVERAL
20 PREPAREDNESS LEVELS PATTERNED AFTER LEVELS ESTABLISHED BY THE
21 UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
22 AT 29 CFR PART 1910.120.

23 (2) REVIEWING EXISTING HAZARDOUS MATERIAL TRAINING AND
24 CERTIFICATION PROGRAMS TO ESTABLISH SPECIFIC PROCEDURES FOR
25 CREDITING THAT TRAINING AND CERTIFICATION UNDER THE PROGRAM
26 ESTABLISHED BY THIS SECTION.

27 (B) HAZARDOUS MATERIAL RESPONSE ZONES.--THE COUNCIL MAY
28 ESTABLISH HAZARDOUS MATERIAL RESPONSE ZONES, CONSISTING OF
29 PORTIONS OF COUNTIES OR MULTIPLE COUNTIES, THAT MAY BE SERVED BY
30 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS THAT ARE CERTIFIED

1 BY THE COUNCIL WHERE COUNTIES HAVE NOT IDENTIFIED ZONES IN THEIR
2 HAZARDOUS MATERIAL EMERGENCY RESPONSE PREPAREDNESS ASSESSMENT.

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

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

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

21 (1) INDIVIDUALLY ORGANIZING AND OPERATING A CERTIFIED
22 HAZARDOUS MATERIAL RESPONSE TEAM.

23 (2) CONTRACTING OR HAVING FORMAL AGREEMENTS WITH A
24 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM, INCLUDING THOSE
25 FORMED BY A REGIONAL HAZARDOUS MATERIAL ORGANIZATION OR
26 PRIVATE COMPANIES.

27 (3) PARTICIPATING AS A MEMBER OF A REGIONAL HAZARDOUS
28 MATERIAL ORGANIZATION FOR THE PURPOSE OF CREATING AND
29 ORGANIZING A CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM.

30 (F) GRANTS TO COUNTIES.--A COUNTY MAY BE ELIGIBLE FOR A

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

7 (G) REGIONAL HAZARDOUS MATERIAL ORGANIZATIONS.--REGIONAL
8 HAZARDOUS MATERIAL ORGANIZATIONS FORMED SOLELY BY A COUNTY OR
9 COUNTIES MAY BE FUNDED FULLY OR IN PART BY PROPORTIONAL
10 CONTRIBUTIONS FROM THE POLITICAL SUBDIVISIONS INCLUDED WITHIN
11 THE HAZARDOUS MATERIAL RESPONSE ZONE SERVICED BY THE REGIONAL
12 HAZARDOUS MATERIAL ORGANIZATION OR AS OTHERWISE AGREED TO BY
13 CONTRACT BETWEEN THE REGIONAL HAZARDOUS MATERIAL ORGANIZATION
14 AND THOSE POLITICAL SUBDIVISIONS AND APPROVED IN THE COUNTY
15 PREPAREDNESS ASSESSMENT.

16 (H) INSURANCE.--EACH COMMONWEALTH AGENCY, LOCAL AGENCY,
17 REGIONAL HAZARDOUS MATERIAL ORGANIZATION, VOLUNTEER SERVICE
18 ORGANIZATION, HAZARDOUS MATERIAL TRANSPORTER, MANUFACTURER,
19 SUPPLIER OR USER, OR OTHER ENTITY THAT ORGANIZES A CERTIFIED
20 HAZARDOUS MATERIAL RESPONSE TEAM AS IDENTIFIED ON THE TEAM
21 CERTIFICATION, SHALL BE RESPONSIBLE FOR PROVIDING, DIRECTLY OR
22 BY AGREEMENT WITH A THIRD PARTY, WORKERS' COMPENSATION AND
23 ORDINARY PUBLIC LIABILITY INSURANCE FOR ITS CERTIFIED HAZARDOUS
24 MATERIAL RESPONSE TEAM. THE COMMONWEALTH, A COUNTY OR
25 MUNICIPALITY MAY SELF-INSURE TO MEET THIS OBLIGATION TO THE
26 EXTENT IT IS NOW AUTHORIZED BY STATE LAW. A CERTIFIED HAZARDOUS
27 MATERIAL RESPONSE TEAM THAT MEETS THE TRAINING STANDARDS OR
28 CERTIFICATION REQUIREMENTS ESTABLISHED UNDER THE COMMONWEALTH'S
29 HAZARDOUS MATERIAL SAFETY PROGRAM SHALL RECEIVE A DISCOUNT FROM
30 THE APPLICABLE INSURANCE COMPANY AS THAT INSURANCE COMPANY'S

