

1 AN ACT in relation to public safety.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The State Finance Act is amended by adding
5 Section 5.570 as follows:

6 (30 ILCS 105/5.570 new)

7 Sec. 5.570. The Chemical Emergency Preparedness and
8 Prevention Fund.

9 Section 10. The Illinois Emergency Planning and
10 Community Right to Know Act is amended by changing Sections
11 3, 4, 5, 6, 7, 10, 11, 12, 15, 16, 17, and 18 and by adding
12 Sections 4.5 and 20 as follows:

13 (430 ILCS 100/3) (from Ch. 111 1/2, par. 7703)

14 Sec. 3. Definitions. As used in this Act:

15 "Administrator" means the Administrator of the United
16 States Environmental Protection Agency.

17 "Environment" means water, air, and land and the
18 interrelationship that exists among and between water, air,
19 land, and all living things.

20 "Extremely hazardous substance" means the list of
21 substances designated as extremely hazardous by the United
22 States Environmental Protection Agency under Section 302(a)
23 of the Federal Act, 42 U.S.C. 11002(a), ~~as now or hereafter~~
24 amended.

25 "Facility" means all buildings, equipment, structures,
26 and other stationary items that are located on a single site
27 or on contiguous or adjacent sites and that are owned or
28 operated by the same person (or by any person that controls,
29 is controlled by, or under common control with, such person).

1 For purposes of the release notification requirements of
2 Section 10 of this Act ~~Section 304 of the Federal Act~~, the
3 term includes motor vehicles, rolling stock, and aircraft.

4 "Federal Act" means the federal Emergency Planning and
5 Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.)
6 ~~Title III of the Superfund Amendments and Reauthorization Act~~
7 ~~of 1986 (P.L. 99-499).~~

8 "Hazardous chemical" means any hazardous chemical as
9 defined under 29 C.F.R. U.S.C. 1910.1200, except that
10 "hazardous chemical" does not include the following
11 substances:

12 (1) Any food, food additive, color additive, drug
13 or cosmetic regulated by the U.S. Food and Drug
14 Administration.

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

18 (3) Any substance to the extent that it is used for
19 personal, family, or household purposes, or is present in
20 the same form and concentration of a product packaged for
21 distribution and use by the general public.

22 (4) Any substance to the extent it is used in a
23 research laboratory or a hospital or other medical
24 facility under the direct supervision of a technically
25 qualified individual.

26 (5) Any substance to the extent that it is used in
27 routine agricultural operations or is a ~~and any~~
28 fertilizer held for sale by a retailer to the ultimate
29 customer.

30 "Hazardous substance" means a substance or mixture
31 designated as hazardous by the United States Environmental
32 Protection Agency under 42 U.S.C. 9601(14).

33 "IEMA" means the Illinois Emergency Management Agency.

34 "Local Emergency Planning Committee" or "LEPC" means the

1 committee appointed by the State Emergency Response
 2 Commission (SERC) in accordance with Section 301(c) of the
 3 Federal Act (42 U.S.C. 11001(c)) Superfund-Amendments-and
 4 Reauthorization-Act-of-1986-(42-U.S.C.-11001-et-seq-).

5 "Material Safety Data Sheet" or "MSDS" means a document
 6 developed pursuant to Occupational Safety and Health
 7 Administration statutory and regulatory requirements and
 8 containing the information required under 29 C.F.R.
 9 1910.1200(g). ~~completed--form-recognized-by-the-Occupational~~
 10 ~~Safety-and-Health-Administration,--equivalent--manufacturer's~~
 11 ~~literature,--or-another-form-containing-substantially-the-same~~
 12 ~~information--pertaining-to-a-specific-hazardous-chemical-or-a~~
 13 ~~mixture-containing-one-or-more-hazardous-chemicals.~~

14 "Person" means any individual, trust, firm, joint stock
 15 company, corporation (including a government corporation),
 16 partnership, association, State, municipality, commission,
 17 political subdivision of a State, federal government, or
 18 interstate body.

19 "Release" means any spilling, leaking, pumping, pouring,
 20 emitting, emptying, discharging, injecting, escaping,
 21 leaching, dumping, or disposing into the environment
 22 (including the abandonment or discarding of barrels,
 23 containers, and other closed receptacles) of any hazardous
 24 chemical, extremely hazardous chemical, or toxic chemical.

