

Knowledge Is Power: The U.S. Right to Know Act

by Karen Murphy

"The right-to-know law has proven to be one of the most significant actions taken by Congress on the environment in the 1980s. It ushered in a new era of environmental protection by empowering workers and concerned citizens. It changed environmental protection from simply end-of-pipeline pollution controls to a system that stimulates pollution prevention and less use of toxic chemicals overall. And it has proven to American companies that they can achieve environmental protection at a profit."—Rep. Gerry Sikorski, July 11, 1991

Right-to-know legislation in the United States is law that grants workers, citi-

zens and communities the right to know what chemicals are used, stored, and released by industrial facilities. This right sounds fundamental, but right-to-know legislation has sparked tremendous controversy for one critical reason: knowledge is power. Knowledge about chemical hazards has been a powerful tool used by communities and organized labor to fight for environmental and human health.

to-know legislation. In 1985 an accidental leak of methylisocyanate from a Union Carbide pesticide factory at Bhopal, India, killed 3,000 people and disabled 100,000. This tragedy, combined with ongoing revelations of safety problems at U.S. chemical plants, sparked the passage of national right-to-know legislation in 1986.

The Emergency Planning and Community Right-to-Know Act (EPCRA), also known as Title III of the Superfund Amendments, was designed to ensure that all communities exposed to hazardous materials dangers would be ready to respond if an accident occurred. The new right-to-know law also provided the public and the government with information on the routine release of toxic chemicals

pounds of toxics. Information of this kind compelled U.S. decisionmakers, citizens, and industry to take a harder look at industrial practices.

The law has fundamentally changed the way the United States deals with its chemicals and the pollution that results from them. First, EPCRA has given the concept of pollution prevention a big boost. The serious shortcomings of pollution control have been revealed; the superiority of reducing the use of toxic chemicals as the basic approach for eliminating pollution has become clear. EPCRA data assisted in developing new and proposed legislation on air and water releases and on implementation of toxics use reduction. Secondly, EPCRA information enabled

- Manufacture, import, or process 25,000 pounds, or otherwise use 10,000 pounds in the course of a calendar year any listed chemical in quantities greater than the established threshold.

There are over 300 listed chemicals and chemical categories under this section of EPCRA. EPA has the authority to revise these threshold quantities and covered SIC codes and add and delete chemicals from the list. Any person may petition to have a chemical deleted or added to the list.

TRI Reporting

The Toxic Release Inventory reporting form is called Form R. It has four parts. The first part requires basic information on the facility, such as its name, address, Dun and Bradstreet number, EPA identification number, permit numbers, and so on. The second part of Form R requires the name and address of any off-site waste treatment, storage, or disposal facility, including publicly owned treatment plants, to which the facility ships waste material containing a listed chemical during the reporting year. Also required is information on how the off-site facility is handling the waste.

Form R's third part requires chemical-specific information on releases, defined in the statute as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any toxic chemical. Also required is information about how the listed chemical is brought into and used in the facility. EPA does not currently require reporting on the frequency, duration, or peak amount of chemical releases.

An optional fourth part of Form R asks for information on waste treatment methods and efficiency.

