WEST VIRGINIA CODE: §15-5A-5

§15-5A-5. Powers and duties of the commission.

The commission shall have and may exercise the following powers and authority and shall perform the following duties:

(a) Designate emergency planning districts;

(b) Appoint local emergency planning committees for each emergency planning district and supervise and coordinate the activities of such committees;

(c) Revise any designations and appointments made under subsections (a) and (b) of this section as it deems appropriate: Provided, That any interested person may petition the state emergency response commission to modify the membership of a local emergency planning commission;

(d) Designate, if necessary, additional facilities which shall be subject to the requirements of this article, provided such designation is made after public notice and opportunity for comment as provided under article three, chapter twenty-nine-a of the code;

(e) Review the emergency response plans submitted by the local emergency planning committees and make recommendations to the local committees on revisions of the plan that may be necessary to ensure coordination of such plan with the plans of other emergency planning districts and other existing state and local emergency response plans;

(f) Enter into cooperative agreements with other state agencies designating specific responsibilities to be performed by such state agencies to implement the provisions of this article;

(g) Promulgate procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code, establishing rules of practice before the commission;

(h) Promulgate procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code, establishing procedures for receiving and processing requests from the public for information in accordance with the provisions of 42 U.S.C. §11001, et seq., and this article, and prescribing forms and instructions for requesting such information;

(i) Promulgate procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code, prescribing forms and instructions for the submission and receipt of confidential information;

(j) Promulgate rules establishing the following fees which shall be deposited in a special account for the administration of this act and which shall be reasonably calculated to

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recover the necessary expenses incurred by the Office of Emergency Services in the administration of this article:

(1) An emergency planning notification fee not to exceed $100 to be paid by a facility when it makes the emergency planning notification required under SARA, Title III, sections 301 through 303;

(2) An inventory form fee not to exceed $2,500 to be paid annually by a facility when it submits the emergency and hazardous chemical inventory forms or material safety data sheet required under SARA, Title III, sections 311 and 312; and

(3) A surcharge fee not to exceed twenty percent of the fee otherwise payable to be paid by facilities which fail to pay the fees in paragraphs (1) and (2) in a timely manner;

(k) Establish an emergency planning grant program to be administered by the commission. The grant programs will be funded by fees collected to administer this act pursuant to subdivision (j) of this section. The commission shall promulgate rules which establish the method of awarding such grants to local emergency planning committees to assist them in performing their responsibilities under this article;

(l) Promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code necessary to implement the provisions of this article; and

(m) The chairman of the commission may order a facility owner or operator to comply with the requirements of applicable federal law, this article and any rules or regulations promulgated thereunder. When the chairman has reasonable cause to believe that there exists a failure to comply with the provisions of applicable federal law, this article or any rule or regulation promulgated thereunder or any order entered by the chairman, he or she may request the Attorney General to commence an action for civil penalties, injunctive relief or other appropriate relief to enforce such provisions, rules and regulations or order. Such action may be brought in any federal district court having jurisdiction, or in the Circuit Court of Kanawha County or the county where the facility or a major portion thereof is located.

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