1 LOSS EXPERIENCE JUSTIFIES BASED ON GUIDELINES DEVELOPED BY THE
2 INSURANCE COMMISSIONER.

3 (I) [EMERGENCY] INCIDENT RESPONSE.--A CERTIFIED HAZARDOUS
4 MATERIAL RESPONSE TEAM MAY, WHEN AUTHORIZED BY THE COUNTY
5 EMERGENCY MANAGEMENT COORDINATOR, ENTER ONTO ANY PRIVATE OR
6 PUBLIC PROPERTY ON WHICH A RELEASE OF A HAZARDOUS MATERIAL HAS
7 OCCURRED OR THE OCCURRENCE OR THE THREAT OF A HAZARDOUS MATERIAL
8 RELEASE IS IMMINENT. A CERTIFIED HAZARDOUS MATERIAL RESPONSE
9 TEAM MAY ENTER ANY ADJACENT OR SURROUNDING PROPERTY TO WHICH THE
10 HAZARDOUS MATERIAL RELEASE HAS ENTERED OR THREATENS TO ENTER. A
11 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM MAY ENTER ANY PRIVATE
12 OR PUBLIC PROPERTY IN ORDER TO RESPOND TO THE RELEASE OR
13 THREATENED RELEASE OF A HAZARDOUS MATERIAL, TO MONITOR AND
14 CONTAIN THE HAZARDOUS MATERIAL RELEASE, TO PERFORM CLEANUP AND
15 STABILIZATION ACTIONS AND TO PERFORM ANY OTHER [EMERGENCY]
16 RESPONSE ACTIVITIES DEEMED NECESSARY BY THE CERTIFIED HAZARDOUS
17 MATERIAL RESPONSE TEAM OR BY THE REPRESENTATIVES OF PEMA, THE
18 COUNTY EMERGENCY MANAGEMENT OFFICE AS ESTABLISHED UNDER 35
19 PA.C.S. PT. V OR THE LOCAL COMMITTEE.

20 (J) STATE AGENCY.--NOTWITHSTANDING ANY FEDERAL LAW TO THE
21 CONTRARY, THE DEPARTMENT OF ENVIRONMENTAL [RESOURCES]
22 PROTECTION, CONSISTENT WITH THE STATE EMERGENCY OPERATIONS PLAN,
23 IS DESIGNATED AS THE STATE AGENCY ASSIGNED THE RESPONSIBILITY TO
24 DIRECT CLEANUP EFFORTS AT A RELEASE SITE UPON THE OCCURRENCE OF
25 A RELEASE.

26 SECTION 210. RECOVERY OF RESPONSE COSTS.

27 (A) GENERAL RULE.--A PERSON WHO CAUSES A RELEASE OF A
28 HAZARDOUS MATERIAL SHALL BE LIABLE FOR THE RESPONSE COSTS
29 INCURRED BY A CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM OR A
30 SUPPORTING PAID OR VOLUNTEER EMERGENCY SERVICE ORGANIZATION, OR

