

Unit 1:

HEALTH AND ENVIRONMENTAL REGULATIONS

OBJECTIVES:

In this unit, you will learn about:

- The major U.S. laws pertaining to health and environmental regulations
- Responsibilities of the key Federal agencies
- Title III of the 1986 Superfund Amendments and Reauthorization Act, known as the “Emergency Planning and Community Right-to-Know Act”
- The roles of Federal, State, and local governments, as well as industry
- How to use legislation to protect yourself from hazardous materials

HAZARDOUS MATERIALS LEGISLATION

There are a number of Federal laws that regulate hazardous materials. The following is a brief overview of the major pieces of legislation that comprise our country’s hazardous materials management policies and programs.

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Superfund Amendments and Reauthorization Act of 1986 (SARA)

In 1980, Congress passed the Comprehensive Emergency Response, Compensation, and Liability Act, known as CERCLA. The bill’s purpose was to fund cleanups and emergency response actions for some of the worst inactive or abandoned hazardous waste sites scattered across the country. A billion dollar revolving trust fund—financed primarily by a tax on certain chemical and petroleum products—was created to pay for Federal and State response actions when hazardous substances pose an existing or potential threat to human health or the environment.

In 1986, this bill was revised and expanded in the Superfund Amendments and Reauthorization Act of 1986 (SARA). The third part of SARA, Title III, is known as the Emergency Planning and Community Right-to-Know Act of 1986. This portion of the legislation makes more than 300 “extremely hazardous substances” subject to routine and detailed reporting to designated local, State, and Federal government agencies. It also requires local planning committees to use this information (and other data on local hazards) to create effective plans for hazardous materials emergencies.

The National Oil and Hazardous Substance Pollution Contingency Plan (NCP)

The National Contingency Plan is the basis for Federal action to minimize pollution damage from discharges of oil or hazardous substances. In accordance with this law, Federal agencies assist in the development and evaluation of national, regional, and local oil and hazardous substance pollution contingency plans. This coordinated planning enables communities to prevent or lessen the harm that could accompany a hazardous materials release.

Working together as part of the National Response Team (NRT)—composed of 14 Federal agencies—experts publish guidance on emergency response planning and stand ready to assist States in the event of a major chemical emergency. As co-chairs of the NRT, the Environmental Protection Agency (EPA) and the U.S. Coast Guard (USCG) play key roles in environmental protection. The two agencies share specific responsibility for waterway protection, EPA having primary responsibility for most *inland* waters and the USCG handling responsibility for *coastal* water and some specifically-designated Federal navigable waterways such as Lake Michigan.

The NCP covers how to identify and investigate hazardous waste sites that could potentially pose such a serious threat to public health that the situation would be considered an emergency. It also specifies how to analyze costs and evaluate the best cleanup options, and details roles and responsibilities for Federal, State, and local governments in carrying out these requirements.

The Resource Conservation and Recovery Act of 1976 (RCRA)

This law, administered by EPA, establishes a Federal program to provide comprehensive regulation of hazardous waste, which includes certain materials held to pose a potential threat to public health and safety when they are discarded. RCRA regulations provide for and maintain a hazardous waste management system that covers the generation, transportation, use, and disposal of such waste (sometimes summarized as the regulation from “cradle to grave management of hazardous waste”). Major control mechanisms include a manifest system to track hazardous waste shipments and a permit system requiring waste site owners and operators to comply with specified safety standards. While RCRA primarily regulates safety precautions at hazardous waste facilities in operation today, it also has strong provisions potentially relevant to cleanup if any part of a facility was in operation during the 1980s.

The Hazardous Materials Transportation Act (HMTA)

The Department of Transportation (DOT) has the authority to regulate the handling and interstate transportation of hazardous materials. More specifically, DOT’s Office of Hazardous Materials Transportation (OHMT) issues regulations dealing with the shipping and packaging of hazardous materials, including how they are classified and labeled (both nationally and internationally). While the law enables DOT to regulate any traffic that “affects” interstate or foreign commerce, the agency has chosen to regulate only shipments of carriers engaged in interstate commerce, leaving the States themselves to regulate shipments by carriers that do not cross State lines.