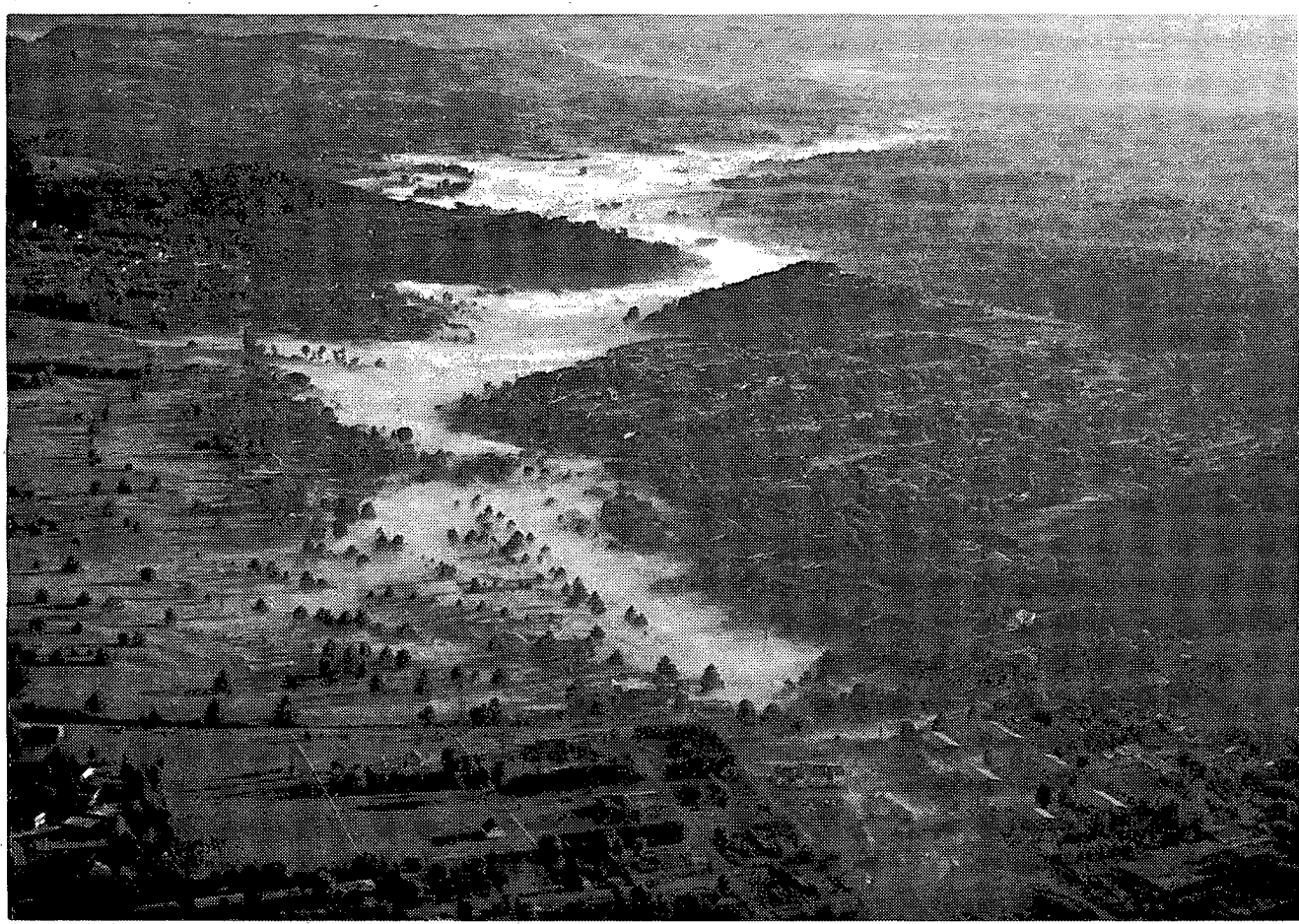
TRI Shortcomings

Overview. EPCRA's Toxic Release Inventory substantially fails in its aim to obtain an overall picture of toxic contamination and its sources in the United States, and to track the country's reductions in chemical emissions.

In June 1991 the U.S. General Accounting Office released "Toxic Chemicals: EPA's Toxic Release Inventory Is Useful but Can Be Improved." According to the GAO, "The inventory would be more useful to regulators and the public if it were comprehensive...At present, it does not include data on many toxic chemicals or on emissions from nonmanufacturers—including federal facilities—which are not required to report. The inventory also does not include data from at least 10,000 facilities that have not met their reporting obligation. The quantity of toxic emissions not reflected in the inventory is unknown but could be substantial—as much as 95 percent—of total emissions, according to estimates by the Office of Technology Assessment. Finally, because most of the data are not verified, their reliability is questionable."

Listed chemicals. Many chemicals regulated under other environmental laws are exempt from reporting under the Toxic Release Inventory. For example, 40 of the 126 toxic chemicals listed as priority pollutants under the Clean Water Act are not subject to TRI reporting. And there are some 140 chemicals regulated as hazardous

continued next page



The inalienable right to know about chemical hazards: A lethal, ground-hugging cloud of chlorine gas accidentally released from a local water treatment plant spreads over the northern edge of Morristown, Tennessee, early on the morning of September 5, 1987. Miraculously, all area residents were evacuated unharmed. However, some police and firefighters were injured.

zens and communities the right to know what chemicals are used, stored, and released by industrial facilities. This right sounds fundamental, but right-to-know legislation has sparked tremendous controversy for one critical reason: knowledge is power. Knowledge about chemical hazards has been a powerful tool used by communities and organized labor to fight for environmental and human health.

The impetus for right-to-know legislation in the United States came primarily from efforts by workers to obtain information on chemical hazards in the workplace. This movement gradually extended into community efforts to understand local pollution problems. In January 1981 one of the first community right-to-know laws, passed in Philadelphia, Pennsylvania, gave citizens access to information on toxic chemicals used at industrial facilities and gave the city the authority to regulate their storage and emission.

In 1983 New Jersey passed one of the first statewide right-to-know laws. Within a few years more than 30 states and scores of counties had passed right-

into the environment.

The most important sections of the law include emergency planning (sections 301 to 303), required of local governments and of companies that have certain amounts of chemicals defined as "extremely hazardous"; emergency (accidental) releases reporting (section 304), required of companies that produce or store chemicals defined as "hazardous"; chemical inventory recordkeeping (sections 311 and 312) required of companies for certain chemicals, including their location, average daily amount present on the premises, and maximum amounts present on any given day during the preceding year; and the Toxic Release Inventory (section 313), reporting of annual discharge of certain chemicals to the air, water and land required of certain manufacturing companies.

The first TRI reports were shocking. An ALCOA facility in Point Comfort, Texas, released 465 million pounds of toxic chemicals in 1987; Eastman Kodak's Rochester, New York, facility released 23 million

municipalities to make emergency planning decisions. Finally, EPCRA has given community organizations and citizens the information needed to directly confront corporate polluters and demand an end to toxic chemical releases.

Toxic Release Inventory

EPCRA's Toxic Release Inventory has proved an excellent tool for activists pushing for toxics use reduction at individual industrial facilities and for the reform of state and federal laws. TRI data is also used by industry and government to track emission reductions at individual facilities.

EPCRA requires reporting by owners and operators of facilities that:

- Have ten or more full-time employees (defined as working at least 2,000 hours per year);
- Are included in Standard Industrial Classification codes 20 through 39 (these include all manufacturing facilities); and

...U.S. Right to Know

waste under the Resource Conservation and Recovery Act that are exempt from TRI reporting. Important categories of pollutants that need not be reported include radionuclides, dioxins and furans.