1 BOTH. THE COMMONWEALTH AGENCY, LOCAL AGENCY, REGIONAL HAZARDOUS
2 MATERIAL ORGANIZATION, VOLUNTEER EMERGENCY SERVICE ORGANIZATION,
3 OR HAZARDOUS MATERIAL TRANSPORTER, MANUFACTURER, SUPPLIER OR
4 USER THAT ORGANIZED THE CERTIFIED HAZARDOUS MATERIAL RESPONSE
5 TEAM, AS IDENTIFIED ON THE TEAM CERTIFICATION, OR SUPPORTING
6 PAID OR VOLUNTEER EMERGENCY SERVICE ORGANIZATIONS, THAT
7 UNDERTAKES A RESPONSE ACTION MAY RECOVER THOSE RESPONSE COSTS IN
8 LAW OR AN ACTION IN EQUITY BROUGHT BEFORE A COURT OF COMPETENT
9 JURISDICTION OR MAY PROCEED UNDER THE PROVISIONS OF SUBSECTION
10 (D). SHOULD MORE THAN ONE CERTIFIED HAZARDOUS MATERIAL RESPONSE
11 TEAM INCUR RESPONSE COSTS FOR THE SAME HAZARDOUS MATERIAL
12 RELEASE OR INCIDENT, THE ORGANIZING ENTITIES OF THOSE CERTIFIED
13 HAZARDOUS MATERIAL RESPONSE TEAMS MAY FILE A JOINT ACTION IN LAW
14 OR EQUITY AND MAY DESIGNATE ONE ENTITY TO REPRESENT THE OTHERS
15 IN THE LAW SUIT.

16 (B) AMOUNT.--IN AN ACTION TO RECOVER RESPONSE COSTS, A
17 COMMONWEALTH AGENCY, LOCAL AGENCY, REGIONAL HAZARDOUS MATERIAL
18 ORGANIZATION, SUPPORTING PAID OR VOLUNTEER EMERGENCY SERVICE
19 ORGANIZATION, OR A HAZARDOUS MATERIAL TRANSPORTER, MANUFACTURER,
20 SUPPLIER OR USER MAY INCLUDE OPERATIONAL, ADMINISTRATIVE
21 PERSONNEL AND LEGAL COSTS INCURRED FROM ITS INITIAL RESPONSE
22 ACTION UP TO THE TIME THAT IT RECOVERS ITS COSTS. ONLY THOSE
23 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAMS [OR] AND SUPPORTING
24 PAID OR VOLUNTEER EMERGENCY SERVICE ORGANIZATIONS THAT ARE
25 PROPERLY TRAINED IN ACCORDANCE WITH THE STANDARDS DEVELOPED
26 UNDER THIS ACT AND THAT ARE PROPERLY REQUESTED AND DISPATCHED BY
27 A LEGALLY CONSTITUTED AUTHORITY SHALL BE ELIGIBLE TO RECOVER
28 THEIR RESPONSE COSTS UNDER THIS ACT.

29 (C) DEFINITIONS.--WHEN USED IN THIS SECTION, THE TERM
30 "RESPONSE COST" INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

1 (1) DISPOSABLE MATERIALS AND SUPPLIES ACQUIRED, CONSUMED
2 AND EXPENDED SPECIFICALLY FOR THE PURPOSE OF THE RESPONSE TO
3 THE HAZARDOUS MATERIAL RELEASE.

4 (2) RENTAL OR LEASING OF EQUIPMENT USED SPECIFICALLY FOR
5 THE RESPONSE, FOR EXAMPLE, PROTECTIVE EQUIPMENT OR CLOTHING
6 AND SCIENTIFIC AND TECHNICAL EQUIPMENT.

7 (3) REPLACEMENT COSTS FOR EQUIPMENT THAT IS CONTAMINATED
8 BEYOND REUSE OR REPAIR DURING THE RESPONSE, FOR EXAMPLE,
9 SELF-CONTAINED BREATHING APPARATUS IRRETRIEVABLY CONTAMINATED
10 DURING THE RESPONSE.

11 (4) DECONTAMINATION OF EQUIPMENT CONTAMINATED DURING THE
12 RESPONSE.