The Occupational Safety and Health Act of 1970

The Occupational Safety and Health Act was enacted to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

The purpose of this law is to assure, so far as possible, “safe working conditions” to “every working man in the country.” This is accomplished by the issuing of basic safety and health standards, assigning the Occupational Safety and Health Administration (OSHA) employees to inspect workplaces, and forcing industry to reduce or eliminate job hazards by imposing fines for identified violations.

Worker Exposures

OSHA sets standards for worker exposure to hazardous substances and requires that such substances bear warning labels. It also mandates that employees be given training and other information on dangers posed by chemicals, and be given instruction as to how to use these chemicals safely. OSHA has the authority to inspect a workplace to determine whether it is in compliance with these regulations. In current practice, only a worker complaint or high worker injury rates as shown in company records will trigger an actual inspection.

Hazardous Waste Operations and Emergency Response (HAZWOPER)

Under SARA, the Secretary of Labor was directed to issue a final standard to protect the health and safety of employees engaged in hazardous waste operations. In 1989, OSHA issued this rule on Hazardous Waste Operations and Emergency Response, which represents the first comprehensive approach to protecting public and private sector employees involved in the dangers of working on hazardous waste sites. Many of the workers affected by this rule are employees of State and local governments. Twenty-five States and Territories have their own job safety and health programs. Their standards are required to be at least as stringent as the Federal regulations.

The Toxic Substances Control Act (TSCA)

This legislation was passed in 1976 to reduce the threat from new chemicals that “present or will present an unreasonable risk of injury to health or the environment.” As a result, chemical producers are required to research the effects of new chemicals and notify EPA before they are manufactured. EPA has the authority to ban or restrict chemical uses if there is sufficient evidence that the substance poses an “unreasonable risk.”

Pesticides Legislation

Both the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetic Act (FFDCA) regulate pesticides. Originally requiring mere registration of pesticides, FIFRA was amended in 1972 to require testing for short-term and long-term toxic effects prior to registration. For pesticides used on food crops, EPA establishes an upper limit on

the amount of residue that can remain on food based on human tolerance levels. The FFDCFA requires the Food and Drug Administration (FDA) to enforce these residue limits by monitoring and seizing foods whose residues are in excess of these standards.

The Clean Air Act (CAA)

The CAA was passed by Congress in 1970 and signed into law by President Nixon. This Act is the basic Federal law for controlling toxic air pollution. It requires EPA to keep an up-to-date list of industrial pollutants that are hazardous to human health, and set an emission standard for each “with an ample margin of safety.” Under the law, EPA prepares minimum pollution standards, and States prepare implementation plans showing how these standards will be attained. States issue permits for the release of listed pollutants into the atmosphere, and take samples to evaluate the State’s air quality. Of the 320 toxic air pollutants named in the act, EPA has to date completed regulations governing only 7, in large part because industry protests have resulted in legal precedents requiring costly and lengthy scientific studies to show that a pollutant has harmful effects at a certain level.

The CAA was expanded, with its central public health approach reaffirmed, under Presidents Carter and Bush. The CAA requires EPA to review public health standards for six major air pollutants every 5 years. Under the law, the standards must be set to “**protect public health with an adequate margin of safety**” and be based only upon a consideration of public health, with cost factors coming into account only during the implementation phase. EPA recently completed the scientific review for five of the six pollutants and has set new, updated standards for only two of these—ozone and particulate matter.

Why are the public health standards being revised for these two pollutants?

Recognizing that the scientific knowledge and understanding of air pollution and its effects on public health would advance over time, Congress directed EPA to review these public health standards every 5 years to ensure they are always based on the best available science. In these reviews, EPA, in consultation with an *independent* expert scientific review board, evaluated the latest scientific studies and research to determine whether the existing standards protect public health with an adequate margin of safety or need to be revised.

