

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 484

AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-6-10 IS REPEALED [EFFECTIVE JULY 1, 2015]. (Local Emergency Planning and Right to Know Fund).

SECTION 2. IC 10-14-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The agency shall prepare and maintain a current state emergency operations plan. The plan may provide for the following:

- (1) Prevention and minimization of injury and damage caused by disaster.
- (2) Prompt and effective response to disaster.
- (3) Emergency relief.
- (4) Identification of areas particularly vulnerable to disaster.
- (5) Recommendations for:
 - (A) zoning;
 - (B) building;
 - (C) other land use controls;
 - (D) safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and
 - (E) other preventive and preparedness measures designed to eliminate or reduce disaster or its impact;

that must be disseminated to both the fire prevention and building safety commission and local authorities.

SEA 484



(6) Assistance to local officials in designing local emergency action plans.

(7) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster.

(8) Preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs.

(9) Organization of manpower and chains of command.

(10) Coordination of federal, state, and local disaster activities.

(11) Coordination of the state disaster plan with the disaster plans of the federal government.

(12) Other necessary matters.

(b) The agency shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under section 17 of this chapter. The agency shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, a political subdivision's disaster agencies, and interjurisdictional planning and disaster agencies. These personnel:

(1) shall consult with subdivisions and government agencies on a regularly scheduled basis;

(2) shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply; and

(3) may suggest revisions.

(c) In preparing and revising the state disaster plan, the agency shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the agency shall encourage local and interjurisdictional agencies to seek advice from the sources specified in this subsection.

(d) The state disaster plan or any part of the plan may be incorporated in rules of the agency or by executive orders.

(e) The agency shall do the following:

(1) Determine requirements of the state and political subdivisions for food, clothing, and other necessities in the event of an emergency.

(2) Procure and pre-position supplies, medicines, materials, and equipment.

(3) Adopt standards and requirements for local and



interjurisdictional disaster plans.

(4) Provide for mobile support units.

(5) Assist political subdivisions, political subdivisions' disaster agencies, and interjurisdictional disaster agencies to establish and operate training programs and public information programs.

(6) Make surveys of industries, resources, and facilities in Indiana, both public and private, necessary to carry out this chapter.

(7) Plan and make arrangements for the availability and use of any private facilities, services, and property, and if necessary and if the private facilities, services, or property is used, provide for payment for the use under agreed upon terms and conditions.

(8) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery.

(9) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency.

(10) Prepare, for issuance by the governor, executive orders, proclamations, and regulations necessary or appropriate in coping with disaster.

(11) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery.

(12) Do other things necessary, incidental, or appropriate to implement this chapter.

(f) The agency shall ascertain the rapid and efficient communications that exist in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating these resources into a comprehensive intrastate or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system, the agency shall evaluate the possibility of multipurpose use of the system for general state and local governmental purposes. The agency shall make appropriate recommendations to the governor.

(g) The agency shall ~~develop a statewide mutual aid program to implement the statewide mutual aid agreement.~~ **assist political subdivisions in implementing the intrastate mutual aid compact created by section 10.8 of this chapter.**

SECTION 3. IC 10-14-3-10.6 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 10-6: (a) As used in this section, "participating unit" refers to a unit that does not opt out under subsection (e) from~~

SEA 484



participating in the statewide mutual aid program.

(b) As used in this section, "unit" means the following:

- (1) A unit (as defined in IC 36-1-2-23);
- (2) A fire protection district established under IC 36-8-11;
- (3) A provider unit (as defined in IC 36-8-19-3) acting on behalf of a fire protection territory established under IC 36-8-19;
- (4) A fire department established by the board of trustees of a state educational institution (as defined in IC 21-7-13-32); including a fire department established by the board of trustees of Purdue University under IC 21-39-7.

(c) A unit may choose not to participate in the statewide mutual aid program if the unit:

- (1) adopts an ordinance or a resolution declaring that the unit will not participate in the statewide mutual aid program; and
- (2) provides a copy of the ordinance or resolution to:
 - (A) the local emergency management organization that serves the unit; and
 - (B) the department.

(d) Each participating unit shall establish an incident management system and a unified command system to be used in a response to a disaster or an emergency.

(e) A participating unit may request the assistance of at least one (1) other participating unit to:

- (1) manage disaster response or recovery; or
- (2) conduct disaster response or recovery related exercises; testing; or training.