13 (5) COMPENSATION OF PAID EMPLOYEES OR MEMBERS OF THE
14 HAZARDOUS MATERIAL RESPONSE TEAM [OR] AND SUPPORTING PAID OR
15 VOLUNTEER EMERGENCY SERVICE ORGANIZATION, TO INCLUDE REGULAR
16 AND OVERTIME PAY FOR PERMANENT FULL-TIME AND OTHER THAN FULL-
17 TIME COMPENSATED EMPLOYEES OR MEMBERS.

18 (6) SPECIAL TECHNICAL SERVICES SPECIFICALLY REQUIRED FOR
19 THE RESPONSE, FOR EXAMPLE, COSTS ASSOCIATED WITH THE TIME AND
20 EFFORTS OF TECHNICAL EXPERTS OR SPECIALISTS.

21 (7) LABORATORY AND TESTING COSTS FOR PURPOSES OF
22 ANALYZING SAMPLES OR SPECIMENS TAKEN DURING THE RESPONSE.

23 (8) OTHER SPECIAL SERVICES SPECIFICALLY REQUIRED FOR THE
24 RESPONSE, FOR EXAMPLE, UTILITY COSTS.

25 (9) COSTS ASSOCIATED WITH THE SERVICES, SUPPLIES AND
26 EQUIPMENT USED TO CONDUCT AN EVACUATION DURING THE RESPONSE.

27 (10) COSTS ASSOCIATED WITH THE REMOVAL AND DISPOSAL OF
28 HAZARDOUS MATERIALS.

29 (D) ARBITRATION.--

30 (1) IN LIEU OF BRINGING AN ACTION AT LAW OR IN EQUITY IN

1 A COURT OF COMPETENT JURISDICTION IN THE MATTER OF A RESPONSE
2 COST DISPUTE UNDER SUBSECTION (A), THE PARTY WHO IS THE
3 PERSON WHO CAUSED A RELEASE OF A HAZARDOUS MATERIAL AND THE
4 PARTY WHO IS THE CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM,
5 INCLUDING ANY VOLUNTEER EMERGENCY SERVICE ORGANIZATIONS
6 REQUESTED AND DISPATCHED BY A LEGALLY CONSTITUTED AUTHORITY,
7 MAY AGREE TO SUBMIT THE RESPONSE COST DISPUTE TO BINDING
8 ARBITRATION AS PROVIDED IN THIS SUBSECTION. BY SUBMITTING THE
9 RESPONSE COST DISPUTE TO ARBITRATION, THE PARTIES SHALL HAVE
10 WAIVED ALL RIGHTS TO REMEDIES AVAILABLE UNDER SUBSECTION (A)
11 OR TO ANY OTHER REMEDIES AVAILABLE AT LAW.

12 (2) ONCE THE PARTIES AGREE TO SUBMIT THE RESPONSE COST
13 DISPUTE TO BINDING ARBITRATION, THE LOCAL COMMITTEE SHALL
14 NOTIFY THE COUNCIL AND THE PARTIES OF THE REQUEST FOR A BOARD
15 OF ARBITRATION AND SHALL REQUEST THE RECOMMENDATION OF THE
16 PARTIES FOR PERSONS TO BE APPOINTED TO THE BOARD. THE BOARD
17 OF ARBITRATION SHALL CONSIST OF THREE PERSONS, ONE TO BE
18 SELECTED BY EACH OF THE PARTIES AND A THIRD PERSON TO BE
19 AGREED UPON BY THE ARBITRATORS AS SPECIFIED IN PARAGRAPH (3).
20 WITHIN FIVE DAYS OF THE REQUEST FOR ARBITRATION, THE PARTIES
21 SHALL SUBMIT THE NAMES OF THE ARBITRATORS THAT THEY HAVE
22 CHOSEN AND THE LOCAL COMMITTEE SHALL APPOINT THOSE PERSONS TO
23 THE BOARD OF ARBITRATION.