The Clean Water Act (CWA)

Originally enacted in 1972, this Act envisioned recreational use of the Nation’s waterways by 1983 and pollution discharges halted by 1985. Obviously, these goals were not accomplished. The law continues to promote clean water by supporting construction of sewage treatment facilities (which are currently bearing a heavy burden in processing pollutants); supporting the preparation of water quality plans encompassing the entire Nation; and setting up a permit system restricting the amount and type of pollutants that can be discharged into the Nation’s waterways. Modest fines may be imposed for illegal spills. The law is primarily designed to address point sources of pollution, paying far less attention to non-point sources such as agricultural runoff (currently estimated to be responsible for 65% of stream pollution).

The Safe Drinking Water Act

The Safe Drinking Water Act was enacted in 1974, specifically to protect the public water supplies from contamination by mandating water testing, denying Federal funds to projects that threaten critical water supplies, and requiring States to submit plans to protect public wells from contamination.

The law also has a “Right to Know” provision in which the public must be informed if certain contaminants are present in drinking water above Maximum Contamination Levels (MCLs) set by the EPA. MCLs are contaminant-specific, enforceable standards set for contaminants that EPA has determined have an adverse effect on human health above certain levels. MCLs are often used as a basis for developing groundwater protection and cleanup standards at RCRA corrective action sites.

RESPONSIBILITIES OF KEY FEDERAL AGENCIES

The Federal Emergency Management Agency (FEMA)

FEMA is responsible for coordinating all civil emergency planning, management, mitigation, and assistance functions of the Federal Government. Under SARA’s Title III, FEMA is the primary Federal agency responsible for planning and related training for hazardous materials emergency management. This authority encompasses accidents at manufacturing, processing, storage, and disposal facilities, as well as hazardous materials in transit by highways, on water, by rail, and by air.

FEMA provides resource information and technical and financial assistance to States for developing emergency plans for hazardous materials accidents and other types of emergencies, and assists State and local governments in hazardous materials training. FEMA also assists States and communities by interpreting Federal planning guidance, providing advice on plan preparation, and reviewing completed plans. FEMA Regional staff are available to provide this support. When emergency exercises are conducted, FEMA Regional officials provide support by reviewing the plans, observing exercises to test the plans, and providing technical evaluation of how well the plans worked.

Finally, FEMA is available to provide additional financial relief in the event of an incident so serious that both local and State funds prove inadequate.

The Environmental Protection Agency (EPA)

The primary mission of the EPA is to protect and enhance our environment. EPA is the lead agency responsible for carrying out Title III reporting requirements. Under Superfund and other related laws, it is the agency primarily responsible for hazardous waste site operations and Superfund site cleanup activities. EPA also conducts technical and environmental training programs related to hazardous materials, and chairs the 14-agency NRT. At the request of community officials, EPA can provide technical expertise on the full range of environmental contamination issues.

The EPA is responsible for monitoring hazardous waste site operations and cleanup activities, and has the lead responsibility for many Title III activities.

The Department of Transportation (DOT)

DOT establishes the Nation's overall transportation policy. It bears the primary responsibility for issuing standards and regulations relating to the transportation of hazardous materials from State to State nationwide. (DOT regulates the shipment of hazardous materials *within* the United States, and between Canada, and Mexico in and out of the United States, as well as international transportation of these materials.) DOT is heavily involved in identifying safer modes of hazardous materials transport, and has significant regulatory, research and development, and training functions in this area. DOT trains and inspects carriers and shippers of hazardous materials to ensure that they are in full compliance with regulatory guidelines.

The Department of Energy (DOE)

DOE provides the framework for a comprehensive and balanced National energy plan through the coordination and administration of the energy functions of the Federal government. Its primary responsibilities in the hazardous materials arena involve radioactive waste generated by the nuclear weapons program or by nuclear reactors, which supply energy.