25 "Reportable quantity" is the quantity of an extremely
 26 hazardous substance or hazardous substance determined by
 27 USEPA under 42 U.S.C. 11002(a) and 42 U.S.C. 9602(a).

28 "Retail gas station" means a retail facility engaged in
 29 selling gasoline or diesel fuel, or both, principally to the
 30 public for motor vehicle use on land.

31 "State Emergency Response Commission" or "SERC" means the
 32 Illinois Emergency Management Agency as appointed by the
 33 Governor in accordance with Section 301 of the Federal Act
 34 Superfund-Amendments-and--Reauthorization--Act--of--1986 (42

1 U.S.C. 11001 et-seq-) to carry out all State responsibilities
2 required by this Act.

3 "Threshold planning quantity" or "TPQ" is the quantity of
4 an extremely hazardous substance determined by USEPA under
5 Section 302(a) of the Federal Act (42 U.S.C. 11002(a)).

6 "Tier II Emergency and Hazardous Chemical Inventory form"
7 means the form made available by the SERC or the USEPA to
8 owners and operators required to file hazardous chemical and
9 extremely hazardous substance data pursuant to Section 12 of
10 this Act.

11 "USEPA" means the United States Environmental Protection
12 Agency.

13 (Source: P.A. 86-449; 87-168.)

14 (430 ILCS 100/4) (from Ch. 111 1/2, par. 7704)

15 Sec. 4. Establishment. The Illinois Emergency
16 Management Agency shall be the State Emergency Response
17 Commission for the purpose of implementing the provisions of
18 the Federal Act Title-III-of--the--Superfund--Amendments--and
19 Reauthorization-Act-of-1986-(P.L.-99-499) at the State level,
20 and shall perform all the functions of a SERC under that Act.
21 The Director of the IEMA shall be the Chair Chairman of the
22 SERC.

23 (Source: P.A. 86-449; 87-168.)

24 (430 ILCS 100/4.5 new)

25 Sec. 4.5. Local emergency planning districts. In
26 accordance with its authority pursuant to the Federal Act,
27 the SERC is required to designate emergency planning
28 districts in order to facilitate preparation and
29 implementation of emergency plans. On or before January 1,
30 2004, the SERC shall complete a review and revision of its
31 existing emergency planning district designations to more
32 effectively accomplish the purposes of this Act.

(430 ILCS 100/5) (from Ch. 111 1/2, par. 7705)

Sec. 5. Advisory Committee. The SERC may establish advisory committees composed of individuals from both the public and private sectors to advise the Chair Chairman of the SERC on any matters relating to the implementation of this Act and the Federal Act Title-III-of-the-Superfund Amendments-and-Reauthorization-Act--of--1986--(P.L.--99-499). Advisory committees shall be organized by the Chair Chairman as necessary to address specific issues relating to this Act.

(Source: P.A. 86-449.)

(430 ILCS 100/6) (from Ch. 111 1/2, par. 7706)

Sec. 6. Cooperative agreements. The SERC shall cooperate and may enter into such agreements with other State agencies, local governments, the federal government and other persons as the Chairman determines to be appropriate to implement this Act and the Federal Act Title--III--of--the Superfund--Amendments--and--Reauthorization-Act-of-1986--(P.L. 99-499).

(Source: P.A. 86-449.)

(430 ILCS 100/7) (from Ch. 111 1/2, par. 7707)

Sec. 7. Reporting requirements.

(a) Unless otherwise provided in this Act, the provisions of Sections 302(c), 303(d), 304, 311, 312, and 323, and 324 of the Federal Act, as ~~incorporated into this Act,~~ pertaining to the providing of information and giving of notification, shall be considered the law of this State and shall apply equally to all facilities subject to the Federal Act.

(b) (Blank). ~~The SERC shall adopt, within 120 days after the effective date of this Act, regulations or amendments thereto which are identical in substance to regulations or amendments thereto promulgated by the Administrator of the~~

1 United-States-Environmental-Protection-Agency--to--implement
 2 these--specified--Sections--of--Title--III--of--the-Superfund
 3 Amendments-and-Reauthorization-Act--of--1986--(P.L.--99-499).
 4 The--rulemaking--provisions--of--Section-5-35-of-the-Illinois
 5 Administrative-Procedure-Act-shall-not-apply--to--regulations
 6 or-amendments-thereto-adopted-pursuant-to-this-paragraph.