24 (3) WITHIN FIVE DAYS AFTER THEIR APPOINTMENT, THE TWO
25 ARBITRATORS SHALL MEET AND SELECT A THIRD ARBITRATOR WHO
26 SHALL BE APPOINTED TO THE BOARD BY THE LOCAL COMMITTEE, AND
27 WHO WILL BE CHAIRMAN OF THE BOARD OF ARBITRATION.

28 (4) IF THE TWO ARBITRATORS FAIL TO SELECT A THIRD
29 ARBITRATOR AS PROVIDED IN PARAGRAPH (3), THE COUNCIL SHALL,
30 WITHIN FIVE DAYS, SELECT A THIRD ARBITRATOR WHO SHALL BE

1 APPOINTED TO THE BOARD. THE PERSON SO SELECTED SHALL NOT BE A
2 MEMBER OF THE COUNCIL, A MEMBER OF ANY LOCAL COMMITTEE OR A
3 PERSON OR A RELATIVE OF A PERSON EMPLOYED BY THE PARTY OR A
4 SUBSIDIARY OF THE PARTY WHO CAUSED THE HAZARDOUS MATERIAL
5 RELEASE OR WHO HAS AN OWNERSHIP OR EQUITY INTEREST IN THE
6 PARTY OR SUBSIDIARY OF THE PARTY WHO CAUSED THE HAZARDOUS
7 MATERIAL RELEASE.

8 (5) UPON APPOINTMENT OF THE THIRD MEMBER, THE BOARD
9 SHALL COMMENCE ITS PROCEEDINGS AND WITHIN 30 DAYS SHALL MAKE
10 ITS DETERMINATION, WHICH SHALL BE BINDING ON ALL PARTIES.

11 (6) UNLESS OTHERWISE PRESCRIBED IN THE AGREEMENT TO
12 ARBITRATE, THE EXPENSES AND FEES OF THE ARBITRATORS AND OTHER
13 EXPENSES, BUT NOT INCLUDING COUNSEL FEES, INCURRED IN THE
14 CONDUCT OF THE ARBITRATION SHALL BE PAID AS PRESCRIBED IN THE
15 AWARD.

16 SECTION 211. FACILITY AND VEHICLE INSPECTION AND TESTING.

17 (A) INSPECTION.--IN ORDER TO DETERMINE COMPLIANCE WITH THIS
18 ACT AND SARA, TITLE III, EITHER THE QUALIFIED COUNCIL OR LOCAL
19 COMMITTEE MEMBER OR [REPRESENTATIVE] REPRESENTATIVES, AS DEFINED
20 IN SUBSECTION (E), MAY ENTER A FACILITY OR VEHICLE SITE, DURING
21 NORMAL BUSINESS HOURS, TO INSPECT THE FACILITY OR VEHICLE AND TO
22 REQUEST INFORMATION OR REPORTS FROM THE FACILITY OR VEHICLE
23 OWNER OR OPERATOR CONCERNING THE CHEMICAL NAME, IDENTITY, AMOUNT
24 OR ANY OTHER INFORMATION NECESSARY FOR EMERGENCY PLANNING AND
25 RESPONSE PURPOSES FOR ANY SUBSTANCE, LIQUID, MIXTURE, COMPOUND,
26 MATERIAL OR PRODUCT MANUFACTURED, PRODUCED, USED, STORED,
27 SUPPLIED, IMPORTED, EXPORTED OR DISTRIBUTED AT, TO OR FROM THE
28 FACILITY OR VEHICLE.

