purchase and evaluation of technical equipment has been restructured and formalized, the agency announced in a Feb. 3 field instruction.

The changes were made to reflect the "major role" that the committee will provide under a five-year agency budget plan for purchasing equipment used in determining employers' compliance with OSHA standards, according to OSHA Instruction COM.2.

The committee has been in existence on a less formal basis for "a number of years," and originally was formed to ensure that agency field staff would have input to the Directorate of Technical Support regarding equipment provided for field use, the directive indicated.

Under the new structure, the committee will include representatives from the technical support unit, the Directorate of Field Operations, and agency field offices, according to the instruction. Other representatives from OSHA's financial, administrative, and training units will advise the panel on an "as-needed" basis.

As its primary duty, the committee will file an annual "priority report" listing the equipment needed to "support an effective compliance program," the directive stated. The list is to be updated on a quarterly basis if necessary. In addition, the panel will be directed to provide a secondary report describing the equipment that should be procured as additional funds become available.

Also, the committee will make recommendations to the technical support office regarding the distribution of all equipment to the field, the removal of groups of instruments from field use, and the disposition of excess equipment, the directive indicated.

Two meetings per year will be held by the panel, and teleconferences will be scheduled when necessary, the document further reported. One session will coincide with one of the regular meetings of the agency's assistant regional administrators for technical support, and the other will be held at OSHA's Cincinnati, Ohio, laboratory. The chairman of the committee also will meet with and brief the agency regional administrators semiannually at regularly scheduled regional administrator meetings, the instruction remarked.

The directive noted that the committee will no longer recommend purchases of library and technical-data materials, one of the duties it has performed in the past.

Right-to-Know

UNIONS ASK ACTION AGAINST SUNY FOR ALLEGED RIGHT-TO-KNOW VIOLATION

ALBANY, N.Y. — (By a BNA Staff Correspondent) — A group of three unions asked the New York state attorney general's office to file charges against the State University of New York at Oswego for violating the state's right-to-know law.

The unions contended that workers at the campus were asked to handle asbestos without being given any training or safety equipment, according to James L. Corcoran, director of occupational safety and health for the Civil Service Employees Association.

The union charges were made public in the Jan. 27 issue of the CSEA's bi-weekly newsletter, "The Public Sector." Corcoran said the unions have asked for investigations by the state Department of Labor, the state Department of Environmental Conservation and the U.S. Environmental Protection Agency.

The unions claimed that university employees were asked to remove asbestos insulation from certain boilers in September 1985, Corcoran said. They were told that the insulation consisted of "mineral wool," according to Corcoran.

"They didn't wet it down, they didn't seal anything off, they didn't take any air tests," Corcoran said. "They just had these people go in and start ripping it off."

The state's right-to-know law requires that employers inform employees about the chemicals handled in the workplace. The attorney general is the only party which can file a suit under the law.

Donald R. Mathieu, executive vice president and provost of the university, said the university's management staff has indicated to him that the union charges were "without foundation."

"We're getting the allegations from one side, [but] we're getting a very different story from our own people," Mathieu said. "They're denying it."

The unions also claimed that the university's administration intentionally withheld the findings of a 1982 study by the state health department and failed to act on its recommendations. The study recommended that certain steps be taken to ensure the safe handling of asbestos, Corcoran said.

The study found levels of asbestos in a number of campus buildings, but said that those levels were within the safe limits established by the Occupational Safety and Health Administration.

Mathieu said the union's charge that the university withheld the report "makes for good theatre, but it hardly has any substance."

Employees at the university are represented by United University Professions, an affiliate of the American Federation of Teachers; Council 82 of the American Federation of State, County and Municipal Employees; and CSEA, which is Local 1000 of AFSCME.

Enforcement

CRITERIA TRANSMITTED FOR TARGETING LOW-INJURY-RATE, NON-MANUFACTURING SITES

Criteria were disseminated to Occupational Safety and Health Administration compliance staff Feb. 3 to be used in identifying low-injury-rate manufacturing sites and certain non-manufacturing establishments for programmed safety inspections.

The criteria were contained in OSHA Instruction CPL 2.25F CH-2, which amends OSHA Instruction CPL 2.25F from Sept. 30, 1985. The earlier directive set inspection-scheduling guidelines to be followed by the agency's compliance staff during fiscal 1986 (Reference File, 21:9295).

The Feb. 3 instruction adds two new lists of establishments to CPL 2.25F. One list contains manufacturing establishments in those Standard Industrial Classification codes which had a lost-workday injury rate lower than the lowest average private-sector lost-workday injury rate published over the past five years by the Bureau of Labor Statistics. The other list appears through CPL 2.25F.

OSHA's safety-inspection targeting policy was expanded earlier this year to cover workplaces that previously had been exempted from programmed visits (Reference File, 21:9344).

Changes transmitted in OSHA Instruction CPL 2.25F CH-2 will be reflected in a future Reference File supplement.
Implementation of Jersey's right-to-know law runs into stumbling blocks

By TOM JOHNSON

Nearly three years after its passage, the effectiveness of New Jersey's worker and community right-to-know law is being hindered by adverse court decisions, delays in its implementation and widespread confusion over its scope in the business community.

And without a sizable infusion of funding, it will take state health authorities until 1989 to complete one of the most crucial aspects of the law: Only some 7,200 Hazardous Substance Fact sheets, described as the meat of the right-to-know law by some, have been completed, according to Peter Smith, chairman of the New Jersey Right-to-Know Advisory Council.

But the lag in completing the fact sheets—designed to provide information to workers, firefighters and emergency response personnel on 7,200 hazardous substances—is just one of several stumbling blocks that have enveloped implementation of what once was hailed as the toughest law of its kind in the nation.