The participating unit that requests assistance shall provide a copy of the request to the emergency operations center within the division of emergency response and recovery not more than forty-eight (48) hours after making the request.

(f) A request for assistance to a participating unit under subsection (e) shall be made by and to the executive of the unit or the executive's authorized representative. A request may be oral or in writing. A written request shall be made on forms developed by the department. An oral request shall be confirmed in writing not later than twenty-four (24) hours after the oral request is made.

(g) A request must include the following information:

- (1) A description of the disaster response and recovery functions for which assistance is needed; including the following:
 - (A) Fire;
 - (B) Law enforcement;
 - (C) Emergency medical;



- (D) Transportation.
- (E) Communications.
- (F) Public works and engineering.
- (G) Building inspection.
- (H) Planning and information assistance.
- (I) Mass care.
- (J) Resource support.
- (K) Health and other medical services.
- (L) Search and rescue.

(2) The amount and type of services, equipment, supplies, materials, personnel, and other resources needed and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting participating unit's provision of assistance and a point of contact at that location.

(4) A statement that the request for assistance is being made through the statewide mutual aid program.

(h) A participating unit that is requested to render assistance shall take the necessary action to provide and make available the requested services, equipment, supplies, materials, personnel, and other resources.

(i) A participating unit's obligation to provide assistance is subject to the following restrictions:

(1) A participating unit's request to receive assistance is effective only:

(A) upon declaration of a local disaster emergency by the principal executive officer of the unit under section 29 of this chapter; or

(B) upon the commencement of the exercises, testing, or training.

(2) The assistance shall continue as long as:

(A) the state of emergency remains in effect and the loaned resources are required by the receiving participating unit or the loaned resources remain in the receiving participating unit; or

(B) the exercises, testing, or training is in progress.

(3) The participating unit rendering the assistance may withhold resources or recall loaned resources to the extent necessary to provide for the participating unit's own reasonable protection.

(4) Emergency forces providing assistance shall continue under the command and control of their regular leaders, but operationally those forces shall be under the control of the incident commander or unified commander designated by the



requesting participating unit.

SECTION 4. IC 10-14-3-10.7 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 10.7: (a) As used in this section, "participating unit" has the meaning set forth in section 10.6(a) of this chapter.

(b) Each participating unit shall provide for the payment of compensation and benefits to:

- (1) an injured member; and
- (2) a representative of a deceased member;

of the participating unit's emergency forces if the member is injured or killed while rendering assistance under section 10.6 of this chapter in the same manner and on the same terms as if the injury or death were sustained while the member was rendering assistance for or within the member's own unit. Expenses incurred under this subsection are not reimbursable under subsection (c).

(c) A participating unit that complies with subsection (b) and renders assistance for disaster response or recovery to another participating unit under section 10.6 of this chapter shall be reimbursed by the participating unit receiving the assistance for the following:

- (1) A loss of, damage to, or expense incurred in the operation of any equipment in answering the request for assistance; to the extent the loss, damage, or expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.
- (2) An expense incurred in the provision of a service in answering the request for assistance; to the extent the expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.
- (3) An expense incurred in answering the request for assistance; to the extent the expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.
- (4) An amount equal to the deductible portion of an insurance policy used to reimburse all or part of an expense or other cost described in subdivisions (1) through (3).

(d) Except as provided by an agreement entered into under subsection (c), the following labor and equipment reimbursement rates apply to reimbursement under subsection (c):

- (1) The labor reimbursement rates are as follows:
 - (A) The straight time costs of the labor force of the participating unit rendering assistance shall be reimbursed at the normal pay rates for responding personnel.
 - (B) The overtime costs of the labor force of the participating unit rendering assistance shall be reimbursed at one hundred



fifty percent (150%) of the normal pay rates for the responding personnel if it is the normal practice of the requesting unit to pay these personnel overtime.

(2) The equipment reimbursement rates are the lesser of the following:

(A) The rates for equipment costs reimbursement established by the Federal Emergency Management Agency or its successor agency.

(B) The equipment costs established by the participating unit rendering assistance.

(e) At least two (2) participating units may enter into agreements establishing a different allocation of loss, damage, expense, or costs among themselves than that specified in subsections (c) and (d).