Facilities covered. TRI reporting requirements currently cover only manufacturing industries. Businesses such as photographic processing plants, dry cleaners, mining operations, and all pesticide applications can be substantial sources of chemical releases and transfers, but they need not report under the TRI. Furthermore, not even all manufacturing releases

Sheiman, 1991--see the resources sidebar.)

Massachusetts has expanded reporting requirements under its Toxic Use Reduction Act to include mining, railroads, water transportation, wholesale trade, dry cleaning, business services (such as photo finishing), and auto and other repair services.

The Minnesota Emergency Response Commission has also recommended expansion of TRI-reporting industrial sectors.

Peak releases. One major problem with the structure of TRI reporting is that it does not require information that would indicate if emissions occur uniformly over the year or are released in one or several major inci-

ments and potentially close the recycling loophole. The regulations are currently being held up by the administration.

Right to Know More

Last July Rep. Gerry Sikorski (D-Minn) introduced the Community Right to Know More Act (H.R. 2880), which would expand current TRI reporting requirements. Passage of the bill would be the "most significant congressional activity on community right to know" since passage of EPCRA in 1986, according to the Working Group on Community Right to Know.

In outline, the act will more than double the number of chemicals that must be reported, increase the number and type of facilities that must report, begin reporting on toxic chemical use and production rather than just emissions, require facilities to plan toxic use reduction, and improve current hazardous waste reporting. Other provisions of the bill will legislatively close the recycling loophole, require reporting on peak release rates, establish grants and technical assistance programs for toxics use reduction, and study ways to improve electronic reporting and access to data.

- Evaluations of options for reducing the use of covered chemicals.
- A statement of the effect of the plan on workers, consumers, energy use and the environment.

The bill directs EPA to develop toxics use reduction performance standards for 10 industry groups and assess the feasibility of extending the standards to others. The bill also provides grant support to state toxics use reduction programs. This will help build an infrastructure of know-how and increase familiarity with toxics use reduction opportunities.

Finally, the bill deals with waste stream reporting. The Resource Conservation and Recovery Act (RCRA) would be amended to require that RCRA waste generators provide information on estimated hazardous chemical concentrations in waste streams. This would make a connection between the RCRA and TRI databases. The bill also requires more comprehensive reporting on hazardous waste generation and makes this information more publicly accessible.

More: Congressional Action

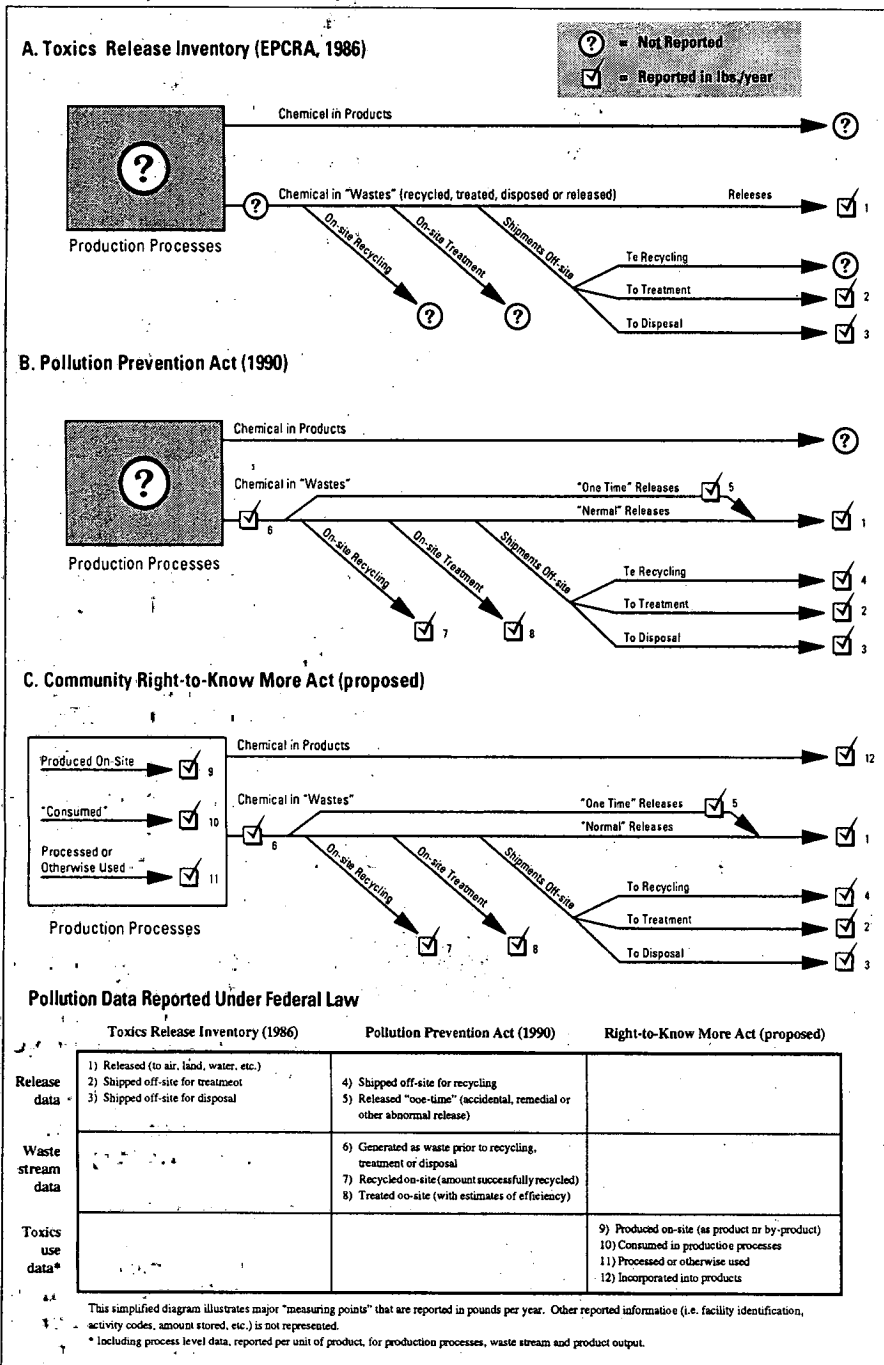
Rep. Sikorski's proposal is already generating debate reminiscent of the intense opposition to EPCRA, during which key TRI provisions passed in the House by votes as close as 212 to 211. Opponents claimed that small businesses would be devastated, family farms destroyed and industry financially burdened, among other ills.

