

Douglas County, KS

LEPC Mission

*To provide leadership and coordination  
of the many all-hazard and homeland security  
and prevention, mitigation, preparedness,  
response and recovery efforts  
in Douglas County.*

## Preface

Most of us have driven past an industrial plant and wondered what was happening inside. Did you ever think to yourself:

"I wonder what they're making in there?"

"Could they be using any dangerous chemicals?"

"What if there's an accident--will they be able to warn me and my family about toxic gases--before it's too late? Has anybody made plans for an evacuation?"

"What's in that smoke that's always coming out of that smokestack? When the wind's right, it looks like it's blowing right toward my house!"

If questions like these **have** occurred to you, you're not alone. More and more people have become concerned about hazardous chemicals in the last few years--especially since the 1984 chemical tragedy in Bhopal, India, where a release of toxic gas killed and injured thousands of people.

In the past, citizens who wanted to know more about the hazardous and toxic chemicals in their communities had to depend on the cooperation of industry for information. Some companies were willing to answer questions and even opened their gates for public tours a few times a year. But if a company **wasn't** willing to share information about its operations with its neighbors, there wasn't much a concerned citizen could do about it.

All that has changed. In November of 1986, Congress passed a law designed to help America's communities deal safely and effectively with the many hazardous substances that are used throughout our society. The law is called the Emergency Planning and Community Right-to-Know Act; and this booklet has been written to help you understand and take advantage of your rights and opportunities under this far-reaching law.

The law has two main purposes: to encourage and Support emergency planning for responding to chemical accidents; and to provide local governments **and the public** with information about possible chemical hazards in their communities.

For the law to work, industry, interested citizens, environmental and other public-interest organizations, and government at all levels must work together to plan for chemical accidents and to reduce the risk to the public from releases of toxic chemicals into the environment. The law establishes an ongoing forum at the local level for discussion and a focus for action--the Local Emergency Planning Committee.

This is a ground-breaking new approach to environmental protection. It assumes that the more citizens know about chemical hazards in their communities, the better equipped they and their local governments will be to make decisions and take actions that will better protect their families and their neighbors from unacceptable risks.

A key to successful environmental protection programs, both now and in the future, is exactly this kind of community and citizen awareness and involvement in environmental decision-making. The federal government is developing a number of products and programs to assist communities in this process, and EPA continues to have important responsibilities for controlling pollution on a national basis. But local environmental problems cannot be solved by the federal government alone. Solutions must involve the people who have a direct, immediate stake in both the problems and their resolution, supported by government at all levels.

In response to the law's requirements, states, communities, industries, and citizens' groups around the country have joined forces to:

- Write **emergency plans** to protect the public from chemical accidents.
- Set up **procedures to warn and, if necessary, evacuate** the public in case of emergency.
- Provide citizens and local governments with **information about hazardous chemicals and accidental releases of chemicals** in their communities.
- Prepare public **reports on annual releases of toxic chemicals** into the air, water, and soil.

All of this planning and information-gathering is directed toward a common goal: to help you, your local officials and community leaders to be better informed as together, you make important decisions about how to deal with toxic and hazardous materials.

As a citizen, you now have the right to know about the chemicals in your community. You have the right to make your own informed decisions as to whether these chemicals are a threat to your health or environment. The more each of us learns about, understands, and participates in managing chemical hazards, the safer our communities will be for everyone. Working together through the Emergency Planning and Community Right-to-Know program, we may save some lives.

## Why a New Law?

On December 4, 1984, a cloud of methyl isocyanate gas, an extremely toxic chemical, escaped from a Union Carbide chemical plant in Bhopal, India. More than 2,500 people lost their lives. Tens of thousands more were injured, some suffering permanent disabilities.

Americans asked: "Could it happen here?"

A chemical release in West Virginia shortly after the Bhopal tragedy, though not nearly as serious as Bhopal, made the question even more urgent.

Even before 1984, there were groups trained to deal with chemical emergencies at the federal, state and local levels--the National Response Team\*, Regional Response Teams, state and local response teams, and others. But there was no mandatory national program, nor were there comprehensive state and local programs everywhere in the country, to deal with chemical accidents.

\*The National Response Team is composed of representatives of 14 federal agencies with responsibilities for emergency preparedness and response. Regional Response Teams consist of regional representatives of the federal agencies on the NRT, as well as state emergency response and preparedness officials.

The Bhopal tragedy started a chain of events in this country that is still unfolding:

- The Environmental Protection Agency established the voluntary Chemical Emergency Preparedness Program (CEPP) to raise state and local awareness of the potential for accidents involving extremely hazardous substances, and to foster development of state and local emergency plans.
- At the same time, the Chemical Manufacturers Association (CMA), an industry group, also set up a voluntary program called Community Awareness and Emergency Response (CAER). The CAER program encourages plant managers to become more involved in their local community by explaining their plant's operations and participating in local emergency planning.
- Environmental and labor groups became more active in working toward local and national legislation to protect against chemical accidents.
- More than 30 states passed laws (some before Bhopal) giving workers and citizens access to information about hazardous substances in their work places and communities. There are differences in these laws, but most require reporting of toxic chemical releases and the presence of hazardous substances. In some cases, that information is made available to the public.
- With these and other efforts in mind, Congress enacted the Emergency Planning and Community Right-to-Know Act. The new law makes many of these voluntary programs mandatory. The federal law does not preempt states or local communities from having more stringent or additional requirements. It requires that detailed information about the nature of hazardous substances in or near communities be

made available to the public. The law also provides stiff penalties for companies that do not comply, and it allows citizens to file lawsuits against companies and government agencies to force them to obey the law.

## Dealing with Chemicals: It's Everybody's Job

The Emergency Planning and Community Right-to-Know Act creates a new relationship among government at all levels, business and community leaders, environmental and other public-interest organizations, and individual citizens. For the first time, the law makes citizens full partners in preparing for emergencies and managing chemical risks. Each of these groups and individuals has an important role in making the program work:

- **Local communities and states** have the basic responsibility for understanding risks posed by chemicals at the local level, for managing those risks, for reducing those risks, and for dealing with emergencies. By developing emergency planning and chemical risk management at the levels of government closest to the community, the law helps to ensure the broadest possible public representation in the decision-making process.
- **Citizens, health professionals, public-interest and labor organizations, the media**, and others are working with government and industry to use the information for planning and response at the community level. The new law gives everyone involved access to more of the facts they need to determine what chemicals mean to the public health and safety.
- **Industry** is responsible for operating as safely as possible using the most appropriate techniques and technologies; for gathering information on the chemicals it uses, stores, and releases into the environment and providing it to government agencies and local communities; and for helping set up procedures to handle chemical emergencies. Beyond meeting the letter of the law, some industry groups and individual companies are reaching out to their communities by explaining the health hazards involved in using chemicals, by opening communication channels with community groups, and by considering changes in their practices to reduce any potential risks to human health or the environment.
- **The federal government** is responsible for providing national leadership and assistance to states and communities so they will have the tools and expertise they need to receive, assimilate, and analyze all Title III data, and to take appropriate measures in accidental risk and emissions reduction at the local level. EPA is also working to ensure that industry complies with the law's requirements; the public has access to information on annual toxic chemical releases; and the information is used in various EPA programs to protect the nation's air, water, and soil from pollution. EPA is also working with industry to encourage voluntary reductions in the use and release of hazardous chemicals wherever possible.

