

IC 6-6-10

Chapter 10. Local Emergency Planning and Right to Know Fund

IC 6-6-10-1

"SARA" defined

Sec. 1. As used in this chapter, "SARA" refers to the Superfund Amendments and Reauthorization Act of 1986 (P.L.99-499).

As added by P.L.70-1988, SEC.1.

IC 6-6-10-2

"Emergency and hazardous chemical inventory form" defined

Sec. 2. As used in this chapter, "emergency and hazardous chemical inventory form" has the meaning set forth in 42 U.S.C. 11022.

As added by P.L.70-1988, SEC.1.

IC 6-6-10-2.2

"Emergency response commission" defined

Sec. 2.2. As used in this chapter, "emergency response commission" refers to the state emergency response commission appointed by the governor in compliance with 42 U.S.C. 11001(a).

As added by P.L.61-1990, SEC.1.

IC 6-6-10-3

"Facility" defined

Sec. 3. As used in this chapter, "facility" has the meaning set forth in 42 U.S.C. 11049(4).

As added by P.L.70-1988, SEC.1.

IC 6-6-10-4

"Hazardous chemical" defined

Sec. 4. As used in this chapter, "hazardous chemical" has the meaning set forth in 42 U.S.C. 11022(c).

As added by P.L.70-1988, SEC.1.

IC 6-6-10-4.2

"Local emergency planning committee" defined

Sec. 4.2. As used in this chapter, "local emergency planning committee" refers to a local emergency planning committee of a county appointed by the emergency response commission in compliance with 42 U.S.C. 11001(a).

As added by P.L.61-1990, SEC.2.

IC 6-6-10-5

Establishment of fund

Sec. 5. The local emergency planning and right to know fund is established for the purpose of providing each county with funds to help implement Title III of 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 the fee imposed under section 6 of this chapter; and

(2) accrued interest and other investment earnings of the fund.

As added by P.L.70-1988, SEC.1.

IC 6-6-10-6

Fees

Sec. 6. (a) Each year a fee is imposed on a facility that must submit an emergency and hazardous chemical inventory form. 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 file annual returns with the department of state revenue in a manner and at a time provided by the department of state revenue.

As added by P.L.70-1988, SEC.1. Amended by P.L.61-1990, SEC.3; P.L.1-1996, SEC.54.

IC 6-6-10-7

Distribution, purpose, and administration of fund

Sec. 7. (a) Before July 1 of each year, the department of state revenue shall distribute the money in the emergency planning and right to know fund as follows:

(1) Ten percent (10%) allocated to the emergency response commission and administered by the department of homeland security to be used to enhance communication among local emergency planning committees and between local emergency planning committees and the emergency response commission in order to strengthen joint hazardous material incident response capabilities. 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) The distribution to the hazardous substance response fund

established by IC 13-25-4-1 that is authorized for the year by the general assembly.

- (3) 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 annual returns filed under section 6(b) 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 emergency response 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 Title III of SARA (42 U.S.C. 11001 et seq.);
- (3) training for emergency response planning, information management, and hazardous materials incident response;
- (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 Indiana emergency response 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 purpose set forth in subdivisions (3) through (8) only if the local emergency planning committee appointed for the county has

prepared and submitted to the emergency response 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 emergency response 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) remains under the direction and control of the local emergency planning committee.

As added by P.L.70-1988, SEC.1. Amended by P.L.61-1990, SEC.4; P.L.101-1995, SEC.1; P.L.1-1996, SEC.55; P.L.63-1996, SEC.1; P.L.66-1997, SEC.1; P.L.1-2006, SEC.146; P.L.57-2008, SEC.1.

IC 6-6-10-8

Local emergency planning committees; reports

Sec. 8. Each year, a local emergency planning committee shall submit to the emergency response commission a report that describes the expenditures of the local emergency planning committee in the preceding year that were paid for with money distributed under section 7 of this chapter.

As added by P.L.61-1990, SEC.5. Amended by P.L.101-1995, SEC.2.

IC 6-6-10-9

Commission's right to withhold funds

Sec. 9. The emergency response 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 section 8 of this chapter.
- (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).

As added by P.L.101-1995, SEC.3. Amended by P.L.1-1996, SEC.56; P.L.92-2001, SEC.1.