The Chemical Manufacturers Association recently claimed in congressional testimony that expanding TRI would inundate the public with "unexplained statistics that do nothing more than create unnecessary worry and fear." Fortunately, EPA now generally supports expansion of TRI. However, the agency cautions that it needs the resources to handle expansion. It advocates setting priorities among the chemical, facility, process and other data types added to the inventory. The agency also seeks inspection authority to enforce reporting requirements.

The Right to Know More Act, H.R. 2880, had 157 cosponsors in the House by early April. In March the proposed legislation was narrowly voted down in the Transportation and Hazardous Materials Subcommittee of the House Energy and Commerce Committee. The bill will be up for a vote from the full committee later in April.

On the Senate side two bills were introduced this year that, when put together, are roughly equivalent to H.R. 2880: the Right to Know More Act of 1991 (S. 2123), introduced by Sen. Frank Lautenberg and Sen. Dave Durenberger, and the Hazardous Pollution Prevention Planning Act (S. 761), introduced by Sen. Joe Lieberman.

For more information on these bills, contact Paul Orum, Working Group on Community Right-To-Know, or Carolyn Hartman, U.S. Public Interest Research Group. Both can be reached at 202-546-9707.



of TRI-listed chemicals are covered by the reporting requirements. Facilities with fewer than ten full-time employees, and those producing, importing, processing, or using listed chemicals below threshold amounts need not report. Federal facilities, including notoriously messy Department of Defense plants, need not report.

Incredibly, waste management facilities, sewage treatment plants, incinerators, and hazardous and solid waste landfills are also not currently required to make TRI reports. Other startling omissions include oil and gas drilling, chemical storage and transfer, and tank car cleaning facilities.

According to a report released by the Natural Resources Defense Council, industries outside the manufacturing sector are very substantial sources of emissions for many toxic chemicals, including 36 percent of perchloroethylene emissions (dry cleaning), 57 percent of ethylene oxide emissions (sterilant and fumigant), 30 percent of chromium emissions (combustion of coal and other fossil fuels in power plants and incinerators), and mercury emissions (electric utility plants), which are estimated to be nearly eight times larger than total mercury emissions from all TRI sources. (All figures

dents. In order to understand the nature of emissions and their impact upon the environment it can be critical to know the causes, frequency, and magnitude of peak releases.

Assessment and Tracking

The U.S. federal government has based its entire pollution prevention program, called the 33/50 program, or the Industrial Toxics Project, on TRI information. Unfortunately, the TRI is not an effective baseline measurement for pollution prevention.

TRI has several loopholes that industry can use to claim reductions that are in reality only paper shuffling. All off-site waste shipments of listed chemicals must be reported under TRI, but shipments made to recycling facilities are exempted. Unfortunately, "recycling" is very loosely defined—it may in fact be incineration. Industries can claim that such sham recycling is actually pollution prevention. These shipments regularly cause serious harm to public health and the environment, but the public is not allowed to know about them under TRI.

In September 1991 EPA released proposed regulations that would change Form R reporting require-

More: Chemicals and Facilities

The Sikorski bill would require reporting of an additional 500 chemicals regulated as toxic under other environmental laws, including priority pollutants listed under the Federal Water Pollution Control Act, certain hazardous wastes listed under the Solid Waste Disposal Act, chemicals listed under certain sections of the Clean Air Act, certain chemicals regulated under the Safe Drinking Water Act, and chemicals listed under California law as reproductive toxins.

Also included would be chemicals identified as known or probable human carcinogens by EPA's Carcinogen Assessment Group, the International Agency for Research on Cancer, or the National Toxicology Program. Reporting on certain pesticides will also be required.

The bill proposes triggering of reporting requirements at low release threshold amounts. However, manufacturing facilities that make or process more than 25,000 pounds of a toxic chemical annually, or otherwise use 10,000 pounds annually, would still be required to report, even if their releases fell below the thresholds. Very significantly, the release thresholds would apply to all facilities, broadening right to know beyond manufacturing to include such facilities as incinerators and utilities, which produce large amounts of emissions but manufacture, process, or use few chemicals.

More: Toxics Use Reduction

Rep. Sikorski's proposed legislation would establish a substantial information base on chemical use and production, essential components of any successful toxic use reduction program. Required would be reporting of facility-wide information on the use of toxic chemicals and their life cycles; process-specific information on the use of toxic chemicals; and information on replacement chemicals used.