## A New Relationship

The Emergency Planning and Community Right-to-Know Act has forged a closer, more equal relationship among citizens, health professionals, industry, public-interest organizations, and the local, state, and federal government agencies responsible for emergency planning and response, public health and environmental protection. In the past, most of the responsibility for these activities fell to experts in government and industry. To the extent that citizens or their representatives participated, it was generally "from the outside looking in," as they did what they could to influence decisions that were, for the most part, out of their hands.

But under the provisions of the Emergency Planning and Community Right-to-Know Act, all of these groups, organizations and individuals have vital roles to play in making the law work for the benefit of everyone. The law requires facilities to provide information on the presence of hazardous chemicals in communities directly to the people who are most affected, both in terms of exposure to potential risks and the effects of those risks on public health and safety, the environment, jobs, the local economy, property values, and other factors.

These "stakeholders" are also the people who are best able to do something about assessing and managing risks through inspections, enforcement of local codes, reviews of facility performance and, when appropriate, political and economic pressures . This relationship between the Title III data and community action can best occur at the local level, through the work of the LEPC. For example, if a local firm has reported the presence of extremely hazardous substances at its facility, several accidents, substantial quantities of chemicals, and continuing releases of toxic chemicals, a community has the data it needs to seek appropriate corrective action. In short, the law opens the door to community- based decision-making on chemical hazards for citizens and communities throughout the nation.

This section describes how each of the key groups and organizations--as well as individual citizens can help to fulfill the promise of the Emergency Planning and Community Right-to-Know Act: a safer, healthier environment for you and your family.

## Citizens

The Emergency Planning and Community Right-to-Know Act was written specifically with you, the citizen, in mind. It is based on the principle that the more you and your neighbors know about hazardous chemicals in your community, the better prepared your community will be to manage these potential hazards and to improve public safety and health as well as environmental quality. By volunteering to work with your LEPC, you can play a major role in making the law work.

The law requires industry and others to make available to you information on potential chemical hazards and inventories, and on releases of toxic chemicals into the environment. There are several ways you can become involved in obtaining and **using** this information to enhance the quality of life in your community:

- **Make sure that your Local Emergency Planning Committee (LEPC) has been formed**, attend its meetings, and make sure it is fully representative of the community. Volunteer to serve on it as a citizen representative.
- Make sure that the LEPC has obtained **all the information it needs** from local facilities to prepare a comprehensive emergency response plan.
- **Review and comment on the emergency response plan**, and ask questions about how procedures set out in the plan affect you, your family, or your place of business.
- **Ask for information** from your LEPC or State Emergency Response Commission (SERC) about chemical hazards, inventories, and releases in your community. Make sure both the SERC and LEPC have established procedures to make the information reported under Title III readily available to the public. Ask your LEPC what facilities are doing to reduce chemical hazards.
- Use the national Toxic Release Inventory (TRI) data base to **obtain information on routine releases of toxic chemicals** in your community. Your LEPC should have this information. If not, you or your LEPC can get the TRI information from a local library, your state, or the EPA Reporting Center in Washington, DC. (A guide to obtaining information is on page 32.) If you have a home computer and a telephone modem, you can call up the national data base on the National Library of Medicine's TOXNET(TM) computer system (a nominal access fee will be charged.)
- **Call or visit facilities** in your community and ask if they have complied with the reporting requirements.

Under certain conditions, facilities can withhold the name of a chemical on a "trade secret" basis (other information must be provided). You can challenge trade secret claims by submitting a petition to EPA.

Title III also allows you to sue the owner or operator of a business or facility who does not comply with the law, as long as that person is not facing a government administrative order or civil action to force compliance. You can also sue EPA, the SERC or the governor of your state if any of them fails to provide information that must be made public under the Act.



Finally, you can petition EPA to add or delete chemicals from the list of toxic chemicals that must be reported under the toxic chemical release inventory. You also can petition to change the list of extremely hazardous substances used for emergency planning and accidental release notification.

The Emergency Planning and Community Right-to-Know Act creates a groundbreaking opportunity for you as a citizen to become directly involved in the decisions that affect your safety and health. Your knowledge of and participation in this program can help ensure that it accomplishes its goals in your community

## Fire Departments

Because fire departments are often the first to respond to a hazardous chemical emergency, they must be involved in every aspect of the emergency planning and community right-to-know program.

Fire departments will be involved in emergency planning through their participation in the work of LEPCs. It is essential that fire departments are involved in their LEPCs not only to ensure they are a part of the system but because fire departments have important expertise regarding chemical hazards and emergency planning. The community emergency response plan must include hazardous chemical emergency training for response workers, including firefighters. Federal and state programs are available to train firefighters for dealing with emergencies involving chemical hazards.

In addition to participating in emergency planning and training, fire departments will receive information about hazardous chemicals from facilities within their jurisdiction. This information, in the form of either material safety data sheets (MSDSs) or lists of MSDS chemicals and hazardous chemical inventory forms, will be the same as the data submitted to LEPCs and SERCs.

Having access to this information will help a fire department responding to a chemical emergency know which chemicals, as well as their quantities and locations, to expect at the scene. The fire department can request additional, more specific information about chemical inventories at a plant, and it can also request an on-site inspection. The plant must provide specific information regarding the location of hazardous chemicals.

In an effort to help fire departments respond to chemical accidents, the National Oceanic and Atmospheric Administration (NOAA) worked with the Seattle, WA, Fire Department to develop the Computer-Aided Management of Emergency Operations (CAMEO (TM)II) System. EPA has helped NOAA expand this program to meet the information management needs of Title III. CAMEO II contains response information and recommendations for 2,629 commonly transported chemicals; an air dispersion model to assist in evaluating release scenarios and evacuation options; and several easily adaptable databases and computational programs that address the emergency planning provisions of the Emergency Planning and Community Right-to-Know Act.

## Public Institutions

Public institutions such as hospitals, schools, and state and local governments are vital to the success of any emergency response plan. Ambulance crews and emergency room personnel must know how to transport and treat victims of exposure to hazardous chemicals. Schools and public buildings should plan for emergencies and may be called on to serve as emergency shelters for evacuees. Here are some of the other ways public institutions can participate in emergency planning and hazardous chemical risk reduction:

- Representatives of these institutions should be **members of the Local Emergency Planning Committee**, or at least learn who represents public institutions on the committee and stay in contact with that person.
- The institutions' officers should **inform the LEPC of sensitive facilities** within the community (hospitals, schools, and nursing homes) that should be included in the emergency response plan. These officers should know how they will be notified in the event of an accident and be prepared to respond. They should also be familiar with plans for responding to fires and other emergencies involving hazardous chemicals.
- State and local environmental and public health agencies, in addition to participating on SERCs and LEPCs, should take advantage of the new reporting requirements to **build an information base about hazardous chemicals** in their states and communities. This information can then be used to identify "hot spots," or potential problem areas that warrant further investigation to determine if they represent unacceptable risks to the public health or the environment. The agencies also can use this information to work with industry on voluntary programs to **reduce the amounts and risks of hazardous chemicals** used or released in the community.