The court decisions, legislative tinkering with the three-year-old law, underfunding and the failure of state agencies to meet deadlines under the act have caused much uncertainty and bewilderment about just who is covered and what is required under the statute, according to both critics and supporters of the legislation.

"Confusion is probably the order of the day," said William Cleary, state director of the National Federation of Independent Business, which represents hundreds of firms that have to comply with all aspects of the law. "A good number of businesses are complying, but quite a few are not."

Sen. Daniel Dalton (D-Camden), the sponsor of the law, acknowledged having mixed reactions to its implementation. "It is a major new state program, but there hasn't been much state or federal enforcement. To think that it will meet its goals without a funding commitment is just ludicrous," he said.

The law, signed in August 1982 after a bitter legislative battle, is designed to provide both workers and surrounding community key information about hazardous materials in the workplace. The state Department of Health administers the workplace aspects of the law while the Department of Environmental Protection (DEP), the community segment.

Much of the confusion is blamed on court decisions resulting from an industry-initiated lawsuit challenging the state law. The decisions, handed down by federal courts in January 1983 and October 1985, dramatically changed the thrust and scope of the New Jersey law.

Initially, the court knocked out some 15,000 employers in the heavy manufacturing sector, ruling a federal "hazards communication" standard pre-empted the New Jersey law. In effect, the decision meant users, not producers of dangerous chemicals, would have to comply with the state standard.

Later, however, the federal court ordered that those same employers in the manufacturing sector—still pre-empted in the workplace—still would be required to comply with the aspects of the law that mandate the information about hazardous substances be provided to local health officials and emer...
Implementation of Jersey's right-to-know law runs into stumbling blocks

From preceding page

...ency response personnel...

...A lot of businessmen saw the headlines, 'Right-to-know pre-empted' and just threw their forms away, noted Cleary. 'Confusion really reigns.'

...The situation is further muddied when the Legislature amended the law last year to eliminate certain employers, such as doctors, dentists and travel agents, whom many argued should not have to comply with the law. Other employers, such as dry cleaners and upholstery cleaners, all of which were left initially, were added. The net result was to eliminate some 22,000 employees and add about 8,000 businesses that were covered by the law, according to state officials...

...There have been a lot of distractions,' complained Rick Engler, director of occupational safety for the Industrial Safety Council of the AFL-CIO and a key leader in the effort to enact the measure. He blamed the industry for using inadequate resources on the state level for the delay. 'It's still a strong law. It just takes time to phase on.'

What is needed now, according to advisory council members, is additional funding...

...Overall, some $2 million in extra funding is needed by the state department of health and environment protection to ensure adequate implementation, said the advisory council, which was set up to monitor the law's enactment...

...Most of the money would go to prepare the fact sheets that provide detailed information to workers, firefighters and emergency response personnel on the physical properties, health effects and ways of reducing potential hazards...
is doing a superb job in compiling the six-page, highly detailed and very readable fact sheets, but added the council is very concerned over the time it is taking the agency to do the job. "A three-year timetable is just unacceptable," said Smith, who is president of the Firefighters Association of New Jersey.

The council has raised its concerns to Michael Cole, Gov. Thomas Kean's chief counsel, who is now looking into whether additional funding should be targeted to health and D.E.P. Cole said he has not yet thoroughly reviewed the issue but noted the 1989 completion date "sounds a bit long."

The health department has completed about 400 fact sheets, and another 600 have been written and are being reviewed by authorities, according to Dr. Kenneth Rosenman, acting assistant commissioner for the Division of Occupational and Environmental Health Services. "I'm concerned, but I think we're doing an excellent job in preparing the sheets," he said.

Since the department established a ranking system to do those substances most frequently reported by employers, the first 400 sheets that were completed accounted for approximately 60 percent of all hazardous substances reported by employers. Rosenman said when the department completes the first 1,000 fact sheets, it will encompass approximately 90 percent of all substances reported by industry, he said.

But Joseph Caprassi, an industry representative on the right-to-know advisory council, said the compilation of the fact sheets is progressing too slowly for the program to be effective. "All it has done is delay getting information about hazardous materials into the hands of workers," he said.

"At this point, there are other options for getting this substantial information to workers," he said, citing the Material Safety Data Sheets (MSDS), required under the Federal Occupational Safety and Health Administration (OSHA) standard. Those sheets are being used by industry in the manufacturing sector, which are not covered by the state standard.

"It has all the information a worker needs," said Hal Bozarth, a lobbyist for the Chemical Industry Council of New Jersey. "They could have used the MSDS and saved themselves and the citizens of the state a whole lot of money," Bozarth added.
Businesses could gain year’s delay on ‘universal labeling’ of chemicals

By TOM JOHNSON

A drive is under way to delay implementation of one of the most important components of the state’s tally bond worker and community right-to-know law.

Sen. Daniel Dalton (D-Camden), who sponsored the initial legislation, has quietly introduced a bill that would postpone a requirement that 30,000 businesses, including hospitals, school boards and utility companies, label all chemicals — whether they are hazardous or not — that are used and stored in the workplace.

The deadline for the so-called "universal labeling" requirement is Aug. 29. Dalton’s bill would extend the deadline a year. Although the Legislature died due to return until September, Dalton said he hopes state authorities will be lenient in enforcing the labeling requirement, given the sentiment to delay it.

The move to extend the compliance deadline is the latest legislative initiative involving what was once hailed as the toughest law of its kind in the nation. But three years after its passage, many officials and lobbyists say, the effectiveness of the law has been marred by adverse court decisions, confusion among businesses over the law and its scope, according to lobbyists for business groups.

"It’s just awful," said William Cleary, state director of the National Federation of Independent Business, which represents hundreds of firms that have to comply with all aspects of the law. "The confusion is just everywhere. You don’t know what’s happening day to day. We’d support anything that would clear the water."