More: Use Reduction Planning

The bill requires facilities to draw up plans to reduce their use of toxic chemicals. The plans must include two- and five-year goals and explain how they will be achieved. EPA may review the plans and require deficiencies to be corrected within three months. Plans are to be developed in consultation with employees and to include:

- A toxics use reduction policy.
- Analyses of chemicals used and the economic impacts for each production process.

**Bulletin of
Pollution Prevention**

Reg Gilbert
editing, design, production

Pollution Prevention Project

Tony Luppino
research writer

Karen Murphy
field coordinator

Great Lakes United

Buffalo State College, Cassady Hall
1300 Elmwood Ave., Buffalo, N.Y. 14222, or
P.O. Box 548, Station A,
Windsor, Ontario N9A6M6

The Pollution Prevention Project and the Bulletin of
Pollution Prevention are funded by the
Great Lakes Protection Fund.

by Karen Murphy

People just don't seem to trust chemical companies. In a recent public opinion survey undertaken by Amoco Chemical Corp., less than 30 percent of the general public approved of the industry. The results were disastrous: only the tobacco industry scores lower in the average citizen's esteem.

But the chemical industry has a plan to clean up its image: "Responsible Care," a set of guiding principles and "management codes" voluntarily agreed to by most of the chemical companies in Canada and the United States. The principles include:

- "To recognize and respond to community concerns about chemicals and our operations.
- "To make health, safety and environmental considerations a priority in our planning for all existing and new products and processes.
- "To report promptly to officials, employees, customers and the public, information on chemical-related health or environmental hazards and to recommend protective measures."

Responsible Care's principles are overarching ethical approaches to chemical problems and situations. Its management codes lay out guidelines for managing specific industry activities, such as emergency response, pollution prevention, and worker safety. Member companies conduct self-evaluations for each code to assess how they are doing.

Secret Openness

Responsible Care officials and program booklets claim openness as the underlying theme of the program, and

Chemical Industry "Cares"

pledge to provide communities with any information they need on their chemical-industry neighbors. However, the program's most basic information, such as industry self-evaluations of various management practices, are kept secret. In the United States, Responsible Care offers little information that the public does not already have a right to see, although in some cases it permits easier access to such information than might other channels.

The Responsible Care movement began in Canada in the mid-1980s. Faced with a public increasingly concerned about the environment and increasingly skeptical about industry's ability to manage chemicals safely, the Canadian Chemical Producers Association initiated discussions on guiding industry principles. A set of principles was finalized in 1984. After the 1985 Union Carbide disaster at Bhopal, India, the CCPA made acceptance of the principles a condition of membership. By 1989, six "codes" of management practices were developed and member companies were required to adopt them as well.

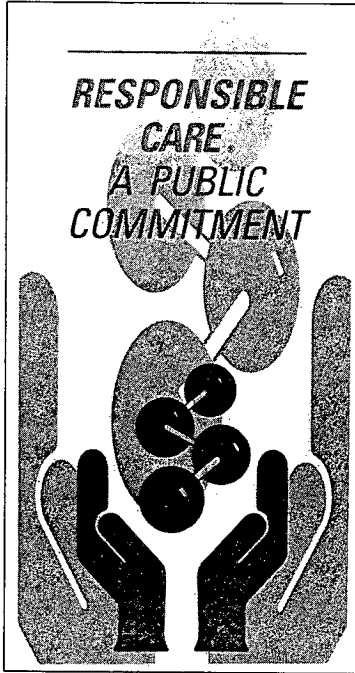
In the United States, the chemical industry was slower to develop an official program. In response to Bhopal the Chemical Manufacturers Association developed the "Community

Awareness and Emergency Response" program. CAER's purpose was to reduce the risk of injury to employees and local residents in the event of a plant accident by providing the public with "relevant, useful" information and requiring companies to develop emergency response plans.

In 1988, however, the Americans adopted the Canadian Responsible Care program. According to *Chemical Week*, a publication of the U.S. chemical industry, CMA was searching for "ways to address and reverse the bad public image of the chemical industry and the adverse impact it was making on business." Canada's Responsible Care apparently offered the solution.

The association says that, "in an extreme case, where a member company has consistently not conducted its operations in accordance with the Guiding Principles and program elements of Responsible Care... appropriate actions will be taken including the disassociation of the company from membership." The impact on a chemical company of such a sanction is debatable.

The Chemical Manufacturers Association is spending over \$10 million to promote the Responsible Care program through public relations, advertising, and a toll-free number citizens



can call for information.

The environmental community has not been impressed, however. In March the U.S. Public Interest Research Group released a report on the industry's track record in implementing the basic elements of Responsible Care. State PIRGs surveyed 192 CMA-member facilities in 28 states and asked nine basic questions, including:

- "Have you made available to the public internal emergency management plans, including worst case scenarios for accidental chemical releases?"
- "Can you tell me the neighbourhoods through which you ship toxic chemicals or hazardous wastes?"
- "Can you tell me the names and quantities of the chemicals that potentially cause cancer or birth defects that you brought into the facility last year?"

The response was "disturbing":

- At 81 of the facilities surveyed, 42 percent, no one could be reached to answer the questions, despite repeated attempts.
- Of those companies that could be reached, the company contact at 60 of the facilities, 54 percent, answered less than half the questions. The company contact at 31 facilities, 28 percent, could not or would not answer any of the questions.
- Out of all 192 companies researched, at only 19 facilities, a mere 10 percent, did the company contact answer all nine questions and seem to understand the spirit of the Responsible Care program.