Public institutions may be required to submit reports under the following notification requirements of the Act:

- **Emergency Planning:** If a public institution has more than a specified amount of an extremely hazardous substance, it must report to the SERC and LEPC.
- **Emergency Release Notification:** If the institution releases more than a reportable quantity of an extremely hazardous substance, it must immediately report the release to the SERC and LEPC.
- **Toxic Chemical Release Reporting:** If a public institution operates a manufacturing facility, it could be covered by the toxic chemical release reporting requirements.

## Health Professionals

Doctors, nurses, and other trained medical professionals who serve in government health departments, hospitals, and private practice can be a valuable resource in emergency planning and response. They can also be an important source of information about risks to the public health in their communities. Here are some of the ways these professionals can participate in the Emergency Planning and Community Right-to-Know program:

- They can volunteer to be a **health professional representative** on the Local Emergency Planning Committee, or they can offer to assist the LEPC in its work.
- They can participate in programs to **train medical personnel** to deal with emergencies involving chemical hazards (health professionals should contact their state training officer through their LEPC or SERC for more information on training programs).
- They can **screen the information** submitted under Title III to determine if any acute or chronic health effects may be associated with hazardous substances in their communities.

In a more general sense, health professionals may be approached to provide and interpret information on chemicals available under this law. The law allows health professionals to gain access to chemical identity information, even if it is claimed as trade secret, in three different situations:

- If the chemical identity is needed for the diagnosis and treatment of an exposed person.
- If a medical emergency exists in which the chemical identity is needed to aid in diagnosis or treatment.
- If a health professional who is a local government employee requests a chemical's identity to conduct preventive research studies and to render medical treatment.

Except for medical emergencies, the request for a chemical's identity must be accompanied by a written statement of need and a confidentiality agreement.

## Industry and Small Businesses

Hazardous substances are not only found at large chemical plants. They are also used routinely in many small operations--garages, dry cleaners, etc. These chemicals are not necessarily hazardous in normal practice but may be of concern if stored or used improperly, or during an emergency such as a fire. Most industrial facilities that use chemicals in the United States are probably subject to one or more provisions of the Emergency Planning and Community Right-to-Know Act. Many small businesses are also required to file reports under the law, although several of the provisions either specifically exempt certain small businesses or have reporting thresholds that make them apply only to larger facilities.

A company's initial responsibility under the Act is to determine whether it has reporting and emergency planning obligations, and if so, to meet those obligations. EPA has prepared a number of guidance documents, a videotape, and other materials to help explain the Act's requirements and to assist companies in filing required reports and participating in their communities' planning process. Industry trade associations, such as the Chemical Manufacturers Association (CMA), also have been active in alerting their member companies to their obligations under Title III.

Besides meeting the strict requirements of the law, some chemical manufacturers and other industries have also taken steps to establish a dialogue with citizens and to involve the public as partners in planning for chemical emergencies and managing chemical risks in their communities. CMA's Community Awareness and Emergency Response (CAER) program is an example of these efforts. EPA encourages all companies affected by Title III to consider similar programs.

The annual toxic chemical release reporting requirement applies only to manufacturing facilities (those in Standard Industrial Classification codes 20-39) with **ten or more full-time employees** (see page 9). Therefore, many small businesses will not be subject to this requirement because they do not meet the manufacturing, processing or use thresholds.

All businesses, however, both manufacturing and non-manufacturing, are required to report under the emergency planning, emergency release notification, and hazardous chemical reporting provisions of the act if they have specified chemicals in amounts greater than the threshold quantities for those chemicals.

Beyond these requirements, some companies--both large and small--have taken steps to improve community safety by reducing their stocks of hazardous substances in heavily populated areas. Others are attempting to substantially lower the levels of chemicals they release into the environment. In some cases, these "source reduction" or "pollution prevention" programs have as their goal the virtual elimination of hazardous chemical wastes through substitutions, changes in industrial processes, reuse and recycling, and the use of new technologies to reduce the quantity and toxicity of hazardous substances before they enter the environment.

To the extent that industrial facilities and other businesses pursue these efforts, they will be helping to achieve one of the major objectives of the Emergency Planning and Community Right-to-Know Act: a reduction in the amount of hazardous and toxic chemicals stored in the nation's communities and released into the nation's air, water, and soil.

## Farmers

The presence of pesticides and fertilizers on a farm can present a potential chemical hazard to the community just as a factory can--especially if the farm is located near a populated area or near transportation routes. Farmers therefore, may be subject to one or more of the reporting requirements of the Emergency Planning and Community Right-to-Know Act:

● **Emergency Planning:** Farmers should first determine if they are using any of the 366 "extremely hazardous substances" that trigger the Act's emergency planning reporting requirement. If so, and if one or more of the substances exceeds specified amounts, the farm must alert the SERC and LEPC that it is covered by the emergency planning requirements. The farm must also identify a contact in case the LEPC needs additional information. This information will be used to develop an emergency response plan for the community. Because the circumstances under which farmers have extremely hazardous substances may be different from other businesses, it is important that an agriculture representative be included on the LEPC.

● **Emergency Release Notification:** Generally, farmers must notify their SERCs and LEPCs if there is a release of an "extremely hazardous substance," or a substance listed under the Superfund hazardous waste clean-up law, in excess of its "reportable quantity." There are two exceptions that may exclude farmers from this reporting requirement:

First, reporting is required only by facilities that produce, use, or store a "hazardous chemical." Under the definition of a hazardous chemical, substances that are used in routine agricultural operations and household or consumer products are specifically exempt. Even with these exemptions, however, a farm may still have other hazardous chemicals present which would be subject to reporting. If you have a release and are unsure whether or not you need to report it because you don't know whether or not you have a hazardous chemical, you should report it anyway.

Second, the proper application of a registered pesticide or fertilizer in accordance with its intended purpose is exempt from emergency release notification. In other words, farmers do not need to report routine pesticide and fertilizer application as emergency releases. An accidental release above a reportable quantity of those substances should be reported.

### ● **Hazardous Chemical Reporting:**

These reporting requirements are tied to the worker notification rules of the Occupational Safety and Health Administration (OSHA), so farmers may be covered if they already must comply with the OSHA regulations. Farms with fewer than ten full-time employees are not covered by OSHA and consequently are exempt from this requirements. Chemicals used in routine agriculture operations and household and consumer products are exempt from reporting because they do not meet the law's definition of hazardous chemicals.

## ● Toxic Chemical Release Reporting:

These requirements cover only manufacturing facilities (those in Standard Industrial Classification codes 20-39) with ten or more employees. Thus only farms that are involved in manufacturing operations as a **primary** activity (such as food, tobacco, or textile manufacturing) would be covered under this section, but only if their use of listed chemicals exceeds the threshold levels for reporting.