7 (c) The SERC may adopt additional regulations relating
 8 to the responsibilities of the SERC and LEPCs pursuant to
 9 this Act and the Federal Act that are not inconsistent with
 10 and at least as stringent as other regulations promulgated
 11 pursuant to the Federal Act. Regulations adopted pursuant to
 12 this subsection shall be adopted in accordance with the
 13 procedures for rulemaking in Section 5-35 of the Illinois
 14 Administrative Procedure Act.

15 (Source: P.A. 88-45.)

16 (430 ILCS 100/10) (from Ch. 111 1/2, par. 7710)
 17 Sec. 10. Release notification.

18 (a) If a release requiring notification under Section 304
 19 of the Federal Act or under Section 103(a) of the
 20 Comprehensive Environmental Response, Compensation, and
 21 Liability Act of 1980 (42 U.S.C. 9601 et seq.) occurs from a
 22 facility at which a hazardous chemical is produced, used or
 23 stored, the owner or operator of the facility shall
 24 immediately provide notice as described in subsection (b).

25 (b) Notice required under this Section shall be given
 26 immediately after the release by the owner or operator of the
 27 facility (by such means as telephone, radio or in person) to
 28 the community emergency coordinator designated by the LEPC
 29 for any area likely to be affected by the release and to the
 30 SERC of any State likely to be affected by the release. The
 31 SERC--shall--submit--any--such--notification--report--to--the
 32 appropriate--LEPC. With respect to transportation of a
 33 substance subject to the requirements of this Section, or

1 storage incident to such transportation, the notice
2 requirements of this Section with respect to a release shall
3 be satisfied by calling the local fire department of the
4 affected area, the sheriff's office of the affected county,
5 or the 911 emergency number.

6 (c) Notice required under this Section shall include
7 each of the following (to the extent known at the time of the
8 notice and so long as no delay in responding to the emergency
9 results):

10 (1) the chemical name or identity of any substance
11 involved in the release;

12 (2) an indication of whether the substance is on the
13 list referred to in Section 302(a) of the Federal Act;

14 (3) an estimate of the quantity of any such substance
15 that was released into the environment;

16 (4) the time and duration of the release;

17 (5) the medium or media into which the release occurred;

18 (6) any known or anticipated acute or chronic health
19 risks associated with the emergency and, where appropriate,
20 advice regarding medical attention necessary for exposed
21 individuals;

22 (7) proper precautions to take as a result of the
23 release, including evacuation (unless such information is
24 readily available to the community emergency coordinator
25 pursuant to the emergency plan); and

26 (8) the name and telephone number of the person or
27 persons to be contacted for further information.

28 (d) As soon as practicable after a release which
29 requires notice under this Section, the owner or operator
30 shall provide to the LEPC of any area likely to be affected
31 by the release and to the SERC of any state likely to be
32 affected by the release a written followup emergency notice
33 (or notices, as more information becomes available) setting
34 forth and updating the information required under subsection

1 (c), and including additional information with respect to:

2 (1) actions taken to respond to and contain the release;

3 (2) any known or anticipated acute or chronic health
4 risks associated with the release; and

5 (3) where appropriate, advice regarding medical
6 attention necessary for exposed individuals.

7 (e) This Section does not apply to any release which
8 results in exposure to persons solely within the site or
9 sites on which a facility is located. This Section does
10 apply to transportation and storage incident to such
11 transportation.

12 (Source: P.A. 86-449.)

13 (430 ILCS 100/11) (from Ch. 111 1/2, par. 7711)

14 Sec. 11. Material Safety Data Sheets. MSDS-

15 (a) The owner or operator of any facility which is
16 required to prepare or have available a material safety data
17 sheet (MSDS) for a hazardous chemical under the Occupational
18 Safety and Health Act of 1970 and regulations promulgated
19 under that Act (29 15 U.S.C. 651 et seq.) shall, in
20 accordance with the threshold levels for reporting
21 established by regulations promulgated under the Federal Act,
22 submit an MSDS a-material-safety-data--sheet for each such
23 chemical, or a list of such chemicals as described in
24 subsection (b), to each of the following:

25 (1) the appropriate local emergency planning committee;

26 (2) the State Emergency Response Commission; and

27 (3) the fire department with jurisdiction over the
28 facility.