DOE provides assistance in the removal and disposal of radioactive contamination, as well as in identifying the source and extent of radioactive releases. In addition, DOE conducts hazardous materials training workshops throughout the country.

The Department of Defense (DOD)

DOD manufactures, tests, and discards the full range of hazardous materials. Military installations are also a potential source of expertise on hazardous materials for local governments.

DOD is responsible for maintaining manpower, equipment, and other resources for potential use in military conflict. DOD manufactures, stores, and discards the full range of hazardous materials, and is also one of the Nation's largest shippers of such materials. The Agency also conducts hazardous materials courses at five military installations, primarily for military personnel responsible for the handling and control of such substances. DOD laboratories and bases can be a source of expertise, equipment, and supplies for use in local chemical emergencies.

The Department of Labor (DOL)

The purpose of the Department of Labor is to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment in carrying out this mission.

OSHA has responsibility for establishing rules and standards to ensure that occupational environments are safe for workers. As part of this function, OSHA regulates employee safety and health at hazardous waste operations, in work environments where hazardous materials are present (primarily chemical industries), or during emergency response to incidents involving hazardous materials.

THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (TITLE III)

What is Title III?

On October 17, 1986, the Superfund Amendments and Reauthorization Act of 1986, also known as SARA, was signed into law. The third part of SARA is Title III: the Emergency Planning and Community Right-to-Know Act. Prior to this law, citizens had little or no legal backing in their attempts to obtain information about toxic releases from facilities in their own communities. As the public and its Congressional representatives became more aware of the increasing use of hazardous materials and the corresponding increase in the number of accidents, pressure grew for better information at the local level.

The single incident that is credited with raising the level of concern to the point that such a law could be passed occurred in Bhopal, India, where a release of methyl isocyanate killed at least 1,700 people and injured thousands more. To help reduce the likelihood that such a tragedy would occur in the United States, and simultaneously increase a local government's ability to anticipate and plan for such a major emergency if one were to occur, Title III seeks to provide reliable information to those who would be most affected by an accidental release of this kind: the communities located in the immediate area of industrial plants.

As used in SARA, the term "hazardous materials" refers to substances transported, used, and stored at petroleum refineries and natural gas facilities; hazardous chemicals such as PCBs and trichloroethylene (dry cleaning chemicals); acutely toxic chemicals; and fumes and dust from metals such as arsenic, lead, and cadmium. For the first time, the law even requires the agricultural industry to report production, use, storage, or release of certain chemicals. EPA maintains an updated list that includes more than 300 extremely hazardous substances (EHS), selected on the basis of their ability to pose an *immediate* threat to life and health. These EHS chemicals have been involved in some of the most serious accidents that have occurred in the United States to date.

Title III establishes requirements for Federal, State, and local governments and industry regarding local emergency planning and reporting on hazardous materials. It also provides a comprehensive framework within which Federal, State, and local governments can work together with industry to reduce risks.

Title III has four major sections:

- Emergency planning
- Emergency notification
- Community right-to-know reporting requirements
- Toxic chemical release and emissions reporting

The four sections of Title III will be discussed in turn.

1. Emergency Planning

Title III requires that the governor of each State designate a State Emergency Response Commission (SERC). This commission generally includes representatives of public agencies and departments with expertise in environmental issues, natural resources, emergency services, public health, occupational safety, and transportation. Various public and private sector groups and associations with an interest in Title III issues may also be included in the State commission.

The SERC designates local emergency planning districts and appoints Local Emergency Planning Committees (LEPCs) within each of these districts. The SERC is responsible for supervising and coordinating the activities of the LEPCs, for establishing procedures for receiving and processing public requests for information collected under other sections of Title III, and for reviewing plans generated by the LEPCs.

The LEPC's primary responsibility is to develop a local emergency response plan.