Canadians Debate Elements of Right to Know

by John Jackson

President, Great Lakes United

A Canadian right to know about chemical hazards is now being developed. The federal government has committed itself to create "a national database for hazardous pollutants being released from industrial and transportation sources." Under the programme, called the National Pollutant Release Inventory, some polluters will be required to provide their first reports of releases for 1993. Those first reports will be released to the public by the end of 1994.

This database will significantly strengthen Canadians in their fight to end pollution. Knowledge of the presence of hazardous pollutants in a community are fundamental to decision-making in all corners of government, from municipal discussions about land use to federal and provincial programmes.

Knowledge leads to action. U.S. Toxic Release Inventory information has spurred citizen action and resulted in substantial reductions in the use and release of toxic chemicals at many plants.

Status of Canada's Right to Know

Canada does not now have right-to-know legislation. Data on use and emissions is gathered through many different programmes. This data, however, is inconsistent and not readily available to the public. Indeed, most of the data gathered on a plant-specific basis is completely unavailable to the public because of confidentiality provisions.

Ontario has limited community right to know. On the initiative of environmentalists, the cities of Windsor and Toronto developed bylaws that would have required facilities to report the quantities and kinds of chemicals used and stored on site. Windsor passed its bylaw in 1985. Toronto de-

veloped its bylaw in 1987, but never passed it because of concerns about legal jurisdiction. The province had to give special authority to the municipalities to require the reporting of this information. Instead of giving this jurisdiction, the province inserted a clause into the Occupational Health and Safety Act in 1987 that enabled the medical officer of health to request a listing of chemicals (but not their quantities) used and stored at a site.

Any member of the public has the right to receive this information from the medical officer of health and to demand that the medical officer of health demand the information. This request does not include data on emissions. These provisions are rarely used in Ontario because very few people realize that they have the right to request this information.

In November 1991 the Canadian Chemical Producers' Association announced a reporting plan called the National Emissions Reduction Masterplan, or NERM. Under the plan, all chemical companies are to develop an "awareness" of "all emissions to the environment and of a program to reduce them."

The first step of NERM is the development of a multimedia emissions inventory. That inventory can then be used by member companies and by the industry, as a whole, to assess their emissions and to define emissions reduction priorities and targets.

The CCPA is encouraging companies to voluntarily report their 1991 emissions. After 1991, annual reporting will be mandatory. These requirements do not extend beyond the 70 members of the CCPA. These reports will be available to the public.

In the fall of 1991, the federal government set up a stakeholder committee made up of environmental, labour, industry, health and federal and provincial representatives. The commit-

tee's mandate is to develop a National Pollutant Release Inventory (NPRI) by the end of 1992.

Great Lakes United members on the committee are Rick Coronado, representing the Canadian Labour Congress; John Jackson, representing Great Lakes United; Paul Muldoon, representing Pollution Probe; and Bruce Walker, representing STOP. In order to facilitate a national dialogue among environmental groups and provide ongoing input to the stakeholder members, the Canadian Environmental Network has set up a caucus on NPRI.

The issues being addressed by the stakeholder committee include:

- What chemicals should be included? What facilities should be covered?
- Should the database include information on use as well as release?
- Should information critical to accident prevention be included?
- How can nonspecific emissions, such as automobile exhaust, be included in the database?
- Should segments of the program be phased in over time? How would this occur?
- What methods should be used to estimate emissions? How frequently should companies be required to report?
- How should the information be made public?
- How will the program be enforced?

Progress on NPRI

The U.S. Toxic Release Inventory structure is being used as the starting point for discussions of the NPRI. It

appears, however, that the Canadian programme will differ from the U.S. one in some significant ways:

- The members of the stakeholder committee have agreed that much lower release thresholds should be set for reporting on the nastiest chemicals, especially persistent toxic substances, than is required for other pollutants. Such provisions do not exist in the United States.
- The committee members wish to include a wider spectrum of pollutants than in the United States. For example, they are seriously considering including waste incinerators and sewage treatment plants. Most of the membership also does not support special exemptions for government facilities. The transportation sector is also to be included.

Major differences exist on the committee on some issues. Industry is strongly opposed to requiring information on the use of chemicals in a facility, rather than just on releases. Environmentalists, labour and some provincial governments would like this information in order to assess reductions in the use of chemicals. There are many ways to reduce reported emissions from a facility that do not, in fact, reduce emissions to the environment as a whole, such as transfer of wastes to products shipped off site.

Industry also opposes developing an inventory designed to assist in emergency preparedness and accident prevention programmes.

Many critical decisions will be made in the next few months in designing this programme. If you wish further information or to get involved with the NPRI, contact Karen Murphy at Great Lakes United's Buffalo office.

Citizen-Worker Coalition

Northfield, Minnesota

In May 1990 community activists in Northfield, Minnesota, and the Amalgamated Clothing and Textile Workers Union (ACTWU) successfully negotiated with circuit board manufacturer Sheldahl, Inc., to reduce and ultimately eliminate air emissions of methylene chloride, a probable carcinogen.

It all began with a report on the major polluters by the Natural Resources Defense Council. Based on Toxic Release Inventory data, the report named Sheldahl the nation's forty-fifth largest industrial emitter of airborne carcinogens.