29 (B) TESTING.--SHOULD THE QUALIFIED COUNCIL OR LOCAL
30 COMMITTEE MEMBER OR REPRESENTATIVE DETERMINE DURING THE COURSE

1 OF A FACILITY OR VEHICLE INSPECTION THAT THE CHEMICAL NAME,
2 IDENTITY, AMOUNT OR ANY OTHER REQUESTED INFORMATION FOR ANY
3 SUBSTANCE, LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT
4 PRESENT AT THE FACILITY OR VEHICLE CANNOT BE IDENTIFIED OR
5 DETERMINED TO HIS SATISFACTION, DUE TO THE LACK OF PROPER
6 LABELING, PLACARDING, RECORDKEEPING OR FOR ANY OTHER REASON, THE
7 REPRESENTATIVE SHALL HAVE THE AUTHORITY TO ANALYZE OR ARRANGE
8 FOR THE ANALYSIS OF THE SUBSTANCE TO IDENTIFY THE CHEMICAL
9 PROPERTIES OF THE SAMPLE OR SPECIMEN, THE AMOUNT OF THE
10 SUBSTANCE, LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT
11 MANUFACTURED, PRODUCED, USED, STORED, SUPPLIED, IMPORTED,
12 EXPORTED OR DISTRIBUTED AT, TO OR FROM THE FACILITY OR VEHICLE
13 TO DETERMINE IF IT IS REGULATED BY THIS ACT. THE OWNER OR
14 OPERATOR OF A FACILITY OR VEHICLE SHALL PAY ANY TESTING AND
15 LABORATORY ANALYSIS COSTS INCURRED BY THE COUNCIL OR A LOCAL
16 COMMITTEE AS PERFORMED UNDER THIS SECTION. SAMPLES OF ANY
17 SUBSTANCE REQUIRED TO BE TAKEN UNDER THIS SECTION BY THE
18 QUALIFIED COUNCIL OR LOCAL REPRESENTATIVE SHALL BE SPLIT WITH
19 THE FACILITY FOR ANALYSIS.

20 (C) EMERGENCY SITUATIONS.--SHOULD A RELEASE OR THREATENED
21 RELEASE OF A KNOWN OR UNKNOWN SUBSTANCE, LIQUID, MIXTURE,
22 COMPOUND, MATERIAL OR PRODUCT OCCUR OR APPEAR TO BE IMMINENT AT
23 A FACILITY OR VEHICLE SITE[,] WHICH ENDANGERS OR HAS THE
24 POTENTIAL TO ENDANGER THE HEALTH, SAFETY AND WELFARE OF THE
25 PUBLIC, EMPLOYEES OF THE FACILITY OR THE VEHICLE'S OWNER OR
26 OPERATOR, OR THE EMPLOYEES OF THE OWNER OR OPERATOR OF THE
27 VEHICLE, THE COUNCIL OR THE LOCAL COMMITTEE MAY SEND QUALIFIED
28 REPRESENTATIVES OR THE CERTIFIED HAZARDOUS MATERIAL RESPONSE
29 TEAM, OR BOTH, TO THE FACILITY OR VEHICLE SITE AT ANY TIME IN
30 ORDER TO INSPECT THE FACILITY OR VEHICLE AND TO ASSESS THE

1 DANGER POSED BY THE RELEASE OR THREATENED RELEASE AND TO OBTAIN
2 SAMPLES OR SPECIMENS OF THE SUBSTANCE, LIQUID, MIXTURE,
3 COMPOUND, MATERIAL OR PRODUCT INVOLVED IN THE RELEASE OR
4 THREATENED RELEASE AND TO PERFORM ANY OTHER [EMERGENCY] INCIDENT
5 RESPONSE ACTIVITIES DEEMED NECESSARY BY THE REPRESENTATIVES OF
6 THE COUNCIL OR THE LOCAL COMMITTEE OR THE CERTIFIED HAZARDOUS
7 MATERIAL RESPONSE TEAM.