29 (b) The list of chemicals referred to in subsection (a)
30 shall include all of the following:

31 (1) A list of the hazardous chemicals for which an MSDS
32 a--material--safety--data--sheet is required under the
33 Occupational Safety and Health Act of 1970 and regulations

1 promulgated under that Act, grouped in categories of health
2 and physical hazards as set forth under such Act and
3 regulations promulgated under such Act, or in such other
4 categories as the Administrator may prescribe.

5 (2) The chemical name or the common name of each such
6 chemical as provided on the MSDS ~~material-safety-data-sheet~~.

7 (3) Any hazardous component of each such chemical as
8 provided on the MSDS ~~material-safety-data-sheet~~.

9 (c) An owner or operator may meet the requirements of
10 this Section with respect to a hazardous chemical which is a
11 mixture by doing one of the following:

12 (1) Submitting an MSDS ~~a-material-safety-data-sheet~~ for,
13 or identifying on a list, each element or compound in the
14 mixture which is a hazardous chemical. If more than one
15 mixture has the same element or compound, only one MSDS
16 ~~material-safety-data-sheet~~, or one listing, of the element or
17 compound is necessary; or

18 (2) Submitting an MSDS ~~a-material-safety-data-sheet~~ for,
19 or identifying on a list, the mixture itself.

20 (d) Beginning 90 days after the effective date of this
21 Act, it shall be a violation of this Section for the owner or
22 operator of a facility subject to the requirements of this
23 Section to fail to submit an MSDS form as required by
24 Section 311(d) of the Federal Act, or within 3 months of the
25 date the owner or operator is required to prepare or have
26 available an a MSDS for the chemical under the Occupational
27 Safety and Health Act of 1970 and regulations promulgated
28 under that Act.

29 (e) Within 3 months following discovery by an owner or
30 operator of significant new information concerning an aspect
31 of a hazardous chemical for which an MSDS ~~a--material--safety~~
32 ~~data--sheet~~ was previously submitted to the local emergency
33 planning committee under subsection (a), a revised sheet
34 shall be provided to such person.

1 (Source: P.A. 86-449.)

2 (430 ILCS 100/12) (from Ch. 111 1/2, par. 7712)

3 Sec. 12. Tier II Emergency and Hazardous Chemical
4 Inventory forms.

5 (a) The requirements of this Section apply to the owner
6 or operator of any facility which is required to prepare or
7 have available a material safety data sheet for a hazardous
8 chemical under the Occupational Safety and Health Act of 1970
9 and regulations promulgated under that Act.

10 (a-5) The owner or operator identified in subsection (a)
11 shall, in accordance with the threshold levels for reporting
12 as established by regulations promulgated under the Federal
13 Act, prepare and submit an emergency and hazardous chemical
14 inventory form (hereafter in this Act referred to as a "tier
15 II inventory form") in accordance with the following
16 threshold inventory levels for reporting:

17 (1) The threshold inventory level for reporting an
18 extremely hazardous substance present at the facility at
19 any one time during the preceding calendar year is 500
20 pounds (or 227 kgs.) or the threshold planning quantity,
21 whichever is lower.

22 (2) The threshold inventory level for reporting a
23 hazardous chemical present at the facility at any one
24 time during the preceding calendar year is 10,000 pounds
25 (or 4,540 kgs.), except as provided in paragraphs (3) and
26 (4) of this subsection.

27 (3) The threshold inventory level for reporting
28 gasoline (all grades combined) present at the facility at
29 any one time during the preceding calendar year is 75,000
30 gallons, provided the facility meets all 3 of the
31 following criteria:

32 (A) the facility is a retail gas station as
33 defined in Section 3 of this Act;

1 (B) the gasoline is in a tank or tanks
2 entirely underground; and

3 (C) the retail gas station was in compliance
4 at all times during the preceding calendar year with
5 all applicable Underground Storage Tank (UST)
6 requirements (41 Ill. Admin. Code 170, 35 Ill.
7 Admin. Code 731 and 732, and any other applicable
8 State or federal UST requirements).