Citizen's groups were formed and media scrutiny of Sheldahl's toxic releases began at the same time as tense contract negotiations between Sheldahl and ACTWU were in process. According to Richard Metcalf, negotiator for ACTWU Local 1841, the union had been trying to reduce worker exposure to methylene chloride for more than eight years. Now it was worried that community concerns over the air toxics might lead to calls to shut the plant down.

The union sought to preempt further confrontations with the community by including environmental issues in the new contract and insisting that local citizens groups be present during pollution negotiations with Sheldahl.

The result was an agreement with the union for a 64 percent reduction in the use of methylene chloride by 1992, 90 percent by 1993. Sheldahl is meeting these targets by using flammable substitutes that are being incinerated to reduce emissions. The agreement also targets development of a non-toxic manufacturing process as the top priority of Sheldahl's capital improvements budget over the next two years. Use of methylene chloride will be eliminated by the year 2000.

Said Eric Frumin, ACTWU's national health and safety director, "The new contract puts the union in a position to enforce use reduction. The union acts as the Environmental Protection Agency."

Contacts: Richard Metcalf, ACTWU, 612-379-7102; Frank Wolf, Clean Air in Northfield, 507-645-4655.

Emergency Information

Contra Costa, California

Citizens in California's San Francisco Bay area are winning a major victory on access to information about chemical hazards. At issue are industry assessments submitted to county government describing the potential off-site impacts of chemical fires, explosions, and gas clouds.

At the center of the controversy is Chevron Oil Co.'s Richmond oil refinery and fertilizer plant, which stores up to 3.8 million pounds of ammonia, with 1.8 million pounds in a single storage sphere. A sudden release of ammonia can form a dense, lethal, ground-hugging plume that drifts downwind for miles.

A series of several dozen fires at the facility in the mid-1980s and the plant's proximity to the Hayward earthquake fault, less than three miles away, heightened concern by plant neighbors about the possibility of a sudden release.

In rallies, letter-writing campaigns and meetings with officials, citizens' groups have long pressed

the Contra Costa County Health Department to make public a number of documents, particularly the off-site consequence analysis, which includes maps of chemical plumes that could engulf neighborhoods.

The area's local emergency planning committee was the first official body to support the citizens' right to know. The LEPC used its authority under section 303(d)(3) of the federal right-to-know law to request Chevron's internal hazard studies, off-site consequence analyses and safety audits. Once obtained by the LEPC, the documents will become accessible to the public through the Freedom of Information Act.

The LEPC's action was attacked by California's Chemical Emergency Planning and Response Commission (CEPRC), which moved to block the request for Chevron documents. But after mulling over the possibility of CEPRC liability for preventing the LEPC from addressing chemical hazards, the commission issued a resolution affirming the LEPC's right to request hazard assessment documents for emergency planning purposes. It was the first time a state agency had officially recognized an LEPC's right to ask for information it needs for emergency planning.

Contacts: Mike Belliveau/Nora Chorover, Citizens for a Better Envi-

ronment, (415) 243-8373; Henry Clar, West County Toxics Coalition, (415) 232-3427.

will verify the plant's reductions in toxic emissions. Citizens are pressing Syntex to provide the panel with resources to hire outside consultants to verify the company's emissions reports.

Activists are also concerned that Syntex will simply dispose of its wastes in its on-site hazardous waste incinerator. Syntex operates the only Colorado incinerator to make a recent EPA deadline to allow continued burning of toxic waste. "The key thing is going to be the definition of what constitutes waste reduction," said one activist.

Contact: Larry Bulling, Colorado Citizen Action, 303-839-5232.

Civil Suits

Buffalo, New York

The Atlantic States Legal Foundation, a national environmental organization, has successfully used the citizen suit provisions of the 1986 Emergency Planning and Community Right to Know Act (EPCRA) against companies that fail to heed the law's requirement to report. One of the most impressive outcomes of the foundation's settlements has been the negotiation of pollution prevention plans, which certainly benefit the environment, but sometimes the defendant as well.

Right to Know

SUCCESS STORIES

Good Neighbor Agreement

Boulder, Colorado

When Toxics Release Inventory data showed that pharmaceutical manufacturer Syntex Chemicals was the largest source of toxic air emissions in the Boulder area, the company had a big public relations problem. Boulder prides itself on environmental sensitivity, and many residents were shocked at the extent of the area's toxic air pollution.

Fortunately, Syntex proved willing to talk with area citizens. After a lengthy process that involved Syntex's corporate headquarters in Palo Alto, California, the company signed a "good neighbor" agreement pledging to cut its 1989 reported toxic air emissions 50 percent by 1994. Syntex also pledged to set up a citizen advisory panel, both to improve the company's communication with the public and to help hold the company accountable.

Syntex's willingness to enter into an agreement is a good step, but several points remain unresolved. These include the composition of the citizen advisory panel and how it

In one of its first victories Atlantic States reached a \$68,000 settlement agreement with Murray Sandblast & Paint of Buffalo, New York. The innovative December 1990 federal court agreement provided a \$58,000 credit for Murray if the company implemented a pollution prevention and toxics use reduction program. The balance of the settlement, \$10,000, was paid to the U.S. Treasury, the Erie County Local Emergency Planning Committee, and Great Lakes United and Citizen's Environmental Coalition, which used the funds to conduct a community workshop.