8 (D) TRADE SECRETS.--A PERSON SHALL PROVIDE THE QUALIFIED
9 REPRESENTATIVE OF THE COUNCIL OR THE LOCAL COMMITTEE OR THE
10 CERTIFIED HAZARDOUS MATERIAL RESPONSE TEAM WITH THE CHEMICAL
11 NAME, IDENTITY OR ANY OTHER INFORMATION REQUESTED CONCERNING ANY
12 SUBSTANCE, LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT
13 PRESENT AT THE FACILITY OR VEHICLE, WHETHER OR NOT THE CHEMICAL
14 NAME, IDENTITY OR OTHER INFORMATION REQUESTED IS ENTITLED TO
15 PROTECTION AS A TRADE SECRET UNDER SECTION 322 OF SARA, TITLE
16 III, UNLESS THE MANUFACTURER OF THE SUBSTANCE WILL NOT PROVIDE
17 THE INFORMATION REQUESTED TO THE FACILITY OWNER BECAUSE IT HAS
18 RECEIVED TRADE SECRET PROTECTION UNDER SARA, TITLE III. FOR THAT
19 INFORMATION WHICH HAS RECEIVED TRADE SECRET PROTECTION UNDER
20 SECTION 322 OF SARA, TITLE III, PRIOR TO THE DATE OF THE
21 INSPECTION OR REQUEST, THE QUALIFIED REPRESENTATIVE SHALL GIVE A
22 WRITTEN ASSURANCE TO THE PERSON THAT REASONABLE MEASURES WILL BE
23 TAKEN TO PROTECT THE CONFIDENTIALITY OF ANY INFORMATION PROVIDED
24 TO THE QUALIFIED REPRESENTATIVE.

25 (E) QUALIFIED PERSON.--FOR PURPOSES OF THIS SECTION, THE
26 COUNCIL SHALL DEVELOP QUALIFICATION STANDARDS FOR MEMBERS OF THE
27 COUNCIL, LOCAL COMMITTEES OR THEIR REPRESENTATIVES WHO EXERCISE
28 THE REPORTING, INSPECTION AND TESTING AUTHORITY CONTAINED IN
29 THIS SECTION. AT A MINIMUM, THOSE QUALIFICATIONS SHALL INCLUDE:

30 (1) TRAINING IN INSPECTION AND ENFORCEMENT ACTIVITIES

1 RELATED TO ENFORCING ENVIRONMENTAL OR FIRE INCIDENT
2 INVESTIGATIONS.

3 (2) TRAINING IN THE HANDLING AND RECOGNITION OF
4 HAZARDOUS MATERIALS.

5 (3) CONFLICT OF INTEREST STANDARDS AND PROCEDURES
6 DESIGNED TO PREVENT A LOCAL COMMITTEE MEMBER OR
7 REPRESENTATIVE FROM USING THE AUTHORITY OF THIS SECTION TO
8 GATHER INFORMATION ON A BUSINESS COMPETITOR OR OTHER TRADE
9 SECRET INFORMATION.

10 (4) PROCEDURES FOR DECERTIFYING A MEMBER OR
11 REPRESENTATIVE WHO WAS DETERMINED TO BE A QUALIFIED
12 REPRESENTATIVE OF THE COUNCIL OR LOCAL COMMITTEE.

13 SECTION 212. ANNUAL REPORT.

14 [THE COUNCIL] PEMA SHALL SUBMIT AN ANNUAL REPORT TO THE
15 GENERAL ASSEMBLY BY OCTOBER 1 OF EACH YEAR ON THE ACTIVITIES IT
16 HAS UNDERTAKEN TO IMPLEMENT THIS ACT. THE REPORT SHALL INCLUDE,
17 BUT NOT BE LIMITED TO:

18 (1) AN ACCOUNTING OF REVENUES AND EXPENDITURES FROM THE
19 HAZARDOUS MATERIAL RESPONSE FUND AND THE COUNTY HAZARDOUS
20 MATERIAL EMERGENCY RESPONSE ACCOUNTS ALONG WITH A DESCRIPTION
21 OF THE PROJECTS UNDERTAKEN WITH THESE FUNDS AND A PROJECTION
22 OF FUTURE ACTIVITIES.

23 (2) THE STATUS OF LOCAL EMERGENCY PLANNING COMMITTEE
24 ACTIVITIES.