9 (4) The threshold inventory level for reporting
10 diesel fuel (all grades combined) present at the facility
11 at any one time during the preceding calendar year is
12 100,000 gallons, provided the facility meets all 3 of the
13 following criteria:

14 (A) the facility is a retail gas station as
15 defined in Section 3 of this Act;

16 (B) the diesel fuel is in a tank or tanks
17 entirely underground; and

18 (C) the retail gas station was in compliance
19 at all times during the preceding calendar year with
20 all applicable UST requirements (41 Ill. Admin. Code
21 170, 35 Ill. Admin. Code 731 and 732, and any other
22 applicable State or federal UST requirements).

23 (5) If a retail gas station does not meet any one
24 or more of the criteria enumerated in paragraphs (3) or
25 (4) of this subsection, the threshold inventory level for
26 reporting gasoline or diesel fuel, or both, (all grades
27 combined) is the same as otherwise provided in paragraph
28 (2).

29 (a-10) The owner or operator shall submit the tier II
30 forms prepared in accordance with subsection (a-5) to each of
31 the following:

32 (1) the appropriate local emergency planning
33 committee serving the emergency planning district where
34 the facility is located;

- 1 (2) the State Emergency Response Commission; and
- 2 (3) the fire department with jurisdiction over the
- 3 facility.

4 The tier II inventory form shall be submitted annually on
 5 or before March 1, and shall contain tier II data with
 6 respect to the preceding calendar year.

7 (b) (Blank). ~~The requirement of subsection (a) does not~~
 8 ~~apply if an owner or operator provides, to the recipients~~
 9 ~~described in subsection (a), by the same deadline and with~~
 10 ~~respect to the same calendar year, an inventory form~~
 11 ~~containing tier II information.~~

12 (c) An owner or operator may meet the requirements of
 13 this Section with respect to a hazardous chemical which is a
 14 mixture by doing one of the following:

15 (1) Providing information on the tier II inventory
 16 form on each element or compound in the mixture which is
 17 a hazardous chemical. If more than one mixture has the
 18 same element or compound, only one listing on the tier II
 19 ~~inventory form~~ for the element or compound at the
 20 facility is necessary.

21 (2) Providing information on the tier II inventory
 22 form on the mixture itself.

23 (d) (Blank). ~~A hazardous chemical shall be subject to~~
 24 ~~the requirements of this Section only if it is a hazardous~~
 25 ~~chemical for which a material safety data sheet or a listing~~
 26 ~~is required under Section 311 of the Federal Act.~~

27 (e) (Blank). ~~A tier I inventory form shall provide the~~
 28 ~~following information in aggregate terms for hazardous~~
 29 ~~chemicals in categories of health and physical hazards as set~~
 30 ~~forth under the Occupational Safety and Health Act of 1970~~
 31 ~~and regulations promulgated under that Act:~~

32 (1) ~~an estimate (in ranges) of the maximum amount of~~
 33 ~~hazardous chemicals in each category present at the facility~~
 34 ~~at any time during the preceding calendar year;~~

1 (2)--an--estimate--(in--ranges)--of--the--maximum--amount--of
2 hazardous--chemicals--in--each--category--present--at--the--facility
3 at--any--time--during--the--preceding--calendar--year;--and

4 (3)--the--general--location--of--hazardous--chemicals--in--each
5 category.

6 (f) The SERC shall require an owner or operator to
7 provide, on a tier II form, information for each hazardous
8 chemical or extremely hazardous substance required to be
9 included on the tier II form pursuant to subsection (a-5) of
10 this Section, as needed for chemical emergency planning,
11 including, but not limited to, A-tier-II-inventory-form-shall
12 provide the following additional information for--each
13 hazardous-chemical-present-at-the--facility,--but--only--upon
14 request-and-in-accordance-with-subsection-(g):

15 (1) the chemical name or the common name of the
16 chemical as provided on the material safety data sheet;

17 (2) an estimate (in ranges) of the maximum amount
18 of the hazardous chemical present at the facility at any
19 time during the preceding calendar year;

20 (3) an estimate (in ranges) of the average daily
21 amount of the hazardous chemical present at the facility
22 during the preceding calendar year;

23 (4) a brief description of the manner of storage of
24 the hazardous chemical;

25 (5) the location at the facility of the hazardous
26 chemical; and

27 (6) an indication of whether the owner elects to
28 withhold location information of a specific hazardous
29 chemical from disclosure to the public under Section 324
30 of the Federal Act.