The issue could be clarified later this fall when the dispute on universal labeling comes before U.S. District Court Judge Dickinson Debevoise, who issued the ruling pre-empting much of the original New Jersey statute. Debevoise has been directed by another federal court to decide whether the state’s labeling requirement is workplace-oriented or geared to providing the public information about hazardous substances.

If he decides the latter, state officials said the heavy manufacturing sector may have to comply with the labeling requirement.

Later, however, another federal court ordered that those same employers in the manufacturing sector provide information about hazardous substances to local health officials and emergency response personnel.

The Legislature has further muddied matters by passing a bill to exempt certain employers, such as doctors, dentists and travel agents, from complying with the state law. Other employers, such as dry cleaners and upholstery cleaners, who were not covered by the original act, were added.

The result was that some 22,000 businesses were dropped and 8,000 were added.

The court decisions and legislative tinkering have caused much confusion among businesses over the law and its scope, according to lobbyists for business groups.

"It’s just awful," said William Cleary, state director of the National Federation of Independent Business, which represents hundreds of firms that have to comply with all aspects of the law. "The confusion is just everywhere. You don’t know what’s happening day to day. We’d support anything that would clear the water."

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If he decides the latter, state officials said the heavy manufacturing sector may have to comply with the labeling requirement.

Sponsor of right-to-know law seeks to extend compliance deadline

Dalton also said the extension would afford time for state officials to study the potential impact of wording in the proposed superfund reauthorization bill, which includes a community "right-to-know" provision.

The move to extend the deadline has won praise from the New Jersey Business and Industry Association. "We are ecstatic," said James Sinclair, a vice president, who calls the universal labeling provision costly, ineffective and confusing. "We think the legislation shows there is a clear understanding of the severe impact that would be caused by the universal labeling provision."

But James Lanard, an attorney for the New Jersey Environmental Lobby, said the group is very disappointed by Dalton’s proposal and would fight it unequivocally. "There is no need to slow the process," he said.

Lanard blamed whatever problems there are in implementing the law on what he called the Kean administration’s failure to provide adequate funds to the departments given responsibility for developing the program.

A Kean aide said the Governor is aware of Dalton’s proposal and is waiting to hear from various departments before formulating a position. The administration did explore whether the deadline could be extended administratively, but concluded that it could not be done, the aide said.

Meanwhile, Richard Willinger, coordinator of the right-to-know program for the Department of Health, said the agency expects businesses covered by the universal labeling provision to comply with it — despite efforts to extend the law in the Legislature.

"After Aug. 29, that will be one of the things we’ll be looking at when we do our workplace inspections," Willinger said.
LOCAL TELEPHONE COMPANIES should be able to handle long-distance calls and manufacture telecommunications equipment, Donald P. Marione, vice-president for external affairs for the New Jersey Bell Telephone Company, told business executives Friday at a meeting in Morristown. Currently, federal law prohibits local phone companies from doing this. But Marione maintained that the regulations hurt consumers, who, he said, would benefit from competition by lower prices, more innovation, and greater choice.

PRIME MOTOR INNS INC. had record earnings in the year ending June 30, the company said. Net income rose 50 percent to $37,471,000, from $25,037,000. Revenues grew 9 percent to $331,967,000, from $304,509,000. The reason partly was Prime's purchase last year of Howard Johnson's lodging business for $235 million. Even without that, revenues improved 20 percent to 25 percent, said Howard D. Kahan, vice-president.

DOW JONES AVERAGE
30 industrials, weekly close

By Wendy Diller
Business Writer

Months after sweeping new state and federal "right-to-know" regulations took effect, business is still grappling with how to implement fully the rules, government and industry officials say.
The regulations were intended to let employees and the community know the potentially hazardous substances with which they work and live. They are crucial because more than one in four workers are exposed to hazardous chemicals on the job, says the Occupational Safety and Health Administration (OSHA).

But the law's complexity has led to delays in implementation, officials said.

"It's a learning process for employers," said Robert C. Hallock, area director of OSHA's Hasbrouck Heights office, which covers Bergen and Passaic counties. "People still don't understand what the law is. Some have [complied] and some haven't, and some are mixed to the point where they have done part of it."

Measuring compliance

Only about 50 percent of the organizations that are subject to the regulations have informed community groups and the state Department of Environmental Protection (DEP) about the chemicals they use, according to the DEP. The state Department of Health (DOH) is supposed to keep track of how many employers have provided similar information to the DOH and their own workers, but isn't sure how many have, said Richard E. Wilson, DOH's special assistant for new right-to-know regulations.

Containers holding hazardous substances are labeled at Peters' Body and Fender Company Inc. in Oakland.
Orders to U.S. factories for "big ticket" DURABLE GOODS jumped 4.5 percent last month, in the biggest increase since 1984, the government reported Friday. Military orders accounted for much of the gain, according to the figures from the Commerce Department. But there were also healthy gains for nondefense orders — a possible sign of revival for the sluggish national economy.

OSHA does not break down by region how many companies the federal rule covers. At Hallock. The state law covers 5,000 out of 29,000 employers in Bergen County, said Adrienne Markowitz, the county's right-to-know coordinator. Statewide, about 20,000 organizations must obey the OSHA portion of the law, and an additional 15,000 must obey the DEP part.

But so far, work has been slow getting off the ground. When OSHA issued the Hazard Communication Standard in November 1983, it gave companies more than two years to comply. Last November 25 was the deadline for labeling containers and preparing information forms to ship with orders, and May 25 was the deadline for employers to label all chemicals on their premises, even ones not on the state's original list. Above, two OSHA-approved labels.

Next Friday is the state deadline for employers to label all chemicals on their premises, even ones not on the state's original list. Above, two OSHA-approved labels.