**2008-2009  
Douglas County, KS  
Emergency Management Advisory Board  
&  
Local Emergency Planning Committee Members**

| <b>Functional Groups</b>              | <b>Member</b>  |
|---------------------------------------|--|
| <b>GOVERNING BODIES</b>               | <b>Appointed by Governing Bodies</b>   |
|                                       | Bob Newton, appointee of Douglas County Commission   |
|                                       | Bill Winegar, appointee of Baldwin City Council  |
|                                       | Truman Waugh, appointee of Lawrence City Commission  |
|                                       | Cheryl Beatty, appointee of Eudora City Council  |
|                                       | Jeff Goodrick, appointee of Lecompton City Council   |
|                                       |  |
| <b>EMERGENCY SUPPORT FUNCTIONS</b>    | <b>Agency Head and/or Appointee</b>  |
| <b>Agriculture/Animals ESF#11</b>     | Midge Grinstead, Lawrence Humane Society   |
|                                       |  |
| <b>Chemical Preparedness</b>          | Susan Rodgers, Hallmark Cards  |
|                                       |  |
| <b>Community Group</b>                | Marcia Epstein, Headquarters Counseling Center<br>Nicole Rials, Bert Nash  |
|                                       |  |
| <b>Education</b>                      | Rick Gammill, Lawrence Public Schools<br>Don Grosdidier, Eudora Public Schools<br>Paul Dorathy, Baldwin Public Schools<br>Mike Russell, University of Kansas<br>Jennifer Lewis, Haskell Health Center<br>Dave Cornelius, Haskell Indian Nations University |
|                                       |  |
| <b>Emergency Communications ESF#2</b> | Selma Southard, Emergency Communications Center  |
|                                       |  |
| <b>Emergency Management ESF#5</b>     | Kim Ens, Health Department<br>John Marmon, University of Kansas Public Safety  |
|                                       |  |
| <b>Environment</b>                    | Dwayne Fulhage, ProSoCo<br>Allen Rogers, Shaw Environmental<br>Shane Munsch, ICL   |
|                                       |  |
| <b>Facility, Industry</b>             | Joe Souders, API Foils   |
|                                       |  |
| <b>Fire ESF#4</b>                     | Chris Lesser, Fire Chief's Association   |
|                                       |  |
| <b>HazMat ESF#10</b>                  | Mark Bradford, Lawrence Douglas County Fire Medical  |
|                                       |  |
| <b>Health &amp; Medical ESF#8</b>     | Richard Ziesenis, Health Department<br>Tom Damewood, Lawrence Memorial Hospital  |
| <b>Human Services/Mass Care ESF#6</b> | Jane Blocher, Douglas County Red Cross Director  |

|   |   |
|---|---|
|   |   |
| <b>Law Enforcement ESF#13</b>                       | Ken McGovern, Douglas County Sheriff                        |
|   | Ron Olin, Lawrence Police Chief                             |
|   | Mike McKenna, Baldwin Police Chief                          |
|   | Greg Dahlem, Eudora Police Chief                            |
|   | Ralph Oliver, University of Kansas Public Safety Chief      |
|   |   |
| <b>Public Information ESF#15</b>                    | Lisa Patterson, Lawrence Communications Manager             |
|   |   |
| <b>Public Works &amp; Infrastructure ESF#3</b>      | Keith Browning, Douglas County Public Works Director        |
|   | Chuck Soules, Lawrence Public Works Director                |
|   | Tammy Bennett, Lawrence Public Works Asst. Director         |
|   | Dave Wagner, Lawrence Utilities Director                    |
|   |   |
| <b>SARA TITLE III &amp; SPECIAL INTEREST GROUPS</b> | Representation of group required by federal legislation     |
| <b>Search &amp; Rescue ESF#9</b>                    | Mark Bradford, Lawrence Douglas County Fire Medical         |
|   |   |
| <b>Social Service Agency</b>                        | Frank Scheetz, SRS  |
|   |   |
| <b>Transportation ESF#1</b>                         | Casey Toomay, Interim Public Transit Administrator          |
|   | Wayne Zachary, First Student                                |
|   |   |
| <b>Utility/Energy ESF#12</b>                        | Chuck Hoag, Aquila  |
|   | Stone Junod, Westar Energy                                  |
|   |   |
| <b>Volunteer &amp; Donations Mgt. ESF#14</b>        | Tracie Massey Howell, Roger Hill Volunteer Center           |
|   | Wesley/Susan Dahlberg, Salvation Army                       |
|   |   |
|   | <b>2008-2009 Officers &amp; Executive Committee Members</b> |
|   | Greg Dahlem, Chair  |
|   | Mike Russell, Vice Chair                                    |
|   | Mark Bradford   |
|   | Susan Rodgers   |
|   | Tammy Bennett   |

## What is the Local Emergency Planning Committee?

As part of the state and local structure for planning response to an accidental or unplanned release of a hazardous substance, the "Superfund Amendments and Reauthorization Act of 1986" (SARA, Title III) requires the State Emergency Response Commission (SERC) to designate emergency planning districts to facilitate preparation and implementation of emergency plans.

The SERC, with approval by the Secretary of Health and Environment and the Adjutant General, has designated local emergency planning districts. Each county has been designated as a local planning district. The federal and state statutes require the SERC to appoint a Local Emergency Planning Committee (LEPC) for each emergency planning district.

Local Emergency Planning Committees (LEPC's) are appointed by the State Emergency Response Commissions (SERC's). LEPC's shall include at a minimum representatives of the following groups and organizations:

- Elected and local officials
- Law Enforcement
- Emergency Management
- Firefighting
- First Aid
- Health & Medical
- Environment
- Hospital
- Transportation
- Communications
- Community groups
- Representatives of facilities subject to the emergency planning and community right-to-know requirements

The LEPC's initial task is to develop an emergency plan to prepare for and respond to chemical emergencies. EPA's list of extremely hazardous substances may provide a focus for setting priorities in the planning effort. The plan initially was required to be completed by October 17, 1988. This was only the beginning. The plan must be reviewed annually, tested, and updated. Because the LEPC's members represent the community, they should be familiar with factors that affect public safety, the environment, and the economy of the community. That expertise will be essential as the LEPC develops a plan tailored to the needs of its community.

An emergency plan must include:

- Identity and location of hazardous materials
- Procedures for immediate response to a chemical accident
- Ways to notify the public about actions they must take

- Contact names at facilities
- Schedules and plans for testing the plan

Once the plan is written, the SERC must review it. The LEPC must publicize the plan through public meetings or newspaper announcements, get public comments, and periodically test the plan by conducting emergency drills. The LEPC must also update the plan at least annually and let the public know of its activities.

The LEPC has other responsibilities besides developing an emergency response plan. It receives emergency releases and hazardous chemical inventory information submitted by local facilities, and must make this information available to the public upon request. It must establish and publicize procedures for handling these requests.

LEPC's have the authority to request additional information from the facilities for their own planning purposes or on behalf of others. LEPC's may want to visit facilities in the community to find out what they are doing to reduce hazards, prepare for accidents, and reduce hazardous inventories and releases. LEPC's can take civil actions against facilities if they fail to provide the information required under the Act.

In addition to its formal responsibilities, the LEPC serves as a focal point in the community for information and discussions about hazardous substances, emergency planning, and health and environmental risks. Citizens will expect the LEPC to reply to questions about chemical hazards and risk management actions. It can also anticipate questions about the extent and the health and environmental effects of routine toxic chemical releases. Even though this information is not required by the law to be sent to LEPC's, EPA and the states are working together to ensure this information is available at the local level. Many companies are voluntarily providing local committees and other citizens with this information.