(f) Officers and employees of a participating unit rendering assistance to another participating unit under this section shall be considered agents of the requesting participating unit for the purpose of tort liability and immunity.

(g) This section does not prevent any participating unit from entering into a mutual aid or other agreement with another unit, fire protection district, or provider unit (as defined in IC 36-8-19-3) acting on behalf of a fire protection territory, or affect any other agreement to which a unit, a fire protection district, or a fire protection territory is a party, including an agreement entered into under this chapter or IC 36-1-7.

(h) A participating unit rendering assistance that seeks reimbursement under subsection (e) must submit to the participating unit receiving assistance, not more than thirty (30) days after the date on which the assistance is rendered, an itemized statement of the expenses described in subsection (e) for which the participating unit rendering assistance seeks reimbursement.

SECTION 5. IC 10-14-3-10.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 10.8. (a) The following definitions apply to this section:**

(1) "Chief executive" means:

(A) the chief executive of a participant, or the chief executive's designee, for purposes of the intrastate mutual aid compact created under this section; or

(B) if the participant does not have a chief executive, a member of the participant's governing body or the governing body's designee for purposes of the intrastate mutual aid compact created under this section.



(2) "Emergency management agency" means an organization for emergency management established under this chapter.

(3) "Participant" means any of the following:

(A) A political subdivision.

(B) A volunteer fire department.

(C) A fire department established by the board of trustees of a state educational institution (as defined in IC 21-7-13-32), including a fire department established by the board of trustees of Purdue University under IC 21-39-7.

The term does not include an entity under clause (A), (B), or (C) that chooses to reject participation in the intrastate mutual aid program by adopting an ordinance or resolution declaring that the entity will not participate in the intrastate mutual aid program and provides a copy of the appropriate ordinance or resolution to the agency and to the emergency management agency serving the entity.

(4) "Planned event" means a scheduled nonemergency activity. Planned event includes a sporting event, concert, or parade.

(5) "Provider participant" means a participant that provides assistance or aid to a requesting participant under the intrastate mutual aid compact created under this section.

(6) "Requesting participant" means a participant that receives assistance or aid from a provider participant under the intrastate mutual aid compact created under this section.

(7) "Volunteer fire department" has the meaning set forth in IC 36-8-12-2.

(b) This section creates an intrastate mutual aid program to be known as Indiana's intrastate mutual aid compact to complement existing mutual aid agreements. This program has the following two (2) purposes:

(1) Provide for mutual assistance or aid among participants for purposes of preparing for, responding to, and recovering from any incident, disaster, exercise, training activity, or planned event that requires additional resources.

(2) Establish a method by which a participant may seek assistance or aid that:

(A) resolves many of the common issues facing political subdivisions before, during, and after an incident, disaster, exercise, training activity, or planned event, any of which requires additional resources; and



(B) ensures, to the extent possible, eligibility for available state and federal disaster assistance or other funding.

(c) Each participant shall, to the extent practicable, identify and inventory the current services, equipment, supplies, personnel, and other resources related to the preparedness, response, and recovery activities of the participant. The participant shall perform the identification and inventory in coordination with, to the extent feasible, all departments, divisions, boards, commissions, agencies, and other instrumentalities within the participant.

(d) A participant that is impacted by any incident, disaster, exercise, training activity, or planned event that requires additional resources may request mutual assistance or aid from any other participant. This request shall be made by the chief executive of the requesting participant to the chief executive of a provider participant. If the request is made orally, the requesting participant shall provide the provider participant with written confirmation of the request not later than seventy-two (72) hours after the oral request is made. A request must provide the following information:

- (1) A description of the incident, disaster, exercise, training activity, or planned event.**
- (2) A description of the assistance or aid needed.**
- (3) An estimate of the length of time the assistance or aid will be needed.**
- (4) The specific place and time for staging of the assistance or aid and a point of contact at that location.**
- (5) A statement that the request for assistance is being made through the intrastate mutual aid compact.**

(e) A provider participant shall provide assistance or aid to a requestor participant subject to the following:

- (1) The provider participant may withhold resources the provider participant determines to be necessary to provide for the provider participant's own protection.**
- (2) Personnel of the provider participant shall continue under the personnel's local command and control structure, but shall be under the operational control of the appropriate officials within the incident management system of the requesting participant.**
- (3) Law enforcement officers rendering assistance or aid under this section have the same powers and duties as law enforcement officers of the requesting participant, but only for the period the law enforcement officers are engaged in**



activities authorized by the requesting participant, and are subject to the law as if the law enforcement officers were providing services within the law enforcement officer's own jurisdiction.