The new right-to-know regulations are time-consuming and costly to implement, but many organizations are working hard to obey them. Marcal Paper Mills Inc. in Elwood Park is one example of how a company spent time and money to comply with the new laws. It cost more than $10,000 to train almost 800 employees under the federal Hazard Communication Standard, said Jim M. Cobern, director of human resources.

The company had a safety program, but it wasn't as comprehensive as the federal rule. In April 1985, sever al managers attended a trade association-sponsored seminar on right-to-know regulations and Marcal began working on the federal laws. For $1,800, it bought a three-half-hour video, "Take a look around our facilities. What do you see that could be hazardous?"

But it stood out, said Adrienne Markowitz, the county's right-to-know coordinator. Statewide, about 20,000 organizations must obey the OSHA portion of the law, and an additional 15,000 must obey the DEP part.

Because neither the federal nor the state government licenses or endorses consultants, employers should make sure the people they hire are qualified, government officials warned. The state does keep a list of right-to-know consultants, who are often consultants, employers should make sure the people they hire are qualified, government officials warned.
Grappling with the chemical 'right-to-know' law

FROM PAGE B-1

deadline for making training programs and informational sheets available to employees.

The state legislature also set aside time to meet requirements in the law that it passed the "Worker and Community Right to Know Act" in August 1983. The law went into effect a year later but its first big deadline was October 30, 1985, when all the substances had to be labeled with chemical names and code numbers. Employee training programs also had to be written up, although the training itself didn't have to be done until March 1, 1986.

Next Friday is the state's deadline for employers to label all chemicals on their premises, even ones not on the state's original list. But a legal sour point remains unresolved - whether manufacturers also must label all substances in the workplace, as demanded by the state law, but not the federal one.

Some people are sitting on their hands about universal labeling," said Markowitz. "Often employers have multiple facilities, and there is confusion about which facilities would be reported separately," Stevenson said. Under both laws, each facility must file a separate survey.

Finally, the very government that called for the law is delaying implementation. Last January, the state dropped about 20,000 businesses from its list of those that must comply and added 12,000 others. The new ones have until Sept. 21 to comply with the state law, for the most part.

But DOH and DEP still haven't mailed surveys to the additional businesses, because the state departments are trying to combine the three forms they use into two. The new companies will have 90 days from the time they receive the survey to respond, Willinger said.

In addition, DOH is supposed to write up 2,051 separate fact sheets on each hazardous substance; so far, it has published only 528. These cover a disproportionate share of chemicals used - more than 76 percent - because the department is starting with the ones cited most frequently in the surveys. But most weren't available until two or three months ago. The six-page sheets could be useful for training and are not available elsewhere in the country, Willinger said.

To complicate matters, the state sent surveys for municipal governments to local treasurers, who often didn't know about the law and didn't forward the material to people who do, Markowitz said. It targeted treasurers because they are on the unenforcement insurance address lists that the state uses to mail the right-to-know surveys.

Until now, the government has tolerated violators and, so far, the law's proponents haven't pressured the government too much about that attitude.

"Most of us are not concerned at this time because there haven't been so many changes," said James Lanard of the New Jersey Environmental Lobby. "But our tolerance level is at its maximum threshold. We expect the state to take enforcement action now."

Preparing to get tougher

Both the state and federal staffers are getting organized to be tougher. In the past two months, "the heat has been on, and people are scared of the health department," said Hank Peters, owner of Peters' Body and Fender Company Inc. in Oakland and vice-president of the Automotive Services Council of New Jersey.

The DEP has mailed 500 letters to companies that didn't respond to the first time and expects to send several thousand more; the DOH has sent out more than 6,000 letters.

OSHA has been stricter, but it is short-staffed. The Hasbrouck Heights regional office has only 10 safety and four health inspectors to look at 30,000 facilities.

And, since the federal rule doesn't ask manufacturers to submit information, "the only way we know if a company is complying is when we get there," said Hallock.

Still, OSHA says market pressure eventually will force everyone to comply, because many customers won't use suppliers who don't give out information sheets.

But even as companies comply, the question looms: "Is it worth it?"

Some employees and community groups don't seem that interested. "A few people in the training classes always think it is a joke," said Vince Della Torre, an Orradell-based environmental consultant to auto body shops.

Some employees have refused to attend classes, said Peters, the auto-body shop owner. "They feel they have enough common sense to know not to drink the stuff."

While many police and fire departments use the DEP surveys they receive, others just stack the stuff up in boxes, said Markowitz, and others.

"We have had absolutely no requests for information [from the public]," said Al Greco, health officer for Mid-Bergen Regional Health Commission, which is in charge of the health departments for Tenafly, Englewood Cliffs, Leonia, Bogota, New Milford, River Edge, and Carlstadt. Those communities are in compliance, state officials said.

Traders greet rate cut wary

By Chet Currier
The Associated Press

NEW YORK - The stock market lately has had trouble responding with its customary enthusiasm when the Federal Reserve Board cut interest rates to boost economic growth.

Those hopes, as it turned out, went unfulfilled.

Now, the Fed's strategy is seen skeptically by many Wall Streeters as an effort to prevent the economy from weakening to the point where it could not recover.

Cut came immediately on the heels of a downward reduction in the Commerce Department's estimate of economic growth in the second quarter, and word of the third straight monthly decline in housing permits for May added to the air of gloom.

But traders and many Wall Street analysts say the reaction is understandable.

"I think the Fed did the right thing," said Michael S. O'Meara, a money manager for a Chicago pension fund. "But now we'll see how the market reacts to that.

O'Meara started his day in Chicago and the day's first big economic report was far from reassuring.

The Commerce Department said nonfarm payrolls were down by 12,000 in April, the first decline since January. As a result, overall payrolls were just 56,000 above a year ago, the slowest growth in nine years.