An LEPC can most effectively carry out its responsibilities as a community forum by taking steps to educate the public about chemical risks, and working with facilities to minimize those risks. The value of the information provided by the Emergency Planning and Community Right-to-Know Act will be limited unless citizens are given the means to understand the information and its implications. The LEPC's ability to improve the safety and health of its community will be greatly enhanced by the support of an informed and active citizenry.

## What are State Emergency Response Commissions?

The Emergency Planning and Community Right-to-Know Act requires each state to set up a State Emergency Response Commission, or SERC. The 50 states and the U.S. territories and possessions have established these commissions. Indian tribes have the option to function as an independent SERC or as part of the state in which the tribe is located.

Per the Executive Reorganization Order No. 29 of 1999, the Commission on Emergency Planning and Response (CEPR) was established. The CEPR is the conversion of the SERC, which primarily addressed hazardous materials to an organization that addresses all hazards.

Instead of the Governor appointing the SERC, the state statute specifies the size and composition of the SERC. The seventeen members of the SERC include:

- 12 state officials
- Three representatives of the general public
- Two representatives of owners and operators of facilities regulated by the act

The 12 state officials include the Governor, Lieutenant Governor and the directors (or their designees) of 10 state agencies. The Governor appoints the remaining 5 members. Members of the SERC appointed by the Governor serve two-year terms. Annually, members of the SERC elect the chairperson.

While the federal law stipulates that the SERC shall designate emergency planning districts in the state, the Kansas Act stipulates that SERC designation of emergency planning districts shall be subject to approval by the Secretary of Health and Environment and the Adjutant General.

A broad perspective is crucial to the oversight role of the SERC's. Information available under the Act will involve air, water, solid waste, toxics, and other state and federal environmental programs and regulations.

Among the SERC's duties are to:

- Designate local emergency planning districts within the state.
- Appoint a Local Emergency Planning Committee (LEPC) to serve each of the districts.
- Coordinate and supervise the activities of the local committees
- Receive and review committees' emergency response plans
- Make recommendations to ensure such plans are coordinated with other emergency planning districts
- Establish procedures for receiving and processing information requests from the public.

The SERC also receives reports and notifications required by the legislation: material safety data sheets (MSDS's) or lists of MSDS chemicals, emergency and hazardous chemical inventory forms, and notices of emergency releases (this data also goes to LEPC's).

KDHE is responsible for supporting the SERC; receiving, processing and managing hazardous substance information; establishing a list of Kansas reportable substances; and designating threshold planning and reporting quantities for the list of Kansas reportable substances. The SERC may be designated to receive these reports, or they may be submitted to the state environmental, health or emergency management agency (in almost every state this agency IS a member of the SERC). The designated agency must make the reports available to the public, and it can use them itself in developing and enforcing state environmental and public health programs.

The SERC should provide the forum for coordinating all Title III information, and assisting in understanding and communicating the associated chemical risks.

The SERC is also responsible for:

- Establishing procedures for receiving and processing public requests for information collected under the Act
- Asking for further information from facilities, at the request of the state or another party or at its own discretion, about a particular chemical or facility
- Requesting information from EPA on the health effects of chemicals that EPA has agreed to designate "trade secret," and ensuring that this information is available to the public.
- Taking civil action against facility owners or operators who fail to comply with reporting requirements.

The SERC should ensure that its state programs are integrated with the federal law in order to strengthen enforcement. The SERC can provide strong leadership, coordination, technical assistance, and training, work closely with LEPC's to help identify their specific needs and carry out their programs, and use its knowledge and expertise to help all affected groups, organizations and individuals meet their responsibilities under the Act.

## Who needs to submit Tier II inventory reports?

Every March First, facilities are required to submit their Tier II inventory reports of hazardous materials to the local Fire Department, Local Emergency Planning Committees (LEPC's) and the State Emergency Response Commission (SERC) as required by the Federal Emergency Planning and Community Right-to-Know Act of 1986. These forms tell what hazardous chemicals are present and in what amounts (both at a maximum and on average).

The Fire Department should review these reports to know about hazards at these locations in the event of a fire or spill. This information should also be stored by the fire department in a rapidly retrievable form if needed quickly. It will also help to identify what hazardous materials the Fire Department should plan and train for.

LEPC's will be mostly interested in the facilities that have Extremely Hazardous Substances in quantities greater than the threshold planning quantities, because these are the facilities that must be included in local emergency response plans. Some LEPC's believe that their response plan written years ago is still current, as long as names and phone numbers are updated. This is almost certainly never true, because the inventory of chemicals at the facilities have changed from year to year. Some facilities may no longer need community plans because they have eliminated these chemicals or reduced their quantities to below the threshold planning quantity. Other facilities may have newly opened, or increased inventories of these chemicals to above the threshold planning quantity. They would now need to be included in the emergency response plan.

## Notification of Substance Release

Provisions of Section 304 of the federal law, "Superfund Amendments and Reauthorization Act of 1986" (SARA), require immediate local notification when an accidental or unplanned release of a hazardous substance occurs. The federal law specifies what information must be included for complete notification. It is the same information local emergency responders (fire fighters, emergency medical services, etc.) need to initiate an effective response. However, when a release creates an immediate threat to life or the environment, notification should not be delayed if all required information is not readily available. Under such circumstances, an initial (e.g., partial) notice is preferable to delay while waiting to assemble all the required information. As soon as practical after an initial notice, all required information must be assembled and transmitted.

In addition to local emergency responders, notification must also be provided immediately to:

- Douglas County Emergency Management
- Kansas Division of Emergency Management
- National Response Center (NRC).

Douglas County Emergency Management receives the notification for the Local Emergency Planning Committee (LEPC), and Kansas Division of Emergency Management (KDEM) receives the notification for the State Emergency Response Commission (SERC), now known as the Commission on Emergency Planning and Response (CEPR) in Kansas.

KDEM receives notification 24 hours per day, including holidays and weekends, via telephone number (785) 296-8013. During weekdays (excluding holidays), 7:30 a.m. to 4:30 p.m., "Form A" notifications may be transmitted to the KDEM via FAX number (785) 274-1426. The National Response Center (NRC) receives notification 24-hours per day, including holidays and weekends, via telephone number 1-800-424-8802.

The owner or operator of the facility (factory, plant, building, etc.) where a release occurs is responsible for providing notification to the recipients described above. However, when a release occurs while a hazardous substance is being transported by commercial carrier (motor, rail, etc.) notification is initiated by dialing 9-1-1. The receiving 9-1-1 center is responsible for forwarding the notification to the recipients described above.

Chemicals covered by this section include not only the 366 "extremely hazardous substances" mentioned in the preceding section, but also more than 700 hazardous substances subject to the emergency notification requirements of the Superfund hazardous waste cleanup law (some chemicals are on both lists). Superfund requires notification of releases to the National Response Center (NRC), which alerts federal responders.



For some of the most hazardous and toxic chemicals on these lists, releases of more than one pound must be reported. For others, the reporting quantities range from ten to 10,000 pounds. EPA is combining these two lists of chemicals into a single master list for accidental release reporting so that releases will be reported to federal, state, and local levels.