31 (g) Unless otherwise provided pursuant to Section 15 of
32 this Act, availability of tier II information shall be as
33 follows:

34 (1) (Blank). Upon-request-by--the--State--Emergency

1 Planning--Commission,--a--local--emergency--planning
2 committee,--or--a--fire-department-with-jurisdiction-over
3 the-facility,--the-owner-or-operator-of-a--facility--shall
4 provide--tier--II-information,--as-described-in-subsection
5 (g),--to-the-person-making-the-request.

6 (2) A State or local official acting in his or her
7 official capacity may have access to tier II information
8 by submitting a request to the SERC or the local
9 emergency planning committee. Upon receipt of a request
10 for tier II information, the SERC or local emergency
11 planning committee shall,--pursuant--to--paragraph--(1),
12 request--the--facility--owner-or-operator-for-the-tier-II
13 information-and make available such information to the
14 official.

15 (3) Any person may request the SERC or a local
16 emergency planning committee for tier II information
17 relating to the preceding calendar year with respect to a
18 facility. Any such request shall be in writing and shall
19 be with respect to a specific facility.

20 (4) Any tier II information which the SERC or a
21 local emergency planning committee has in its possession
22 shall be made available to a person making a request
23 under this paragraph in accordance with Section 324 of
24 the Federal Act. If--the--SERC---or--local-emergency
25 planning-committee-does-not-have-the-tier-II--information
26 in--its--possession,--upon-receiving-a-request-for-tier-II
27 information--the--SERC--or--local--emergency--planning
28 committee--shall,--pursuant-to-paragraph-(1),--request-the
29 facility-owner-or-operator-for--tier-II-information--with
30 respect--to--a--hazardous--chemical--which-a-facility-has
31 stored-in-an-amount-in-excess-of-10,000-pounds-present-at
32 the-facility-at-any-time-during--the--preeding--calendar
33 year--and--make--such-information-available-to-the-person
34 making-the-request-in-accordance-with-Section-324-of--the

1 Federal-Act-

2 (5) In the case of tier II information which is not
3 in the possession of the SERC or local emergency planning
4 committee and which relates to a hazardous chemical which
5 a facility has stored in an amount less than 10,000
6 pounds present at the facility at any time during the
7 preceding calendar year, a request from a person must
8 include the general need for the information. The SERC
9 or local emergency planning committee may, pursuant to
10 paragraph-(1), make a request to the facility owner or
11 operator for the tier II information on behalf of the
12 person making the request. Upon receipt of any
13 information requested on behalf of such person, the SERC
14 or local emergency planning committee shall make the
15 information available to the person in accordance with
16 Section 324 of the Federal Act.

17 (6) The SERC or local emergency planning committee
18 shall respond to a request for tier II information under
19 this Section no later than 45 days after the date of
20 receipt of the request.

21 (7) Upon request to an owner or operator of a
22 facility which files an inventory form under this Section
23 by the fire department with jurisdiction over the
24 facility, the owner or operator of the facility shall
25 allow the fire department to conduct an on-site
26 inspection of the facility and shall provide to the fire
27 department specific location information on hazardous
28 chemicals at the facility.

29 (h) The tier II form made available by either the SERC
30 or the USEPA shall 1-and-tier-2-inventory--forms--promulgated
31 by--USEPA--for-use-in-meeting-the-requirements-of-Section-312
32 of-the-Federal-Act-may be used to fulfill the requirements of
33 this Section.

34 (i) Except for owners and operators paying a fee in

1 accordance with subsection (j) of this Section, the owner or
2 operator of each facility required to file a tier II form
3 pursuant to this Section shall pay an annual fee of \$100 per
4 facility per year and, if applicable, additional fees based
5 on tier II form data as follows:

6 (1) An additional \$100 for the presence of one or
7 more hazardous chemicals in excess of 1,000,000 pounds.

8 (2) An additional \$100 for the presence of 20 or
9 more hazardous chemicals at or greater than the threshold
10 inventory level stated in paragraph (2) of subsection
11 (a-5) of this Section.

12 (3) An additional \$200 for the presence of one or
13 more extremely hazardous substances at or greater than
14 the threshold inventory level stated in paragraph (1) of
15 this subsection (a-5) of this Section.