25 (3) THE STATUS OF FACILITIES REQUIRED TO COMPLY WITH
26 THIS ACT, INCLUDING THEIR NUMBER, LOCATION[, NUMBER OF
27 EMPLOYEES] AND THE NUMBER AND AMOUNT OF CHEMICALS REPORTED.

28 (4) THE NUMBER AND NATURE OF EMERGENCY NOTIFICATIONS
29 HANDLED BY PEMA.

30 [SECTION 213. CHANGES IN FEES.

1 (A) ADDITIONAL FACILITIES.--IF CHANGES MADE BY THE UNITED
2 STATES ENVIRONMENTAL PROTECTION AGENCY UNDER SARA, TITLE III,
3 RESULT IN THE FEES ESTABLISHED IN SECTION 207 BEING APPLIED TO
4 ADDITIONAL FACILITIES, NO FEES MAY BE COLLECTED FROM THE OWNERS
5 OR OPERATORS OF THESE FACILITIES UNTIL THE COUNCIL SUBJECTS
6 THESE FACILITIES TO THE FEES BY REGULATION.

7 (B) CHANGE IN REQUIREMENTS.--THE COUNCIL, BY REGULATION, MAY
8 ALSO REVISE THE FEES ESTABLISHED IN SECTION 207, AS THEY APPLY
9 TO ALL FACILITIES WHEN THE ENVIRONMENTAL PROTECTION AGENCY,
10 UNDER SARA, TITLE III CHANGES THE THRESHOLD PLANNING QUANTITIES,
11 THE HAZARDOUS MATERIAL LISTS OR OTHER REQUIREMENTS.]

12 SECTION 303. ENFORCEMENT.

13 (A) CIVIL ACTIONS.--THE OFFICE OF ATTORNEY GENERAL [OR]; THE
14 OFFICE OF GENERAL COUNSEL OR A COUNTY OR MUNICIPALITY MAY
15 COMMENCE A CIVIL ACTION AGAINST ANY PERSON FOR FAILURE TO COMPLY
16 WITH THIS ACT OR ITS REGULATIONS. NO ACTION MAY BE COMMENCED
17 UNDER THIS SUBSECTION PRIOR TO 60 DAYS AFTER THE OFFICE OF
18 ATTORNEY GENERAL OR OFFICE OF GENERAL COUNSEL OR THE APPROPRIATE
19 COUNTY OR MUNICIPALITY HAS GIVEN WRITTEN NOTICE OF THE ALLEGED
20 VIOLATION TO THE ALLEGED VIOLATOR. [THE COUNCIL, A] A COUNTY OR
21 A MUNICIPALITY MAY COMMENCE A CIVIL ACTION AGAINST ANY PERSON
22 FOR FAILURE TO COMPLY WITH THIS ACT OR ITS REGULATIONS IF THE
23 OFFICE OF ATTORNEY GENERAL OR THE OFFICE OF GENERAL COUNSEL HAS
24 NOT COMMENCED SUCH ACTION AND MORE THAN 120 DAYS HAVE ELAPSED
25 SINCE [THE COUNCIL,] A COUNTY OR A MUNICIPALITY GAVE NOTICE OF
26 THE ALLEGED VIOLATION TO THE ALLEGED VIOLATOR.

27 (B) CRIMINAL ACTIONS.--THE OFFICE OF ATTORNEY GENERAL UNDER
28 THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE
29 COMMONWEALTH ATTORNEYS ACT, OR THE DISTRICT ATTORNEY FOR THE
30 COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED MAY

1 COMMENCE CRIMINAL PROCEEDINGS FOR THE ENFORCEMENT OF THIS ACT
2 AND ITS REGULATIONS.

3 (C) VENUE.--A PROCEEDING UNDER SUBSECTION (A) OR (B) MAY BE
4 BROUGHT IN THE COURT OF COMMON PLEAS FOR THE COUNTY IN WHICH THE
5 DEFENDANT IS LOCATED OR FOR THE COUNTY IN WHICH THE VIOLATION IS
6 ALLEGED TO HAVE OCCURRED.

7 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.