The information required includes:

- Identification of the substance [chemical name, Chemical Abstract Service Number (CAS Number)]
- Location of the release
- Time the release started
- Duration (if the release has stopped)
- Estimate of the quantity of the substance released into the environment
- Medium (or media) of the environment receiving the release (soil, water, air, pavement, etc.)
- Known or anticipated acute or chronic health risks associated with the release
- When appropriate, advice regarding medical attention for treatment of exposed individuals; precautions to be taken, including evacuation and other consideration
- Name and telephone number of contact for further information

The Division of Emergency Management Form A, Hazardous Materials Incidents / Accidents / Continuous Releases, provides a means for organizing, recording and reporting this information.

The information outlined above, plus meteorological conditions at the site of the spill and subsequent response actions must be documented in a spill report, which must be submitted to Douglas County Emergency Management and KDEM not later than 24 hours after the release started. The Kansas Division of Emergency Management Form A may be used as the format for the spill report.

The notification procedures outlined above apply not only to releases regulated by SARA, Title III, but also to releases regulated by related federal legislation such as the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation and Recovery Act of 1986 (RCRA), the Oil Pollution Act of 1990 (OPA) and the Clean Air Act of 1990 (CAA). Each federal law identifies the substances and the reporting quantity (RQ), which require initiation of the notification procedures outlined above.

Facility owners or operators who violate the reporting provisions of this section of the law are subject to civil **penalties of up to \$25,000 a day** for each day a violation continues.

The notification will activate emergency plans. Information on emergency releases will also be considered in the SERC and LEPC planning process.

The law also requires follow-up reporting. As soon as practicable after the release, the facility coordinator must submit a written report to both the LEPC and the SERC. The follow-up report must update the original notification and provide additional information on response actions taken, known or anticipated health risks, and, if appropriate, advice regarding any medical care needed by exposure victims.

Any person who fails to notify the authorities of a release or to submit a follow-up emergency report is subject to **civil penalties of up to \$25,000 a day** for each day of non-compliance. Repeat offenders can be fined up to **\$75,000 a day**.

In addition, **criminal penalties** may be imposed on any person who knowingly and willfully fails to provide notice; criminal violators face **fines of up to \$25,000 or prison sentences of up to two years**. Repeat criminal offenders can be fined up to **\$50,000** and imprisoned for as long as **five years**.

## Hazardous Chemical Reporting

Information about accidental chemical releases is only the beginning of your "right to know" about hazardous substances. You also have a right to information about the amounts, location and potential effects of hazardous chemicals being used or stored in designated quantities in your community.

Facilities must report this information to your LEPC, your SERC, and your local fire departments. The LEPC and SERC, in turn, must make the information available to the public.

Never before has such comprehensive information on chemicals been so accessible to the public. All companies, large or small, manufacturing or non-manufacturing, are potentially subject to this requirement.

This information provides a tool which can be used to lower chemical hazards in the community by reducing chemical inventories. The reports are also essential for LEPCs and emergency response workers, providing the raw material for the emergency planning process discussed earlier. Fire departments and public health officials will use the information to plan for and respond to emergencies.

Facilities must report on the hazardous chemicals they use and store in two different ways.

The first is through **material safety data sheets** (MSDSs), which contain information on a chemical's physical properties and health effects. Under federal laws administered by the Occupational Safety and Health Administration (OSHA), companies are required to keep MSDSs on file for all hazardous chemicals used in the workplace. They must also make these sheets available to their employees, so workers will know about the chemical hazards they are exposed to and can take necessary precautions in handling the substances.

Under the Emergency Planning and Community Right-to-Know Act, facilities must submit either **actual copies** of the MSDSs, or **lists of MSDS chemicals** that are present at the facilities in excess of certain amounts. These must be sent to the LEPC, the SERC, and the local fire department. This reporting requirement has been in effect since October 17, 1987.

The reporting for this part of Title III is based not on any list of specific chemicals, but on a definition of "hazardous chemical" under OSHA's requirements--essentially any chemical that poses physical or health hazards. As many as 500,000 products can fit the definition and thus, if present in amounts above the thresholds, must be reported. Information below the threshold must be provided by the facility when it is requested by the LEPCs.

When the Act was passed in 1986, OSHA's regulations applied only to manufacturers. OSHA has since expanded its requirements to include most facilities where workers are exposed to hazardous chemicals, and the community reporting requirements are tied to OSHA's by law. Before the change, about 350,000 facilities were covered by OSHA; now, an estimated **4.5 million** facilities are covered.

The second way that companies must report on hazardous chemicals is by submitting **annual inventories** of these same hazardous chemicals to the same three organizations--the LEPC, the SERC, and the local fire department. The first annual inventory report was due on March 1, 1988.

The law includes a "two-tier" approach for annual inventory reporting. Under Tier 1, a facility must report the amounts and general location of chemicals in certain hazard categories. For example, a Tier I report might say that a facility stores 10,000 pounds of substances that cause chronic health effects.

A Tier II report contains basically the same information, but it must name the specific chemical. A Tier II report might say that the facility has 500 pounds of benzene, and it would indicate the physical and health hazards associated with benzene.

Congress gave companies the flexibility to choose whether to file Tier I or Tier II forms, unless state or local laws require Tier II reporting. EPA believes that Tier II reports provide emergency planners and communities with more useful information, and is encouraging facilities to submit Tier II forms. Many companies have voluntarily provided Tier II reports.

You can gain access to MSDS and annual inventory reports by contacting your SERC or LEPC. While the information is available to the public, companies can ask that the locations of specific chemicals within the facility be kept confidential. This means that SERCs, LEPCs, and local fire departments can use the location information but not disclose it to the public.

Violators of the hazardous chemical reporting provisions are subject to the following penalties: for failing to submit MSDSs or lists of MSDS chemicals, civil penalties of up to \$10,000 a day for each violation; for non-compliance with the annual inventory requirements, \$25,000 per violation.

## Toxic Chemical Release Reporting

Along with all the information on hazardous chemical use, storage and accidental release described above, you also have the right to know if certain manufacturing plants are routinely releasing any of some 320 toxic chemicals into the air, water or soil of your community.

This fourth major element of the Emergency Planning and Community Right-to-Know Act applies to facilities with ten or more employees that manufacture, process or use more than "threshold" amounts of these chemicals. An estimated 30,000 facilities nationwide are subject to reporting. They must estimate each year the **total amount** of the chemicals that they release into the environment--either accidentally or as a result of routine plant operations--or transport as waste to another location.

Reports must be filed by July 1 of each year covering releases in the previous calendar year. The first reports, covering 1987, were due on July 1, 1988.

Many chemicals covered by this section, although not all, pose **long-term** (chronic) health and environmental hazards such as cancer, disorders of the nervous system, and reproductive disorders from on-going routine exposure. Descriptions of the different groups of chemicals covered by the law are on page 15. To find out more about their health and environmental effects, see the "For Further Information" section on page 32. While all Title III reports are intended for community use, some are submitted to LEPCs and SERCs, and fire departments; the annual release reports are submitted to EPA headquarters and to the state environmental, health, or emergency response agency which coordinates with the SERC. EPA is required to compile them into a national computerized data base called the Toxic Release Inventory, or "TRI." This data base must be accessible to the public through computer telecommunications and other means.

You will be able to obtain the release information on microfiche from a public library in your county, your state office where the forms are filed, federal depository libraries; the LEPCs, which also are a focal point for the data dissemination at the local level and will be able to access and review TRI for your community; and from EPA's regional offices. Until the information has been computerized, you can get copies of the actual reports submitted by industry from your state or EPA. (A guide to obtaining TRI and other information collected under the Emergency Planning and Community Right-to-Know Act is on page 32.) You may also be able to get copies of the reports from submitting facilities, although they are **not** required to release their reports directly to citizens.