16 (j) An owner or operator of an oil or gas production
17 well tank battery or batteries required to file a tier II
18 form under this Section shall pay an annual fee of \$50 per
19 tank battery with a maximum fee payment of \$500 per owner or
20 operator per year. For purposes of this subsection, the
21 definitions of the terms "oil", "gas", "production well", and
22 "tank battery" shall be the same as the definitions of those
23 terms in the Illinois Oil and Gas Act and rules and
24 regulations implementing that Act.

25 (k) Beginning May 1, 2004, and annually thereafter, an
26 owner or operator subject to a fee established by this
27 Section shall submit the fee to the SERC. An owner or
28 operator who fails to submit the fee in accordance with the
29 requirements of this Section shall be subject to the penalty
30 provisions of Section 18 of this Act.

31 (l) Fees collected by the SERC pursuant to this Section
32 shall be deposited into the Chemical Emergency Preparedness
33 and Prevention Fund, which is hereby created as an
34 interest-bearing fund in the State Treasury.

1 (m) All fees collected by the SERC pursuant to this
2 Section shall be used by the SERC and the LEPCs for expenses
3 associated with the preparation and updating of local
4 chemical emergency response plans required under Section 8 of
5 this Act and, secondarily, for expenses associated with other
6 activities arising under this Act and regulations adopted
7 under this Act. Twenty percent of the fees collected shall
8 be used by the SERC to carry out its responsibilities under
9 this Act, including, as its first priority, the development
10 and maintenance of the electronic database required under
11 Section 15 of this Act. Eighty percent of the fees collected
12 shall be allocated by the SERC to the LEPC where the facility
13 is located. In the event the SERC determines that there is no
14 active LEPC located in that emergency planning district,
15 these moneys shall be retained by the SERC to cover the
16 chemical emergency planning costs for that emergency planning
17 district.

18 (n) On or before January 1, 2004, the SERC shall adopt
19 rules for the collection, management, and disbursement of
20 fees collected pursuant to this Section. The rules shall be
21 adopted in accordance with the provisions and requirements of
22 this Act and the Illinois Administrative Procedure Act.

23 (Source: P.A. 86-449.)

24 (430 ILCS 100/15) (from Ch. 111 1/2, par. 7715)

25 Sec. 15. Public availability.

26 (a) As soon as practicable after the effective date of
27 this amendatory Act of the 92nd General Assembly, the SERC
28 shall make publicly accessible, to the extent allowed by
29 other applicable laws, an electronic database including, but
30 not limited to, the following information:

31 (1) Tier II information, except as provided in
32 subdivision (f)(6) of Section 12 and in Section 13 of
33 this Act.

1 (2) LEPC chemical emergency response plans.

2 (3) Material Safety Data Sheets.

3 (4) Toxic chemical release inventory information.

4 (5) Chemical spills information.

5 (6) Risk management plan information.

6 (b) In addition to providing information through the
7 electronic database as required under subsection (a), the
8 SERC ~~or~~ and LEPCs shall make information available to the
9 public upon request in accordance with Section 324 of the
10 Federal Act. All Requests for information pursuant to this
11 subsection (b) shall be in writing and subject to the
12 provisions of the Illinois Freedom of Information Act. All
13 costs associated with providing information shall be paid by
14 the requesting person.

15 (Source: P.A. 86-449.)

16 (430 ILCS 100/16) (from Ch. 111 1/2, par. 7716)

17 Sec. 16. Enforcement.

18 (a) The SERC shall have the authority to investigate
19 alleged violations of Sections of this Act and, following
20 written notice to the business, to refer such violations for
21 prosecution by the State's Attorney of the county in which
22 the violation occurred, or by the Attorney General. The
23 State's Attorney or the Attorney General, as the case may be,
24 may, at the request of the SERC or upon his or her own
25 motion, institute an action for such penalties as are
26 authorized by this Act, as well as for such other remedies,
27 including injunctive relief, as are necessary to restrain or
28 remedy violations of the Act.

29 (b) Any action authorized by subsection (a) of this
30 Section may be brought in the circuit court in the county
31 where the violation occurred or the circuit court of the
32 county where the defendant is located.

33 (c) The SERC shall have the authority to investigate

1 violations of Sections of this Act and, following written
2 notice to the business, to refer such violations for
3 prosecution by the United States Environmental Protection
4 Agency.