(f) Each provider participant shall provide for the payment of compensation and benefits to:

- (1) an injured member; and
- (2) a representative of a deceased member;

of the provider participant's emergency forces, if the member is injured or killed while rendering assistance under this section in the same manner and on the same terms as if the injury or death were sustained while the member was rendering assistance for or within the member's own jurisdiction.

(g) Personnel of a provider participant shall be considered, while rendering assistance or aid, or while en route to or from rendering assistance or aid, to a requesting participant, to be agents of the provider participant for purposes of tort liability and immunity from tort liability under state law.

(h) If a person:

- (1) holds a license, certificate, or other permit issued by a participant evidencing qualification in a professional, mechanical, or other skill; and
- (2) provides assistance or aid at the request of a provider participant;

the person shall be considered to be licensed or certified in or permitted by the requesting participant to render the assistance or aid.

(i) Subject to subsection (k) and except as provided in subsection (j), a provider participant shall be reimbursed by the requesting participant for the following:

- (1) Any loss of or damage to, or expense incurred in the operation of, any equipment used in rendering the assistance or aid. To avoid duplication of payments, insurance proceeds available to cover any loss of or damage to equipment of a provider participant shall be considered in the reimbursement by the requesting participant.
- (2) Any expense incurred in the provision of any service used in rendering the assistance or aid.
- (3) All other costs incurred in responding to the request for assistance or aid.

(j) A provider participant may not be reimbursed for:

- (1) the first twelve (12) hours of mutual assistance or aid



provided to the requesting participant; or

(2) expenses the provider participant incurs under subsection (f).

(k) A provider participant may do any of the following:

(1) Assume, in whole or in part, any loss, damage, expense, or cost the provider participant incurs in rendering the assistance or aid.

(2) Loan, without charge, any equipment, or donate any service, to the requesting participant.

(3) Enter into agreements with one (1) or more other participants to establish different allocations of losses, damages, expenses, or costs among the participants.

(l) Nothing in this section does any of the following:

(1) Prohibits a private company from participating in the provision of mutual assistance or aid under the intrastate mutual aid compact created under this section if:

(A) the participant approves the participation; and

(B) the contract with the private company allows for the participation.

(2) Precludes a participant from entering into a mutual aid or other agreement with another political subdivision or participant.

(3) Affects any other agreement to which a participant may be a party or any request for assistance or aid that may be made, under any other state statute.

SECTION 6. IC 10-14-3-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 19.5. (a) The following definitions apply to this section:**

(1) "Activates" or "activated" refers to the status of a task force or a task force resource placed at the direction, control, and funding of the agency in accordance with an agreement entered into in accordance with this section.

(2) "Task force" means a United States Department of Homeland Security national urban search and rescue response system task force established under 44 CFR 208.

(b) The agency may enter into an agreement with a political subdivision that is a sponsoring agency of a task force to establish the terms and conditions that would be applicable if the agency activates the task force as a state resource in anticipation of or in response to an emergency or disaster. Under this agreement, the agency may reimburse the political subdivision for allowable costs



and at the rates established under 44 CFR 208 and may reimburse the political subdivision for all payments for death, disability, or injury of an individual incurred in the course of duty while the individual is serving as an activated member of an activated task force.

(c) While an individual is serving as an activated member of an activated task force:

(1) if the individual is an employee of the state or a political subdivision of the state, whether serving within or outside the political subdivision, the individual:

(A) has the:

- (i) powers;
- (ii) duties;
- (iii) rights;
- (iv) privileges; and
- (v) immunities;

that are provided for an employee of the state or a political subdivision of the state and are incidental to the individual's employment; and

(B) shall receive the compensation and benefits incidental to the individual's employment; and

(2) if the individual is not an employee of the state or a political subdivision of the state, the individual is:

(A) entitled to the same rights and immunities that are provided for an employee of the state; and

(B) notwithstanding section 15(c) of this chapter, considered to be a temporary employee of the state for purposes of:

- (i) the worker's compensation law (IC 22-3-2 through IC 22-3-6); and
- (ii) the worker's occupational diseases law (IC 22-3-7).