"The economy is just not going to take off," said M. William Scott, an investment manager at the Mutual Benefit Life Insurance Co. in Highland Park, N.J. "There is just not enough going on here."
Gone are the days when banking was confined to the insides of stately buildings and transactions were restricted by geographical boundaries. Technology changed that with automatic teller machines and computers that made sending money across town or across the country as easy as pushing a button.

So, as New Jersey's new interstate banking law goes into effect today, it marks another admission by legislators that laws need to catch up with what's been happening to banking.

"Finally, banks, like other businesses and services, will be able to follow their customers across state lines," said Kyra Lindemann, legislative liaison officer for the state Department of Banking.

The Interstate Banking Act permits banks in those states to acquire banks in New Jersey.

Those four states are the first members of the Central Atlantic banking region, which is expected to grow to 14 states plus the District of Columbia. The other states eligible to join the region are Delaware, Illinois, Indiana, Maryland, Michigan, Missouri, Tennessee, Virginia, West Virginia, and Wisconsin. For consumers, the law should simplify money matters.

For example, a New Jersey resident with ties with one's bank. The state does keep a list of right-to-know specialists, but hasn't endorsed any of them.

In companies smaller than Marcal, the system isn't so sophisticated. Responsibility for compliance often falls on personnel directors or owners. Both large and small organizations also use outside consultants, particularly to do training.

Because neither the federal nor the state government licenses or endorses consultants, employers should make sure the people they hire are qualified, government officials warned.

"The state does keep a list of right-to-know specialists, but hasn't endorsed any of them." - WENDY DILLER

Marcal Paper Mills Inc. in Elmwood Park is one example of how a company spent time and money to comply with the new laws. It cost more than $135,000 to train almost 800 employees under the federal Hazard Communication Standard, said Jim M. Coburn, director of human resources.

The company had a safety program, but it wasn't as comprehensive as the federal rule. In April 1985, several managers attended a trade association-sponsored seminar on right-to-know regulations and Marcal began working on the federal laws. For $1,800, it bought a three-part ready-made training program from BNA Communications in Rockville, Maryland.

Company's Director of Environmental Affairs, started labeling containers, an activity that took several weeks. Marcal found one trouble spot. The federal government requires suppliers to send information sheets to customers who buy hazardous chemicals. But sometimes, Marcal had trouble getting complete sheets from its manufacturers because the manufacturers feared they would give away trade secrets if they disclosed their products' ingredients.

The problem isn't unusual. Many information sheets are inaccurate and incomplete, said Adrienne Markowitz, Bergen County's right-to-know coordinator, who advises companies and government offices on compliance issues.

Orders to U.S. factories for 'big ticket' durable goods jumped 4.3 percent last month, in the biggest increase since 1984, the government reported Friday. Military orders accounted for much of the gain, according to the figures from the Commerce Department. But there were also healthy gains for nondefense orders, a possible sign of revival for the sluggish national economy.

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State speeds mailing to employers of right-to-know brochure on toxics

By DONALD WARSHAW

Acting on a request by organized labor, the state Department of Health has expedited distribution of brochures informing workers of their rights under New Jersey's landmark Worker and Community Right-to-Know Act on hazardous and toxic substances.

The department responded to a suggestion from the state Industrial Union Council's (IUC) Right-to-Know Project in mailing out enough brochures to cover all workers at 6,000 non-manufacturing employers in both the private and public sectors, health department spokesman Richard Willinger said. The firms had ignored an earlier departmental invitation to obtain and distribute the brochures, he said.

"We met with the (IUC) coalition in March, and they suggested we piggyback a mailing of the brochures along with the mailing in July and August of hazardous-substance fact sheets," Willinger said.

The Department of Labor was able to supply information on the number of workers employed by each of the private firms and public bodies in question, he said.

The brochure explains both employer responsibilities and employee rights under the act. It details workers' rights to have chemicals labeled, to have access to fact sheets on hazardous substances and to be given comprehensive training about hazardous substances.

It further details the public's right to information on chemicals stored or released into the environment.

All employers are not covered under the act, and the brochure includes a county-by-county list of telephone numbers where citizens can direct questions on whether a particular employer is covered.

"This is an important victory for public health," IUC President Archer Cole said.

"We have gotten the state to take responsibility for insuring that employers inform their employees of their rights through the specific requirement that employers distribute a brochure to each and every employee.

"This will benefit unionized workers, unorganized workers and the community at large.

"We've (the IUC) been holding educational sessions but we can't reach nonunion workers or all organized workers either," said Rick Engler, the IUC's director of safety and health.

The statute, however, grants the health department specific authority to require every covered employer to install a rank-and-file education program and put the brochures in the hands of every covered worker, Engler added.

Employers covered under the statute include state, county and municipal governments; hospitals; schools and colleges; electric, gas and sanitary services; dry cleaning plants; commercial testing laboratories; auto repair shops; oil and chemical bulk stations and terminals; pipelines, airport services and lawn and garden services.

Cole and Engler estimated that some 30,000 private firms and public-sector employers are covered under the act.

Willinger said that last September, 11,000 firms and public bodies received single copies of the brochure from the Health Department, along with instructions that they request enough brochures for all their workers.

About half the firms complied, while the rest failed to request the brochures, Willinger said.

The statute required that covered employers distribute the brochures by last Dec. 31, Willinger said.

He said the health department printed 500,000 brochures and 450,000 have been distributed to employers and the general public.

All 11,000 firms also were asked to fill out questionnaires reporting the presence on their premises of any of 2,051 hazardous substances covered under the act, he said.

The state, Willinger said, has been mailing out fact sheets on each hazardous substance listed by an employer. Under the statute, the fact sheets, which supply information on the effects of a substance and how to counteract them, are to be kept at the work site and made available on request to employees.

Under the act, all hazardous substances must already have been labeled, and universal labeling of all substances in the workplace was to have been completed by Aug. 29.