5 (Source: P.A. 86-449.)

6 (430 ILCS 100/17) (from Ch. 111 1/2, par. 7717)
7 Sec. 17. Citizen suits.

8 (a) Except as provided in subsection (b), any person may
9 commence a civil action on his or her own behalf against the
10 owner or operator of a facility for failure to do any of the
11 following:

12 (1) submit a followup emergency notice required
13 under Section 10(d) of this Act;

14 (2) submit a material safety data sheet or a list
15 as required under Section 11(a) of this Act;

16 (3) complete and submit an inventory form
17 containing tier I information required under Section
18 12(a) of this Act, ~~unless such requirement does not apply~~
19 ~~by reason of Section 12(b) of this Act.~~

20 (b) No action may be commenced under subsection (a)
21 against an owner or operator of a facility if the
22 Administrator of USEPA has commenced and is diligently
23 pursuing an administrative order or civil action to enforce
24 the requirement concerned or to impose a civil penalty under
25 the Federal Act with respect to the violation of the
26 requirement.

27 (Source: P.A. 86-449.)

28 (430 ILCS 100/18) (from Ch. 111 1/2, par. 7718)
29 Sec. 18. Penalties.

30 (a) Any person who violates any requirement of Section
31 9, 10, 11, ~~12~~ or 14 of this Act, or subsection (a), (a-5),
32 (a-10), (c), (f), (g), or (h) of Section 12 of this Act,

1 shall be liable for a civil penalty in an amount not to
2 exceed \$25,000 for each violation. In the case of a second
3 or subsequent violation of Section 10, the civil penalty
4 shall not exceed \$75,000 for each day during which the
5 violation continues.

6 (a-5) Any person who violates any requirement of
7 subsection (k) of Section 12 of this Act shall be liable for
8 a civil penalty in an amount not to exceed \$1,000 for each
9 violation.

10 (b) Any person who knowingly fails to provide immediate
11 notification of a release in violation of Section 10 of this
12 Act, shall be guilty of a Class 4 felony, and in addition to
13 any other penalty prescribed by law is subject to a fine not
14 to exceed \$25,000 for each day of the violation. In the case
15 of a second or subsequent conviction, the person shall be
16 guilty of a Class 3 felony, and in addition to any other
17 penalty prescribed by law is subject to a fine not to exceed
18 \$50,000 for each day of the violation.

19 (c) All civil penalties and fines collected under this
20 Section shall be deposited in the Emergency Planning and
21 Training Fund, that is hereby created as a special fund in
22 the State Treasury, and shall be used by IEMA, pursuant to
23 appropriation, for its activities arising under this Act and
24 the Federal Act, including providing financial support for
25 local emergency planning committees and for training
26 initiatives authorized by IEMA.

27 (Source: P.A. 86-449; 87-168.)

28 (430 ILCS 100/20 new)

29 Sec. 20. Exemptions from application of Act. Except as
30 provided in Section 10, this Act does not apply to the
31 transportation, including the storage incident to that
32 transportation, of any substance or chemical subject to the
33 requirements of this Act, including the transportation and

1 distribution of natural gas. In addition, this Act does not
2 apply to any substance that is excluded from the definition
3 of "hazardous chemical" under Section 3 of this Act.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.

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Statutes amended in order of appearance

- 30 ILCS 105/5.570 new
- 430 ILCS 100/3 from Ch. 111 1/2, par. 7703
- 430 ILCS 100/4 from Ch. 111 1/2, par. 7704
- 430 ILCS 100/4.5 new
- 430 ILCS 100/5 from Ch. 111 1/2, par. 7705
- 430 ILCS 100/6 from Ch. 111 1/2, par. 7706
- 430 ILCS 100/7 from Ch. 111 1/2, par. 7707
- 430 ILCS 100/10 from Ch. 111 1/2, par. 7710
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- 430 ILCS 100/12 from Ch. 111 1/2, par. 7712
- 430 ILCS 100/15 from Ch. 111 1/2, par. 7715
- 430 ILCS 100/16 from Ch. 111 1/2, par. 7716
- 430 ILCS 100/17 from Ch. 111 1/2, par. 7717
- 430 ILCS 100/18 from Ch. 111 1/2, par. 7718
- 430 ILCS 100/20 new