SECTION 7. IC 10-14-6 IS REPEALED [EFFECTIVE JULY 1, 2015]. (Interstate Emergency Management and Disaster Compact).

SECTION 8. IC 13-11-2-120 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 120. "Local emergency planning committee", for purposes of IC 13-25-1 and IC 13-25-2, refers to a committee established under Title III of ~~SARA~~ **the federal Superfund Amendments and Reauthorization Act of 1986** for a local emergency planning district.

SECTION 9. IC 13-11-2-196 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 196. "SARA", for purposes of IC 13-25-1 and IC 13-25-2, refers to Title III of the



federal Superfund Amendments and Reauthorization Act of 1986 (P.L.99-499).

SECTION 10. IC 13-25-1-6, AS AMENDED BY P.L.26-2010, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) The commission shall do the following:

(1) Encourage and support the development of emergency planning efforts to provide:

- (A) state government entities;
- (B) local governments; and
- (C) the public;

with information concerning potential chemical hazards in Indiana.

(2) Assist the state in complying with the requirements of SARA.

(3) Design and supervise the operation of emergency planning districts in Indiana.

(4) Gather and distribute information needed for effective emergency response planning.

(b) A local emergency planning committee shall do the following:

(1) Satisfy the requirements of SARA.

(2) Prepare and submit a roster of committee members to the commission at least one (1) time each year.

(3) Meet at least two (2) times, on separate days, every six (6) months.

(4) **Each year** prepare and submit ~~the a~~ report ~~required under IC 6-6-10-8.~~ **to the commission that describes the expenditures of the local emergency planning committee in the preceding year that were paid for with the money distributed under IC 13-25-2-10.6.**

(c) A local emergency planning committee member who is an employee of a unit (as defined in IC 36-1-2-23) may appoint a designee to act on the committee member's behalf under this chapter. An appointment under this subsection must:

- (1) be in writing;
- (2) specify the duration of the appointment; and
- (3) be submitted to the committee at least two (2) calendar days before the first meeting that the designee attends on behalf of the member.

SECTION 11. IC 13-25-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) ~~The owner or operator of a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and~~

SEA 484



regulations adopted under the Act shall prepare and submit an emergency and hazardous chemical inventory form to each of the following:

- (1) The appropriate local emergency planning committee.
- (2) The commission.
- (3) The fire department that has jurisdiction over the facility.

A tier II emergency and hazardous chemical inventory form required to be submitted under section 10 of this chapter must provide the following information for each hazardous chemical present at the facility:

- (1) The chemical name or the common name of the chemical as provided on the material safety data sheet.**
- (2) An estimate in ranges of the maximum amount of the hazardous chemical present at the facility at any time during the preceding year.**
- (3) An estimate in ranges of the average daily amount of the hazardous chemical present at the facility during the preceding year.**
- (4) A brief description of the manner of storage of the hazardous chemical.**
- (5) The location at the facility of the hazardous chemical.**
- (6) An indication of whether the owner of the facility elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 14 of this chapter.**
- (7) The tier II inventory information specified in 40 CFR 370.42.**

When the tier II inventory information is being submitted using an online system approved by the commission, an electronic signature that meets the conditions established by the commission will satisfy the signature requirement specified in 40 CFR 370.42(a).

(b) The inventory form containing tier I information as described in subsection (c):

- (1) shall be submitted before March 1 of each year; and**
- (2) must contain data with respect to the preceding year;**

unless an owner or operator provides, before March 1 and with respect to the same year, tier II information as described in section 10(a) of this chapter to the recipients described in subsection (a):

(c) (b) An owner or operator may meet the requirements of this section and section 10 of this chapter with respect to a hazardous chemical that is a mixture by doing one (1) of the following:

- (1) Providing information on the inventory form on each element**



or compound in the mixture that is a hazardous chemical. If more than one (1) mixture has the same element or compound, only one (1) listing on the inventory form for the element or compound at the facility is necessary.

(2) Providing information on the inventory form on the mixture.

(d) (c) A hazardous chemical for which a material safety data sheet or a listing is required by section 8 of this chapter is subject to this section and section 10 of this chapter.

(e) An inventory form must contain the following tier I information in aggregate terms for hazardous chemicals in categories of health and physical hazards as set forth under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act:

(1) An estimate in ranges of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding year.