In addition, the act requires that employers provide a training program on hazardous substances, along with a walk through the plant and work site to identify where hazardous substances are stored.

The health department, Willinger said, has prepared a 190-page "Comprehensive Education and Training Guide" to assist employers, especially smaller firms, to comply with the training provision in the statute, Willinger said.

The guide provides a detailed outline of how to comply with the act's three training requirements, while the fact sheets satisfy the third requirement, he added.

"In addition, we're answering hundreds of calls every week about provisions of the statute," he said.
Chemicals

the dangers they posed, Candelori said.
"This could have been a catastrophe," the fire chief said. "It's a hazard to all the people who live in this area."

Among the chemicals stored in the warehouse were sulphuric acid; potassium ferricyanide, which can react with other chemicals to release cyanide; and xylene, a suspected cancer-causing agent, Candelori said.

Eleven employees of the Board of Education were working to straighten out the central warehouse about 1:30 p.m. when the bottom fell out of a cardboard box being carried by the crew's supervisor, Henry Prusko, Candelori said.

Four of 10 1-pint bottles in the box shattered on the floor, bursting into flames, Candelori said.

"Whatever it was, it hit the floor and we had a flash fire," Prusko said. "I just ran. I told everyone to evacuate the building because there was a fire."

Prusko said he and a co-worker grabbed fire extinguishers from their vehicles, then held their breath and ran back into the warehouse to put out the fire.

"We didn't take another breath until we had the fire out and got outside again," he said.

The smoke cleared and things seemed to be under control an hour later, when the workers decided to douse the spilled chemicals with water to make sure they wouldn't rekindle.

When the water hit the spill, it burst into flames again. The workers again put the fire out with extinguishers. Firefighters have determined that the solution spilled was some sort of acid.

After the second fire, worker James Holloway telephoned Esteban Garcia, who heads the maintenance department of the Board of Education. Garcia called the state Department of Environmental Protection and Energy, Candelori said.

The DEPE called city firefighters about 4:55 p.m., the chief said.

The workers said they had not been warned that they would be dealing with any hazardous materials.

The 11 workers who were in the warehouse were all taken to Lawrenceville Professional Emergency Services to be checked out by doctors, but none of them suffered any ill effects from the incident, Prusko said.

About 5:30 p.m., police evacuated residents from 17 houses located near the warehouse on Montgomery Street. All were offered shelter overnight at the Arthur J. Holland Middle School on West State Street, but most stayed with friends and relatives while crews worked at the warehouse.

Three city firefighters wearing full-body protective suits and air tanks entered the warehouse to assess the situation while support crews waited outside. They reported their findings, and firefighters then met with Garcia, DEPE representatives and city Emergency Management Coordinator Charlie Betz.

About 9:30 p.m., the school board decided to bring in O.H.M. Corp, a private hazardous-materials contractor based in Washington Township, to stabilize the spill, Betz said. The contractor arrived at the site late last night to begin the work.

The Board of Education will be required to provide security at the warehouse until all the chemicals are cleared from the site, Candelori said.

Garcia said the board has not decided how it will proceed with the larger cleanup.

"At this point we just want to get things stabilized," he said.

"Those chemicals shouldn't have been in there," Candelori said. "All those chemicals are just there in boxes. The boxes are combustible and they are not compartmentalized."

Staff photo by Marc Bellagamba

Trenton firefighters don hazardous material gear to check out a chemical fire in a school warehouse off Montgomery Street.
Right-To-Know

LABELING COMPLAINTS SHOULD BE MADE KNOWN TO PENDERGRASS, OSHA REPRESENTATIVE SAYS

The Occupational Safety and Health Administration may respond to industry pressure to make additional alterations to chemical labeling requirements under the hazard communication standard, according to an agency staff member.

Speaking to about 75 industry representatives at the Executive Enterprises Inc. Chemical Industry Labeling Conference Oct. 10, industrial hygienist Steve Simon of OSHA's Office of Health Compliance Assistance urged those dissatisfied with recent enforcement directives on chemical labeling to write to Assistant Labor Secretary John A. Pendergrass.

"I think if the assistant secretary sees enough pressure from industry, we'll see a change," Simon said. "My own feeling is that eventually this will be changed."

Simon said the agency's move to expand the hazard communication standard to the non-manufacturing sector opens the door to further refinements and changes.

"I hope maybe when we expand the scope of the standard in March, some of those changes will be made — like with hazard warnings [on labels] — and that's the time for industry to come forward."

Simon was referring to a reversal in enforcement directives issued by the agency in July that requires target organ effects information on shipped chemical containers and permits numerical labeling systems on in-plant containers.

A policy directive issued in May had said that both shipped and in-house containers would have to carry target-organ effects warnings.

The agency's stance on the inclusion of target-organ effects information "caused a lot of trouble within the agency," Simon said. "Not everyone agrees with that."

Force of Law

To a comment from a Union Carbide representative that enforcement directives and the preamble to the standard do not have the force of law, and that the standard itself should state such requirements, Simon answered with a shrug: "I can't in my heart argue with you because I've made the same arguments to the agency."

Algirdas G. Vilkas, assistant manager for product safety in Union Carbide Corp.'s Linde Division, complained, "We have a performance standard but you have a compliance directive that is more specification-oriented."

Simon responded that few of the citations issued by OSHA for alleged violations of the hazard communication standard deal with the performance part of the standard. "I don't think it's really that bad," he said.

According to Simon's statistics, the majority of the 5,439 citations issued by the agency between Nov. 25, 1985, and Sept. 24 underscore a lack of information about the standard among manufacturers, rather than misinterpretations.