Each LEPC is expected to include elected State and local officials; police, fire, civil defense, public health, environmental, hospital, and transportation officials; representatives of facilities subject to the emergency planning requirements; community groups; and the media. Public notice is given of meetings and activities, and procedures are established for handling public requests for information. Citizens who want to help their community prevent and plan for hazardous materials emergencies should contact the LEPC.

Local emergency response plan

The LEPC is responsible for developing and maintaining a local emergency response plan that will ensure a quick and effective response to a chemical emergency. These plans provide a range of information to facilitate an effective and efficient course of action if a chemical release were to occur. Issues such as which facilities use chemicals, where the chemicals are stored, and what routes are the quickest for first-responders and evacuation are addressed by the emergency plan.

SERC is responsible for coordinating emergency plans among districts

Delegating this responsibility to the LEPC ensures that communities will develop personalized, need-specific, and effective emergency plans. Many LEPCs contact neighboring LEPCs to coordinate procedures and resources to ensure the most effective

emergency response. Ultimately, the SERC is responsible for coordinating emergency plans among districts.

EPA suggests that LEPCs test their plans to ensure effectiveness

Developing the emergency plan is a continuing process. The reporting requirements of Title III are ongoing and provide LEPCs with up-to-date information about chemical hazards. The LEPC must review the plan at least annually, or more frequently as changed circumstances in the community or at any facility may require. Furthermore, EPA suggests that LEPCs test their plans to ensure effectiveness.

Community actively involved in the emergency planning process

The LEPC must make information and submitted reports publicly available during normal business hours. The LEPC must also notify the public of the availability of Title III information, such as the emergency plan, activities, and meetings, and provide opportunities for public comment. Getting the community actively involved in the emergency planning process offers several benefits: greater community awareness of the local emergency plan, development of an emergency plan that accurately addresses the community's needs and concerns, and active involvement by the community, which may serve as a catalyst for increased funding by local government entities.

Strategies for preventing or mitigating chemical emergencies

In developing their plans, local committees analyze local risks and evaluate resources available to their area that could help them to prepare for and respond to a hazardous materials accident. A progressive LEPC may also consider strategies for ***preventing*** or ***mitigating*** chemical emergencies—that is, identifying ways to keep emergencies from happening, or of making their consequences less severe.

Examples of this include the installation of sprinklers in a chemical plant or the routing of certain hazardous materials to be carried away from residential areas.

The contingency plan generated by the LEPC must include a list of hazardous materials facilities and the routes they use to transport listed materials, emergency response procedures, and evacuation plans. It is reviewed by the SERC and updated annually by the LEPC. Emergency plans must focus on the list of extremely hazardous substances published by the EPA, but they are not limited to this list. Any facility that uses these substances in excess of specified “threshold” quantities is subject to emergency planning requirements.

2. Emergency Notification

This section of Title III requires an industry to notify the LEPC, the State, and the National Response Center if there is a release of a listed hazardous substance that exceeds a certain quantity, as specified in the November 17, 1986, issue of the *Federal Register*.

Title III of SARA provides a framework for Federal, State, and local governments to work with industry to reduce hazardous materials risks and to develop comprehensive emergency response plans.

The emergency notification must include the name of the chemical released, the quantity involved, how and into what it was released, and the health risks from exposure. This section of Title III also requires the industry to submit reports to the State and LEPC after the event that explains what actions were taken to control the release, and to provide more data on health risks and any medical attention required for victims.

This part of the law will allow communities to learn if significant releases from hazardous materials facilities are occurring or are likely to occur, and whether state-of-the-art technology is being used by the plants to protect nearby communities from unnecessary adverse health effects.

3. Community Right-to-Know Reporting Requirements

This is a particularly important part of Title III, because it grants citizens the *right* to obtain information on hazardous materials in their community. Environmental, health, and labor groups have worked hard for passage of this law.