(2) An estimate in ranges of the average daily amount of hazardous chemicals in each category present at the facility during the preceding year.

(3) The general location of hazardous chemicals in each category.

SECTION 12. IC 13-25-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) An inventory form must provide the following additional tier H information for each hazardous chemical present at the facility only upon request and in accordance with subsection (b):

(1) The chemical name or the common name of the chemical as provided on the material safety data sheet.

(2) An estimate in ranges of the maximum amount of the hazardous chemical present at the facility at any time during the preceding year.

(3) An estimate in ranges of the average daily amount of the hazardous chemical present at the facility during the preceding year.

(4) A brief description of the manner of storage of the hazardous chemical.

(5) The location at the facility of the hazardous chemical.

(6) An indication of whether the owner of the facility elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 14 of this chapter.

On or after January 1 and before March 1 of each year, a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational



Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act shall submit the following to the commission:

- (1) A tier II emergency and hazardous chemical inventory form containing the information required by section 9 of this chapter.**
- (2) A fee in the amount established by section 10.4 of this chapter. This fee shall be deposited in the local emergency planning and right to know fund established in section 10.5 of this chapter.**

The tier II inventory form must contain data with respect to the preceding calendar year, and the inventory form and the fee shall be submitted in the form and manner established by the commission.

(b) The commission shall make the tier II emergency and hazardous chemical inventory form information provided to the commission by a facility under subsection (a)(1) available to the following:

- (1) The appropriate local emergency planning committee.**
- (2) The fire department that has jurisdiction over the facility.**
- ~~(b)~~ **(c) Upon the request of:**
 - ~~(+)~~ **the commission;**
 - ~~(2)~~ **(1) a local emergency planning committee; or**
 - ~~(3)~~ **(2) a fire department with jurisdiction over a facility;**

the owner or operator of a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act shall provide the tier II emergency and hazardous chemical inventory form information as described in subsection (a) to the person making the request. A request must be made with respect to a specific facility.

~~(c)~~ **(d) A state or local official acting in the official's capacity may have access to tier II information on the tier II emergency and hazardous chemical inventory forms by submitting a request to the commission or a local emergency planning committee. If the commission or the emergency planning committee does not already possess the requested information, upon receipt of a request for tier II emergency and hazardous chemical inventory form information, the commission or committee shall request the facility owner or operator to provide the tier II emergency and hazardous chemical inventory form information. and The commission or the local emergency planning committee shall make the information available**



to the official.

(d) (e) A person may make a request to the commission or a local emergency planning committee for tier II **emergency and hazardous chemical inventory form** information relating to the preceding year with respect to a facility. The request must be in writing and must be made with respect to a specific facility.

(e) (f) Any tier II **emergency and hazardous chemical inventory form** information that the commission or a local emergency planning committee possesses shall be made available to a person making a request under this section in accordance with section 14 of this chapter. If the commission or local emergency planning committee does not possess the tier II **emergency and hazardous chemical inventory form** information requested, the commission or local emergency planning committee shall request the facility owner or operator to:

(1) provide the tier II **emergency and hazardous chemical inventory form** information with respect to a hazardous chemical that a facility has stored in an amount of at least ten thousand (10,000) pounds present at the facility at any time during the preceding year; and

(2) make the information available in accordance with section 14 of this chapter;

to the person making the request.

(f) (g) For tier II **emergency and hazardous chemical inventory form** information that is not in the possession of the commission or a local emergency planning committee with respect to a hazardous chemical that a facility has stored in an amount that is less than ten thousand (10,000) pounds at the facility at any time during the preceding year, a request from a person must include a statement specifying the general need for the information. The commission or local emergency planning committee may request the facility owner or operator for the tier II **emergency and hazardous chemical inventory form** information on behalf of the person making the request. Upon receipt of any information requested on behalf of the person, the commission or local emergency planning committee shall make the information available in accordance with section 14 of this chapter to the person.

(g) (h) The commission or a local emergency planning committee shall respond to a request for tier II **emergency and hazardous chemical inventory form** information under this section not later than seven (7) days after the date the request is received.