Simon said the top 10 categories of citations are: No written hazard communication program, 1,187; no information or training program, 894; no material safety data sheets, 553; missing information on the MSDSs, 439; no label identification for in-house containers, 251; no or incorrect label warnings for in-house containers, 226; no written hazard determination, 203; no label for shipped containers, 189; MSDSs not maintained and accessible to employees, 177; no or incorrect label warnings for shipped containers, 102.

Trouble with Specifics

As he fielded numerous questions from the audience about the requirements of the standard in specific instances, Simon said he was uncomfortable passing out hip-pocket edicts on behalf of OSHA. "There is nothing black and white in the standard; that's part of the problem," he said. At another point, he responded, "I can't answer specific questions like that."

To criticism from some members of the audience that agency area directors are passing along conflicting guidance, Simon said: "We do everything we can to have uniform compliance."

He admitted that OSHA had problems with inspections shortly after the standard went into effect. "Although the training was good, it didn't prepare the officers for a performance standard," Simon said. "I think there was a lot of confusion on our part on how to make those kinds of inspections."

Simon encouraged manufacturers to use the informal conference process with OSHA within the 15-day response period provided to industry after the agency issues a citation. The conference process is designed to achieve negotiated resolutions outside the courts because "there are bound to be disagreements between manufacturers and OSHA," Simon said.

Legislation

RESEARCHER SAYS NOTIFICATION BILLS FLAWED; QUESTIONS INTERVENTION, ROLE IN PREVENTION

Proposed legislation to notify workers at increased risk from hazardous substances in the workplace will not be as effective in detecting cancer and providing successful medical intervention as its authors envision, according to John Higginson, the founding director of the International Agency for Research on Cancer, now a cancer epidemiologist at Georgetown University Medical Center.

At the request of Rep. Rod Chandler (R-Wash) who actively is opposed to the bills — HR 1309 in the House and its Senate companion, S 2050 — Higginson reviewed the legislation as well as recent comments written to Congress by Irving Selikoff of Mount Sinai Medical School supporting the bills. Higginson's comments appeared in the Oct. 7 Congressional Record.

Higginson, senior fellow and director of the unit for advanced studies at Georgetown University's Institute for Health Policy Analysis, said that, in regard to occupational-ly related cancer, "techniques are not at present available to make intervention during the latent period of cancer effective," and "more research is necessary."

Legislative attention to medical intervention programs "could be harmful if [they] directed attention away from
DEP spars with group on surveys

By Joyce A. Venezia

A state citizens’ lobbying group has accused the Koan administration of failing to implement the state’s right-to-know law, based on a sample of South Jersey companies that have failed to return environmental surveys.

But a spokesman for the New Jersey Department of Environmental Protection said the problem lies in how the program’s funding is divided among state agencies.

DEP spokesman Jim Staples said many companies had not even received the survey.

“And a lot of these companies that asked for may not even be covered by the right-to-know law,” Staples said.

The law, which took effect in August 1984, requires all chemical manufacturers and some pre-manufacturers to report in surveys all the chemicals they store or make that are listed as hazardous by the EPA.

New Jersey Citizen Action, an environmental advocacy group, said the DEP sent only eight requests for the organization’s original request for surveys on 50 companies. Additional survey results on the Gloucester County, New Jersey, officials, said Laura Rein, project director for the 20,000-person citizens group.

New Jersey Citizen Action needs requests to a full count of 50 companies South Jersey, Rein said, for various reasons. The group hopes to eventually get survey results for the entire state.

The survey asked companies what chemicals they manufactured and used. Many companies don’t know if they sent the survey or to the companies or if they simply didn’t send it back.

The survey was sent to 50 companies in Burlington County.

For instance, Jerry Mittman, manager of Oceano Chemical in Burlington, said one of his firm’s facilities responded under its former name, Tennesse Polymers.

Staples said the DEP calculated that 90% of the companies surveyed had responded. New Jersey Citizen Action said 13 percent had.

The surveyed group, however, has been criticized for not responding to the DEP’s survey.

The survey also asked companies if they had ever been cited by the DEP.
Liddy and Hussaini squared off at a debate sponsored by the Camden Campus Center, the campus activities board and the student congress.

Liddy, who served more than four years in prison for his role in the break-in at Democratic Party headquarters in the Watergate Hotel in Washington, heads a corporate-security training academy.

Through the academy, he employs a squad of 10 multinational commandos who he has said would handle hostage rescues and other problems encountered by his clients.
Citizens group says state fails to implement toxic right-to-know law

By ANTHONY F. SHANNON

A statewide citizens organization yesterday charged the state with failing to implement the landmark right-to-know law for more than 80 percent of those firms affected by the state's large oil refineries and industrial firms.

New Jersey Citizen Action said it asked the Department of Environmental Protection (DEP) to conduct a statewide survey at 63 hazardous chemical counties in the state to determine the extent of compliance with the law.

The state agency received replies from only 13 of the companies, or 18 percent of those asked to respond, the organization said.

"This failure by the state and negligence on the part of industry means that most residents (in those areas) are still unprotected and have no access to information regarding oil refineries, chemical plants, and other users of dangerous chemicals," the organization said.

The one-year-old Worker and Community Right-to-Know Act gives employees the right to have chemicals labeled, to have access to fact sheets on hazardous substances and to be given comprehensive training about hazardous substances.

James Staples, a spokesman for the DEP, said yesterday the agency sent survey forms to about 25,000 firms statewide and about half of that number has responded.

He added that a new set of regulations to "put teeth" into the enforcement arm of the program would be proposed officially in another month or so.

But Wayne Falkowski of the Coalition Against Toxics, a community environmental group, said the coalition felt a compliance rate of less than 50 percent from the South Jersey firms was "outrageous, particularly since the law is designed to protect people's health and safety.

"Furthermore," Falkowski said, "we have no reason to believe the conclusions are any better in the rest of the state. This could very well be a statewide problem of huge proportions."