Murray's initial reluctance to change the process it uses to manufacture auto transport trailers was soon overcome by the realization of immediate savings from minor changes. The pollution prevention effort appears likely to help Murray improve its competitiveness and financial stability.

In two landmark September 1991 decisions, District Court Judge William Skretny ruled that companies failing to report under EPCRA cannot escape citizen suits by filing release reports after receiving notice of intent to sue. This should provide a good incentive for companies to

report.

A list of briefs, complaints, discovery requests and consent decrees filed under EPCRA is available from Jim Hecker, Trial Lawyers for Public Justice, 202-797-8600.

A brief guide to finding non-reporting companies is available from Casey Padgett, Environmental Action Foundation, 301-891-1100.

Contacts: Robert Nagel, Atlantic States Legal Foundation 315-475-1170; Robert Pojasek, Geraghty & Miller, Inc. (pollution prevention planning consultants), 508-794-9470; Charlie Tebbutt, Allen, Lippes & Shonn, 716-884-4800.

One-Two Punch

Arcata, California

A combination of state and federal laws is being used to combat toxic exposure in Arcata, California. Citizens in that town filed a lawsuit against a Louisiana-Pacific flakeboard plant alleging that the company failed to notify plant neighbors of exposure to potentially unsafe levels of formaldehyde. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, commonly called Proposition 65, companies must warn citizens through product labelling, direct mailing or other means about potential exposure to unsafe levels of toxic chemicals that cause cancer or birth defects.

Louisiana-Pacific's alleged violation of Proposition 65 was exposed when two citizens groups took advantage of their right to know, supplying an independent environmental engineer with the company's 1989 TRI reports. The engineer's air dispersion modeling concluded that under Proposition 65, Louisiana-Pacific should have warned plant neighbors of exposure to potentially dangerous levels of formaldehyde.

In the course of preparing their suit, the citizens were surprised to learn that Louisiana-Pacific had grossly under-reported its TRI emissions. The company was required under a new California law, the Air Toxics Hot Spots Information and Assessment Act of 1987 to conduct special tests to measure its emissions.

Louisiana-Pacific's "Hot Spots" tests revealed actual 1989 emissions almost double the TRI amount reported to the U.S. EPA. The dramatic discrepancy illustrates an inherent limitation of federal right to know, which relies solely on industry-reported emissions estimates.

Despite the inaccuracy of Louisiana-Pacific's emissions data, one of the Arcata citizen group staffers affirmed the importance of federal TRI data in providing easy access to basic industry figures at a low cost, "especially for areas which do not have cooperative regulators."

Contacts: Andy Alm, North Coast Environmental Center, 707-822-6918; Andy Araneo, Clean Air Network, 707-443-1158; David Roe, Environmental Defense Fund, 415-658-0630.

These stories are excerpted and edited for brevity from the September-October 1991 Working Notes on Community Right-To-Know, published by the Working Group on Community Right-To-Know, c/o U.S. Public Interest Research Group Education Fund, 215 Pennsylvania Ave. SE, Washington, D.C., 20003. Subscriptions are available by tax-deductible contribution, \$15 suggested.

RESOURCES

U.S. RIGHT TO KNOW
"Phantom Reductions: Tracking Toxic Trends," National Wildlife Federation, 1400 16th St. NW, Washington, D.C. 20036, 202-797-6800. Analysis of changes in 1987-88 reports for 29 major dischargers to distinguish real pollution prevention from "phantom" reductions.
"The 'Recycling' Loophole in the Toxics Release Inventory," Working Group on Community Right to Know, c/o U.S. PIRG Education Fund, 215 Pennsylvania

Ave. SE, Washington, D.C. 20003, 202-546-9707.
"Toxic Chemicals: EPA's Toxic Release Inventory Is Useful but Can Be Improved," U.S. General Accounting Office, June 1991. GAO/RCED-91-121. Order from U.S. GAO, P.O. Box 6015, Gaithersburg, MD 20877.
"The Right to Know More," Natural Resources Defense Council, 1350 New York Ave. NW #300, Washington, DC 20005, 202-783-7800. Problems with current right-to-know law and needs for future legislation.
 For reporting packets, Form Rs and the like, contact the Environmental Protection Agency's SARA Title III hotline at 800-535-0202.

CANADA'S NPRI
 Gordon Pope, senior advisor, National Pollutant Release Inventory, Environment Canada, 18th Fl, Place Vincent Massey, Hull, Quebec K1A 0H3, 819-994-3127.
 Paul Muldoon or Burkhardt Mausberg, Pollution Probe, 12 Madison Ave., Toronto, Ontario M5R 2S1, 416-926-1907.
 John Jackson or Karen Murphy, Great Lakes United, SUCB, Cassety Hall, 1300 Elmwood Ave., Buffalo, NY 14226, 716-886-0142.
RESPONSIBLE CARE
Chemical Week, P.O. Box 1074, Southeastern, PA 19398, 212-586-3430. The July 17 and December

11, 1991 issues profile the program.
"Trust Us. Don't Track Us," March 1992. U.S. Public Interest Research Group, 215 Pennsylvania Ave. SE, Washington, D.C. 20003, 202-546-9707.
Canadian Chemical Producers' Association, 350 Sparks St. #850, Ottawa, Ontario K1R 7S8, 613-237-6215; **Chemical Manufacturers Association**, 2501 M St. NW, Washington, D.C. 20037, 202-887-1100. Request copies of the respective organizations' Responsible Care principles, codes of management practices, and 1991 progress reports.