(i) **The following provisions apply to the fee required by subsection (a)(2):**

SEA 484



(1) A facility that is subject to the fee required by subsection (a)(2) that fails to pay the entire fee by March 1 of each year shall pay to the commission a late fee of twenty dollars (\$20) in addition to the fee payable under subsection (a)(2). This late fee shall increase by twenty dollars (\$20) for each month that the required fee is not paid. This late fee shall never exceed one hundred percent (100%) of the fee required by subsection (a)(2).

(2) If a payment is made by bank draft, check, cashier's check, electronic check, or money order, the liability is not finally discharged and the person has not paid the fee until the draft, check, or money order has been honored by the institution on which it is drawn. If the payment is made by credit card, debit card, charge card, or similar method, the liability is not finally discharged and the person has not paid the fee until the commission receives payment or credit from the institution responsible for making the payment or credit.

(3) If a financial institution reports that it dishonors or rejects a person's check, credit card payment, electronic funds transfer, or other form of payment, the commission shall assess and collect the fees and charges authorized in IC 35-43-5-5(e), in addition to the applicable late fee assessed under subdivision (1). If the person subject to the penalty under this subsection can show that there is reasonable cause for the payment not being honored, the commission may waive the fees and charges imposed under this subsection.

SECTION 13. IC 13-25-2-10.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10.4. (a) Each year a fee is imposed on a facility that must submit an emergency and hazardous chemical inventory form under section 10 of this chapter. The amount of the fee is as follows:

(1) For a facility in which at least one million (1,000,000) pounds of any hazardous chemical was present at one (1) time during the year preceding the year in which the fee is imposed, a fee of two hundred dollars (\$200).

(2) For a facility in which, in the year preceding the year in which the fee is imposed, one (1) or more hazardous chemicals were present in amounts exceeding the threshold quantities established under 42 U.S.C. 11022(b), but the total amount of any hazardous chemical present did not at any one (1) time equal or exceed one million (1,000,000) pounds, a fee of one



hundred dollars (\$100).

(3) For a facility that contains underground storage tanks (as defined in IC 13-11-2-241) and was subject to the reporting requirement in 42 U.S.C. 6991a(a), but in which, in the year preceding the year in which the fee is imposed, no hazardous chemicals were present in amounts exceeding the threshold quantities established under 42 U.S.C. 11022(b) (other than substances stored in underground storage tanks that must be reported under 42 U.S.C. 6991a(a)), a fee of fifty dollars (\$50).

(b) A facility subject to the fee imposed by this section shall pay this fee as required by section 10 of this chapter.

SECTION 14. IC 13-25-2-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10.5. The local emergency planning and right to know fund is established for the purpose of providing each county with funds to help implement SARA (42 U.S.C. 11001 et seq.). The department of state revenue shall administer the fund. The fund consists of:

- (1) revenue produced by any fee or charge imposed under section 10 or 10.4 of this chapter; and**
- (2) accrued interest and other investment earnings of the fund.**

Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 15. IC 13-25-2-10.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10.6. (a) Before July 1 of each year, the department of state revenue shall distribute the money in the local emergency planning and right to know fund as follows:

- (1) Ten percent (10%) allocated to the commission and administered by the department of homeland security to be used for the implementation and administration of IC 13-25-1 and this chapter. Money received as an allocation under this subdivision does not revert to the state general fund at the end of a state fiscal year.**
- (2) A distribution of the remaining money as follows:**
 - (A) To each county, two thousand five hundred dollars (\$2,500).**
 - (B) To each county, an additional distribution in an amount determined in STEP TWO of the following formula:**

STEP ONE: Divide the amount available for distribution



by the number of facilities that paid the fee required under section 10(a)(2) of this chapter in the calendar year preceding the distribution.

STEP TWO: Multiply the quotient determined in STEP ONE by the number of facilities located in each county.

The department of state revenue may make a distribution to a county under this subdivision only after receiving notice from the commission that the local emergency planning committee for the county has met the requirements of IC 13-25-1-6(b).