If you own a home computer and a telephone modem, you will also be able to call up the TRI data base "on line" on your computer to see what releases have occurred in your community (a nominal access fee will be charged). You will be able to search through the reports electronically and pull out information of interest from more than one report at a time--for example, all reports filed by facilities in your zip code, or all

discharges to a particular river, or all reports which include releases of a specific chemical. The public data base will be available in the spring of 1989.

The annual release data can be used, along with the other information the LEPC receives, to put together a more complete picture of the hazardous substances in your district. Companies can also use the release information they collect to assess their operations with an eye to reducing the amount of toxic chemicals they use and release into the environment.

Information that must be gathered and reported under this section of the Act includes:

- Which toxic chemicals were released into the environment during the preceding year.
- How much of each chemical went into the air, water and land.
- How much of the chemicals were transported away from the site of the facility for disposal.
- How chemical wastes were treated on-site.
- The efficiency of that treatment.

Companies that fail to file annual toxic chemical release reports are subject to **civil penalties up to \$25,000 a day** for each chemical they should be reporting. Many companies already report data on chemical emissions to EPA and the states under other environmental laws such as the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act. The annual release reporting requirement is different because releases of a specific chemical to air, water, and land will appear on one form, and because the public will have direct access to the data.

By using the TRI data base, you will be able to determine the estimated annual emissions of the same chemical in a specific geographic area. You will also be able to compare the emissions reported by similar facilities in different parts of the country, to see which ones are doing the best job of controlling their releases.

The information reported under this section of the Act has some limitations. For one thing, much of the data in the Toxic Release Inventory will be based on **estimates**, not on actual measurements of releases. Because most facilities do not normally monitor their releases, EPA is providing guidance to ensure that estimates are as accurate as possible. EPA will also conduct some audits and inspections to help facilities improve the accuracy of the data they report.

A second limitation is that not all toxic chemicals or sources of toxic chemical releases are covered. Only facilities in the manufacturing sector with ten or more employees must report.

A third limitation of the reports is that they show only total **annual** emissions, so you will not be able to learn from the Toxic Release Inventory whether a chemical was released in large amounts over a short period of time, or in small amounts every day throughout the year. Information on the **rate** that chemicals are released can be important in

determining the effects of the release on human health and the environment; but the TRI will not provide this information, at least in the early years of the program.

A final limitation is that the reports cover **releases** of chemicals, but do not show the extent of public **exposure** to the chemicals after they enter the air, water or soil. (An exposure is the concentration of a chemical at the time an individual comes in contact with it.) Many things can happen to a chemical once it is released into the environment; these processes make it difficult to determine the extent to which people are actually being exposed to chemicals as the result of any particular release.

What the Toxic Release Inventory can do best is to serve as a "pointer" to potential toxic chemical problems. The TRI will enable EPA, state and local agencies, and citizens to look for "hot spots," or areas with apparently high emission levels. Using this information, environmental agencies can set priorities for further investigation and possible regulatory or other action, if needed, to protect the public health and the environment. Environmental agencies, as well as public-interest organizations and LEPCs, can also use the data to encourage facilities to cut back on their releases.

As you learn more about toxic chemical releases and other hazardous substances in your area, you may want to consult with local and state health officials, environmental professionals, labor union officials, and other experts for advice on how you can use this information to make **your** community a safer and healthier place to live.

## Highlights of the Law

### Emergency Planning

#### (Sections 301-303)

- Governors appoint **state emergency response commissions** (SERCs).
- SERCs establish emergency planning districts and appoint, supervise, and coordinate **local emergency planning committees** (LEPCs).
- LEPCs develop local **emergency response plans** and review them at least annually.
- Facilities notify SERCs and LEPCs if they have **extremely hazardous substances** present above "threshold planning quantities," and participate in emergency planning.

### Emergency Release Notification

#### (Section 304)

- Facilities notify SERCs and LEPCs immediately of **accidental releases** of hazardous substances in excess of "reportable quantities" and provide written reports on actions taken and on medical effects.
- SERCs and LEPCs make accidental release information **available to the public**.

### Hazardous Chemical Reporting

#### (Sections 311-312)

- Facilities submit **material safety data sheets** (MSDSs) or lists of hazardous chemicals on-site (above "threshold quantities") to SERCs, LEPCs, and local fire departments.
- Facilities submit **emergency and hazardous chemical inventory forms** (amounts and locations of chemicals) to SERCs, LEPCs, and local fire departments.
- SERCs and LEPCs make hazardous chemical information **available to the public**.

### Toxic Chemical Release Reporting

#### (Section 313)

- Covered facilities submit annual reports on **yearly toxic chemical releases** to states and EPA.
- EPA establishes a national toxic **chemical release inventory** based on facility reports.
- States and EPA make release information **available to the public and communities**, EPA makes the information accessible on a national computerized data base, and by other means.



## Trade Secrets

### (Section 322)

- Facilities may claim **chemical identity information** trade secret, but must substantiate the claim.
- Trade secret information may be **disclosed to health professionals** for diagnostic, treatment, and prevention purposes.
- Citizens may **challenge trade secret claims** by petitioning EPA.

## Penalties and Citizen Suits

### (Sections 325-326)

- The government may assess **civil and administrative penalties** of \$10,000 to \$75,000 per day against facilities that fail to comply with the above provisions.
- Anyone who knowingly and willfully fails to provide emergency release notification is subject to **criminal penalties** of up to \$50,000 or five years in prison.
- The **SERC, LEPC, or the state or local government may initiate actions** against facility owners or operators for failure to comply with Title III requirements.
- **Citizens may initiate civil actions** against EPA, SERCs, and facility owners and operators for failure to comply with the law.
- Anyone who **knowingly and willfully** discloses trade secret information may face penalties up to \$20,000 and/or one year in prison.
- **States may sue EPA** for failure to provide trade secret information.

## It's in the Federal Register

You can find detailed information on the various provisions of the Emergency Planning and Community Right-to-Know Act in the *Federal Register*, which is available at public or university libraries. Here are the *Federal Register* citations for the EPA regulations covering various sections of the Act:

- **Sections 301 to 303** (emergency planning): April 22, 1987, December 17, 1987, February 25, 1988 (40 CFR 300 and 355)
- **Section 304** (emergency release notification): April 22, 1987, December 19, 1987, February 25, 1988 (40 CFR 300 and 355)
- **Sections 311-312** (hazardous chemical reporting): October 15, 1987, August 4 1988 (40 CFR 370)
- **Section 313** (toxic chemical release reporting): February 16, 1988, June 20, 1988 (40 CFR 372)
- **Section 322** (trade secrets): July 29, 1988 (40 CFR 350)
- **Sections 325-326** (penalties and citizen suits): to be published

## Trade Secrets

Companies reporting under the Emergency Planning and Community Right-to-Know Act can, under very limited conditions, request that the **identity** of specific chemicals in their reports not be disclosed to the public. **No other information required by this law in the reports can be withheld from the public.**

To protect a chemical's identity from disclosure, the company must be able to prove among other things that the information has not been reported under any other environmental regulation, and that it is a legitimate trade secret--in other words, that disclosure could damage the company's competitive position.