This section of Title III requires facilities to submit *either* a form called a Material Safety Data Sheet (MSDS) *or* lists of certain hazardous chemicals on sites in amounts over threshold quantities to the LEPC, the SERC, and the local fire department. MSDS formats vary considerably among providers, but all include vital information about the properties and effects of the hazardous material involved. Industry facilities must also submit inventories of the amounts and locations of these chemicals in their plants. OSHA and EPA rules specify which chemicals must be reported and at what quantity.

4. Toxic Chemical Release and Emissions Inventory Reporting

This section of Title III requires hazardous materials facilities to inform the public about routine, day-to-day releases of chemicals. The intent is to provide information on the extent of the cumulative toxic chemical burden on the environment.

More than 300 chemicals listed by EPA must be reported if they are emitted regularly. Facilities must submit toxic chemical release forms for these chemicals. This requirement applies to facilities that have 10 or more full-time employees and that are in certain types of specified industries. Facilities that use less than 10,000 pounds of a listed chemical each year are currently exempted.

Citizens should have a basic awareness of the procedures spelled out in their local plans for protecting public safety in the event of a hazardous materials incident. How would a citizen be told that an incident had occurred, for example? Or if they were living near an area where an incident is considered more probable than at other locations?

How to Use Title III Legislation to Protect Yourself from Hazardous Materials

The Emergency Planning and Community Right-to-Know Act (Title III of SARA) was written with concern for the individual citizen. It is based on the principle that the more citizens know about hazardous materials in their communities, the more effective they can be in improving public safety. The law requires industry to make information available on potential chemical hazards. There are several ways a citizen can obtain and use this information to protect themselves during a hazardous materials incident or hazardous substance release.

- Make sure that your LEPC has been formed, and attend its meetings. Volunteer to serve on it as a citizen representative. Obtain information on the LEPC by calling the SERC, county health department, fire department, or emergency management agency.
- Review and comment on the emergency response plan, and ask questions about how the emergency procedures affect you, your family, and your place of business.
- Ask for information from the LEPC or SERC about hazardous materials in the community. Ask the LEPC what local facilities are doing to reduce the dangers from these materials.
- Use the National Toxic Release Inventory database to obtain information on routine releases of toxic chemicals in the community. If the LEPC does not have this information, you or your LEPC can get it from a library, the SERC, or the EPA Reporting Center in Washington, DC. A citizen with a home computer and a modem can access the national database on the National Library of Medicine's computer system for a nominal fee. (For additional information on accessible computer databases, see "Computer Networks Open to the Public" in the Resources section later in this course.)
- Call or visit your LEPC and ask if they have complied with the LEPC reporting requirements.

REDUCING RISKS FROM HAZARDOUS MATERIALS RELEASES

Federal Role

The Federal role in reducing public risk from exposure to hazardous materials includes technical guidance, legislated standards and procedures, and providing States with access to data about chemical releases and training. FEMA has the lead role for coordinating civil emergency response planning and disaster response. FEMA's hazardous materials program is largely one of providing guidance, technical assistance, information, and training. For Title III reporting and enforcement activities, EPA is the key Federal agency: it maintains the national toxic chemical inventory, publishes regulations concerning hazardous materials, reports on the status of various emergency systems, conducts training, and assists with hazardous materials site identification and investigation.

State Role

Under Title III, each State governor must appoint a SERC. These commissions provide leadership to ensure that an emergency planning and implementation structure is developed at the local level, and review plans developed by communities. In addition, the SERCs provide training and technical assistance to local communities. In the case of an emergency which is too expensive for a local community to handle, the State may contribute resources. In general, the burden of funding for training and information management for Title III recordkeeping falls at the State and local level.

States may, of course, elect to exceed Federal requirements for hazardous materials management. For example, more than 30 States have enacted Right-to-Know laws similar to the Federal one, some of which cover more chemicals and more potentially hazardous situations.