(b) The revenue distributed to the county under this section shall be deposited in a separate fund established by the county for the purpose of:

- (1) preparing and updating a comprehensive emergency response plan required under 42 U.S.C. 11003 for the county or emergency planning district;
- (2) establishing and implementing procedures for receiving and processing requests from the public for information about hazardous chemicals under SARA (42 U.S.C. 11001 et seq.);
- (3) training for emergency response planning, information management, and hazardous materials incident response and exercising hazardous materials response plans;
- (4) equipping a hazardous materials response team that provides at least a district wide emergency planning response if the equipment purchased is consistent with current training levels of the response team members;
- (5) purchasing communication equipment for a local emergency planning committee's administrative use;
- (6) paying an optional stipend to local emergency planning committee members who attend regularly scheduled meetings at which a quorum is present in an amount:
 - (A) determined by a majority of the local emergency planning committee membership; and
 - (B) that is not more than twenty dollars (\$20) per member per meeting;
- (7) paying for Title III risk communication, chemical accident related, and accident prevention projects submitted to and approved by the commission; and
- (8) maintaining, repairing, and calibrating equipment purchased for a hazardous materials response team under subdivision (4).

However, revenue distributed to a county under this section may



be used for the purposes set forth in subdivisions (3) through (8) only if the local emergency planning committee appointed for the county has prepared and submitted to the commission an emergency plan that meets the requirements of 42 U.S.C. 11003(a) and has received approval for the training programs from the commission.

(c) The fund established under subsection (b) shall be administered by the county executive. The expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the fiscal year remains in the fund and does not revert to any other fund.

(d) Money shall be appropriated by a county fiscal body (as defined in IC 36-1-2-6) from a fund established under subsection (b) upon the receipt by the county fiscal body of the local emergency planning committee's spending plan. The spending plan must:

- (1) have been approved by a majority of the members of the local emergency planning committee; and
- (2) conform with the provisions of this chapter.

The county fiscal body may not appropriate money from the fund established under subsection (b) for any person or purpose other than the local emergency planning committee.

(e) All equipment, apparatus, and supplies purchased with money from a fund established under subsection (b) remain under the direction and control of the local emergency planning committee.

SECTION 16. IC 13-25-2-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 10.7. (a) The commission may withhold a local emergency planning committee's funding for failure to provide annually to the commission one (1) of the following:**

- (1) The report required under IC 13-25-1-6(b)(4).
- (2) Proof of published legal notice required under SARA.
- (3) An updated version of the local emergency planning committee's emergency preparedness plan as required under SARA.
- (4) A copy of the current bylaws of the local emergency planning committee as required by SARA.



(5) Evidence of an exercise of the response plan required under SARA.

(6) A roster of the current membership of the local emergency planning committee as required under IC 13-25-1-6(b)(2).

(7) Minutes of the local emergency planning committee meetings conducted at least two (2) times, on separate days, every six (6) months as required under IC 13-25-1-6(b)(3).

(b) If the commission withholds funding under subsection (a), and notwithstanding section 10.6(a)(1) of this chapter, the commission may use the balance of the withheld funding for purposes of hazardous material training and preparedness.

SECTION 17. IC 13-25-2-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 19. To carry out the responsibilities of the commission, the commission, or an authorized representative or agent of the commission, shall have a right to enter upon, to, or through public or private premises to investigate, copy all records related to hazardous chemicals, and inspect for compliance with the requirements imposed under this chapter.**

SECTION 18. IC 21-39-7-7, AS ADDED BY P.L.29-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7. (a)** The board of trustees may enter into:

(1) an agreement with:

(A) the fire chief of a municipality or of a volunteer fire department;

(B) the state fire marshal; or

(C) another appropriate fire and emergency service agency official;

to establish additional operational authority where property or persons to be protected are located; and

(2) an interlocal cooperation agreement under IC 36-1-7 to supply and receive fire suppression, fire prevention, emergency response, and emergency medical services.

(b) The board of trustees may choose not to participate in the statewide mutual aid program by following the procedure set forth in ~~IC 10-14-3-10.6(c)~~.

SECTION 19. [EFFECTIVE JULY 1, 2015] **(a) On July 1, 2015, the auditor of state shall transfer the balance that remained on June 30, 2015, in the emergency planning and right to know fund established by IC 6-6-10-5 (before its repeal by this act) to the local emergency planning and right to know fund established under**



IC 13-25-2-10.5.

(b) Notwithstanding any other law, the department of state revenue shall, after June 30, 2015, continue to collect any fees that were due under IC 6-6-10-6 (before its repeal by this act). Any funds collected by the department of state revenue after June 30, 2015, shall be deposited in the local emergency planning and right to know fund established under IC 13-25-2-10.5.

(c) This SECTION expires July 1, 2017.

SEA 484



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 484