The chemical's identity must be included in the company's reports to EPA. EPA will keep the original reports in a confidential file, and "sanitized" versions, with the chemical name deleted, will be available to the public. SERCs and LEPCs will also receive sanitized versions and make them available to the public. Information about the general category of the chemical, which will enable you to determine its health and environmental effects, will be included in the public version of the report.

Facilities must substantiate any trade secret claims when they are submitted. If you or any other citizen wants to challenge a trade secret claim, you can do so by filing a petition requesting disclosure of the chemical identity with EPA. EPA will then review the claim to insure that it is a valid trade secret.

Companies should be careful when preparing trade secret claims. Owners and operators who submit frivolous claims can be penalized up to **\$25,000** for each such claim.

The law also allows health professionals to obtain access to trade secret chemical information if they need it to diagnose and treat patients or to do research. To receive the information, they must submit a written request for access to the chemical identity, along with a statement of need and a confidentiality agreement. (In medical emergencies, physicians and nurses can obtain the information without providing a confidentiality agreement and statement of need in advance. They must, however, submit these documents as soon as circumstances permit, if asked to do so by the company.)

## Lists of Chemicals

There are four groups of chemicals subject to reporting under the Emergency Planning and Community Right-to-Know Act. Some chemicals appear in several groups.

### **Extremely Hazardous Substances**

#### **(Sections 301-304)**

This list currently contains more than 300 chemicals. Because of their extremely toxic properties, these chemicals were chosen to provide an initial focus for chemical emergency planning. If these chemicals are released in certain amounts, they may be of immediate concern to the community. Releases must be reported immediately.

### **Hazardous Substances**

#### **(Section 304)**

These are hazardous substances listed under previous Superfund hazardous waste cleanup regulations (Section 103(a) of the Comprehensive Environmental Resource and Conservation Liability Act--Superfund). The current list contains about 720 substances. Releases of these chemicals above certain amounts must be reported immediately because they may represent an immediate hazard to the community.

### **Hazardous Chemicals**

#### **(Sections 311-312)**

These chemicals are not on a list at all, but are defined by Occupational Safety and Health Administration regulations as chemicals which represent a physical or health hazard. Under this definition many thousands of chemicals can be subject to reporting requirements if a facility manufactures, processes, or stores them in certain amounts. Inventories of these chemicals and material safety data sheets for each of them must be submitted if they are present in the facility in certain amounts.

### **Toxic Chemicals**

#### **(Section 313)**

There are now more than 320 chemicals or chemical categories on this list, which were selected by Congress primarily because of their chronic or long-term toxicity. Estimates of releases of these chemicals into all media--air, land, and water--must be reported annually and entered into a national data base. For further information on the chemical lists, contact your local Emergency Planning Committee or State Emergency Response Commission.

## Key Deadlines

### Deadline - Requirement

April 17, 1987 - Governors establish **State Emergency Response Commissions (SERCs)**

May 17, 1987 (or 60 days after they become subject to this provision) - Facilities subject to **emergency planning requirements** notify state commissions

July 17, 1987 - SERCs designate **emergency planning districts**

August 17, 1987 - SERCs appoint members of **Local Emergency Planning Committees (LEPCs)**

September 17, 1987 - Facilities subject to emergency planning requirements notify LEPCs of their **facility coordinator**

October 17, 1987 - Covered manufacturing and importing facilities submit **material safety data sheets (MSDSs)** or **lists of MSDS chemicals** to SERCs, LEPCs, and local fire departments

March 1, 1988 (and annually thereafter) - Covered manufacturing and reporting facilities submit **hazardous chemical inventory forms** to SERCs, LEPCs, and local fire departments

July 1, 1988 (and annually thereafter) - Facilities submit their first **toxic chemical release reports** to EPA and designated state agencies

September 24, 1988 - Covered **non-manufacturing facilities** submit MSDSs or lists of MSDS chemicals to SERCs, LEPCs, and fire departments

October 17, 1988 - LEPCs complete their first **emergency plans**

March 1, 1989 (and annually thereafter) - **Covered non-manufacturing facilities** submit hazardous chemical inventory reports to SERCs, LEPCs, and fire departments

## For Further Information

If you are interested in getting involved in your community, or would like more information on how the Emergency Planning and Community Right-to-Know Act is being carried out, please contact Douglas County Emergency Management at 785-832-5259. Your local committee and state commission are the focal points for information submitted under Title III.

Toxic Release Inventory data can be obtained by contacting EPA in writing: U.S. EPA P.O. Box 70266 Washington, DC 20024-0266 Attention: TRI public Inquiry. Please be specific when identifying the Toxic Release Inventory material you would like to obtain. At a minimum, you should provide the company name, city, and state. If you have any technical or regulatory questions that your LEPC or SERC is unable to answer, please contact your nearest EPA Regional Office or call the Emergency Planning and Community Right-to-Know Information Hotline at (800) 424-9346, or (703) 412-9810, or TDD (800) 535-7672, Monday through Friday, 9:00 am to 6:00 pm, Eastern Time.

## Glossary

**CERCLA** (Comprehensive Emergency Response, Compensation, and Liability Act of 1980): The federal statute that authorized "Superfund." Superfund, which is administered by EPA, provides funding for cleanups and emergency response actions for hazardous substances at the worst hazardous waste sites in the United States. CERCLA is also significant because it set the first criteria for notification of emergencies involving hazardous substances.

**EHS** (Extremely Hazardous Substance): Any one of 366 hazardous chemicals on a list compiled by EPA to provide a focus for state and local emergency planning activities.

**EPA:** U.S. Environmental Protection Agency.

**FEMA:** U.S. Federal Emergency Management Agency.

**KDEM:** Kansas Division of Emergency Management

**LEPC:** Local Emergency Planning Committee.

**NRC** (National Response Center): The central U.S. clearinghouse for information involving emergency spills and other releases of oil and hazardous substances.

**NRT** (National Response Team): The national team composed of representatives from 14 federal agencies, with emergency planning and response capabilities, including EPA and FEMA.

**MSDS** (Material Safety Data Sheet): A worksheet required by the U.S. Occupational Safety and Health Administration (OSHA) containing information about hazardous chemicals in the workplace; MSDSs are used to fulfill part of the hazardous chemical inventory reporting requirements under the Emergency Planning and Community Right-to-Know Act.

**OSHA:** Occupational Safety and Health Administration, part of the U.S. Department of Labor.

**RQ** (Reportable Quantity): An amount of a Superfund hazardous substance or "extremely hazardous substance" that, if released, must be reported under the emergency release reporting requirements of the Emergency Planning and Community Right-to-Know Act or under those of CERCLA.

**SARA:** Superfund Amendments and Reauthorization Act of 1986.

**SERC:** State Emergency Response Commission.

**TPQ** (Threshold Planning Quantity): The amount of an extremely hazardous substance present at a facility above which the facility's owner/operator must give emergency planning notification to the SERC and LEPC.

**Title III:** The third part of SARA, also known as the Emergency Planning and Community Right-to-Know Act of 1986.

**TRI** (Toxic Release Inventory): A national inventory of annual toxic chemical releases from manufacturing facilities.