Federal controls on operating hazardous materials waste treatment, storage, and disposal facilities contain many exceptions. Some States have added specific requirements to address these “loopholes” and increase their protection from particular hazards. For example, California prohibits discharge from an underground injection well if it is within one-half mile of a drinking water supply. States have broad authority to control how hazardous materials are stored, used, transported, and disposed of within their borders. For instance, States establish zoning control policies that determine where chemical plants may be located, and control site locations for hazardous waste facilities and landfills. Pennsylvania and Connecticut currently have laws that deny permits to companies found in violation of environmental protection laws. Regulating transportation of hazardous materials within State borders is also a State responsibility.

Local Role

Local communities play a key role in the system set up by Congress under Title III to inform and protect citizens from hazardous materials. Local communities, represented by LEPCs, are responsible for developing an emergency plan for disasters involving hazardous substances. This includes identifying the resources that would be available in an emergency (such as trained personnel and specialized equipment) and ensuring planning coordination among responding groups. The LEPC also collects and stores information from hazardous materials facilities, and makes that information available to the public.

Local officials have the lead role in responding to hazardous materials emergencies; usually, management of incidents is the specific responsibility of the local fire department. Communities also regulate the disposal of hazardous waste and inspect hazardous materials storage areas for violations of local codes. Many communities also regulate hazardous materials traffic through specific zoning requirements.

The Role of Industry

Under Title III, facilities that use hazardous materials are responsible for complying with packaging, labeling, storage, transportation, and workplace safety regulations. Additionally, industry is required to furnish information about the quantities and health effects of materials used at the plant, and to promptly notify local and State officials whenever a significant release of hazardous materials occurs. Small businesses and farmers are also included under the Title III umbrella if they use “extremely hazardous substances” in reportable quantities, as set by EPA rulemaking for the EHS list.

Reporting Releases Above a Reportable Quantity (RQ)

Any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he or she has knowledge of any release (other than a Federally permitted release or application of a pesticide) of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the reportable quantity determined by the EPA in any 24-hour period, immediately notify the National Response Center at (800) 424-8802, in Washington, DC, and the LEPC and the SERC of such release.

The Chemical Manufacturers Association (CMA) has set up a voluntary, industry-wide ***Community Awareness and Emergency Response Program (CAER)***. This program encourages plant managers to listen to community concerns, participate in planning, and explain their plant’s operations and policies. By working with the community to ensure safe handling, storage, transportation, and disposal of dangerous chemicals, industry can protect itself, as well as the public, from the high costs of chemical accidents.

WHEN THE LAWS ARE NOT OBEYED

If you believe a problem exists in your community that should be addressed by an existing law, begin with research on the law and its specific provisions, working through the responsible government agency. (For fixed sites, your first stop is always your LEPC.) Many Federal and State agencies maintain hotlines for citizen inquiries and reports of violations. Title III has specific provisions that enable citizens to bring legal actions against facilities or industries that do not comply with its provisions. Find out as much as you can about the problem and report it to the responsible agency, citing the specific provisions of the law you believe are violated and stating whatever evidence you have. If possible, work with a public interest group that has experience in tackling pollution problems.

Litigation is a slow and costly process, and should be used only after discussions with the regulated facility and the enforcing agency have proven fruitless. However, lawsuits can force a government agency to act if it is shown to be:

- Violating normal agency procedures
- Violating a substantive statute or regulation
- Abusing its discretionary authority (that is, making a decision based on inadequate information or inappropriate standards)
- Violating legally required decision-making procedures
- Violating environmental impact review requirements

What about legal action to force polluters to pay cleanup costs? Traditionally, monetary awards for damages are not by any means sufficient to pay cleanup costs. Approaches differ in “balancing equities,” the relative interests of the complainant and the polluter. It is extremely important to know the specific provisions of environmental law for your particular State.

Under both Federal and State environmental laws, you have the right to file a suit for an injunction (halt) to pollution if you can show that the defendant is in violation of the State law, or (in some States) if it is creating an imminent danger. However, it is only in extreme cases, when the potential damage is clear and irreparable, that a judge is likely to take short-term action before the full-scale legal process has come to its conclusion.

SUMMARY

The Nation’s regulation of hazardous materials is accomplished through several key pieces of legislation, each of which addresses a specific aspect of the problem. This legislation charges numerous Federal agencies with responsibilities to protect our environment and the public health, each agency bringing its expertise in a specific area to bear on particular areas of concern. These laws and agencies support State and local governments in addressing their hazardous materials problems, but leave a great deal of responsibility to lower levels of government. By becoming familiar with key Federal, State, and local legislation, you can recognize possible violations of the law and join others in working for full enforcement of its provisions.

HAZMAT TEASER

(Answers are on page C-1)

Early in spring, people living around a meat packing plant begin to notice a faint odor of ammonia coming from the facility when the wind is out of the west. Other things begin to raise the level of concern in the community over the next few weeks: a large number of dead and dying fish are observed in the river that runs next to the packing plant, and the school down the block is experiencing a higher than normal absentee rate caused by children coming down with chest colds and respiratory tract infections.

Several people who live in the neighborhood also work at the plant. They have reported to company management that the strong odor of ammonia has given them severe headaches and caused breathing difficulties. Plant managers have told them that there is no cause for alarm and the odor of ammonia is “normal.”

That evening, several neighborhood leaders get together and compare notes on the problems at the plant. Concerns are expressed about the now-frequent odor of ammonia, and the effects it may be having on the local community.

The neighborhood leaders decide to hold a community meeting to share perspectives on the situation and determine what additional steps should be taken. If you were among this group of neighborhood leaders:

1. Who do you think should be invited to this initial meeting?
2. What information could you gather before the meeting that may be helpful?
3. What law(s) could the plant potentially be violating?

More than 90 people representing a variety of interests attend the meeting to discuss the situation. Conspicuously missing are company representatives of the meat packing plant. At this session, people begin to compare notes and stories and learn that the problem and the complaints come from a far larger area than was previously believed.

4. Assuming those you invited attended, what are some of the immediate follow-up actions that can be taken by members of the group to resolve the situation?

CHECK YOUR MEMORY

(Answers are on page C-4)

1. This Federal act addresses the problem of inactive hazardous waste sites:
 - a. Superfund
 - b. The Resource Conservation and Recovery Act
 - c. The Occupational Safety and Health Act
 - d. The Clean Water Act

2. This act requires chemical companies to research the effects of new chemicals and notify the EPA before they are manufactured:
 - a. The Clean Water Act
 - b. The Hazardous Materials Transportation Act
 - c. The Toxic Substances Control Act
 - d. Superfund

3. Under Title III, the primary responsibility for developing a local plan for handling accidental releases of acutely toxic substances is the responsibility of:
 - a. The State Emergency Response Commission
 - b. The National Response Team
 - c. The Local Emergency Planning Committee
 - d. The Environmental Protection Agency

4. EPCRA requires industries that store or use certain quantities of acutely hazardous substances to report them under what conditions?
 - a. Only routine (day-to-day) releases
 - b. Only accidental releases of a certain quantity
 - c. Both routine and accidental releases of a certain quantity
 - d. Every release in any quantity

5. The local role in reducing public risks from hazardous materials includes:
 - a. Developing an emergency plan for hazardous materials incidents
 - b. Regulating hazardous materials transportation through local ordinances
 - c. Regulating safe disposal of hazardous waste
 - d. All of these

6. If you believe a local manufacturer is not in compliance with Title III, you should:
 - a. Report the situation to the LEPC
 - b. Sue the manufacturer
 - c. Call a reporter
 - d. Threaten the manufacturer

7. The Federal agency responsible for regulating hazardous materials transportation is:
 - a. The Environmental Protection Agency
 - b. The Department of Labor
 - c. The Department of Transportation
 - d. The Federal Emergency Management Agency