Staples said that although the law was adopted on Aug. 23, 1984, it was "submerged in litigation" for a year and "as a result, we (DEP) got off to a slow start."

He said DEP anticipates "far greater compliance" when follow-up reports from the survey forms go out to firms that failed to respond in the 90-day period stipulated by the law.

"Although we're still playing catch-up, I think we'll show a better rate of compliance over the next few months," the DEP spokesman said.

Joan Reitz, a spokeswoman for Citizen Action, said the organization plans to expand its survey to cover the rest of the state "in the near future."

"New Jersey wants, needs and is entitled to a program that is enforceable, that is easy to follow, that is easy to operate," Reitz said.

She noted that the state had not only failed to expand its survey to all of New Jersey but also had not expanded it to all of New Jersey.

"They have just failed to expand it," Reitz said.

"They have not given us any indication that they are going to expand the program to all of New Jersey. They have failed to implement the law as it was written," Reitz said.
Lamonaco murder trial will open Monday as jury will be empaneled

By JOSEPH BAKES

Opening arguments are scheduled for Monday in the trial of two men accused of the 1981 murder of State Trooper Philip Lamonaco.

A jury will be empaneled today from a pool of 55 candidates whose screening ended yesterday. The potential jurors were found to be qualified after individual questioning by Superior Court Judge Michael Imbriani, who interviewed 165 people over eight days in the presence of the defendants, their attorneys and state prosecutors.

Thomas Manning, 49, and Richard Williams, 39, Massachusetts natives who describe themselves as "revolutionaries without stating a cause. The prosecution will have 12 challenges.

A 16-member jury, including four alternates, will be seated for the trial, which is expected to last as long as three months.

Imbriani said the trial will return to Somerville Wednesday, when the state is scheduled to call its first witness. No court session will be held Tuesday, which is Veterans Day.

Imbriani yesterday denied a request by William Kunstler, who represents Manning, for a hearing on the defense lawyers' claim that State Police detectives have them under surveillance in Somerville outside the courtroom.

He renewed a claim he made Wednesday that a Somerville shopkeeper after the purchase Friday thought you ought to have a hearing on this," the judge. "It's a horrendous thing."

Attorney General Mark Cronin again defended detectives being followed, claiming State Police virtually no interest at all in their lunchtime business about town.

Detectives were attempting to obtain information a supporter of Manning and Williams named when they went into the store where Kunstler man aroused suspicion because he presented receipts from two states when he identified himself to officers before entering the courtroom, accord-

Middlesex Water now is negotiating with Perth Amboy to purchase the underwater pipeline. The company could provide water by June 1981 if it purchases the pipeline, according to Dunlop. Water pumped through a new line in South River would not be available until May 1988, he said.

Old Bridge now pumps about 8.5 million gallons of water daily from its own wells. However, the Division of

Old Bridge lines, or it could pump water through a new inactive pipeline owned by Perth Amboy which stretches across the bottom of the Raritan River from Perth Amboy to Old Bridge.

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State assailed for laxity on 'right-to-know' law

By TOM JOHNSON

The Kean administration has failed to aggressively enforce the state's once widely celebrated "community and worker right-to-know law," environmental and public interest groups charged yesterday.

At a press conference outside the Statehouse to mark the fourth anniversary of its signing, a coalition called on Gov. Thomas Kean to step up his commitment to the law, described at one time as a landmark piece of legislation, by directing the state Department of Environmental Protection (DEP) to develop a tough penalty program and take immediate action against the thousands of companies that have failed to comply with the law.

"This is not a happy celebration," said Jane Nogaki, chairwoman of the New Jersey Environmental Federation. "Here we are on the fourth anniversary of this model law and the people of New Jersey still do not have a right to know."

Madelyn Hoffman, director of the Grass Roots Environmental Organization, cited the failure of some 13,000 employers covered by the law to respond to a two-page survey mailed to companies by the DEP in 1984. The surveys are supposed to provide information about hazardous substances in the workplace.

"The DEP has not taken any enforcement action against any of these companies," Hoffman said, "but it's not surprising because the agency lacks an enforcement strategy."

A second survey, requesting much more detailed information about hazards in the workplace, has only been sent out to a 195 employers, she added, and only 139 forms have been returned. Environmentalists have argued the survey form is probably the most critical part of the community aspect of the law because it provides information about quantities of chemicals released into the environment.

"It's not working at all the way it was designed to," Hoffman said. "It's a question of getting started a very complicated law in a bureaucracy and making it work," the Governor said.

However, Kean said he believed the law already has made a difference in providing information to the public about hazards in the workplace.

A ranking DEP official also defended the agency's record in implementing the law.

"There is a major effort under way to make this program the best in the nation," said Jorge Berkowitz, director of the DEP's Division of Environmental Quality. "Compared to what's being done elsewhere, we're way ahead of everyone else. It's like hitting the head of Salk for not developing the polio vaccine sooner."

Earlier this spring, the agency published its draft regulations governing enforcement of the right-to-know law, Berkowitz added, including its proposals for imposing fines and penalties on companies that fail to comply with the law.

Part of the problem with the law, according to the environmentalists, is that the administration and Kean have failed to fully fund the program, citing Kean's veto of a $250,000 appropriation in the current state budget.

Berkowitz, however, said funding for the program has grown dramatically from $500,000 a few years ago to the current $1.2 million set aside this year for the program.

The state's right-to-know law was passed by the Legislature after a bitter battle between labor and environmental groups on the one hand and industry on the other. Its implementation also has been plagued by extensive litigation, including a court decision that overturned a portion of the law and exempted the heavy manufacturers from complying with parts of the act.

Those industries are now covered by a federal standard adopted by the Occupational Safety and Health Administration.
Groups fault Kean on ‘Right-to-Know’ law

TRENTON (AP) — Environmental and labor groups yesterday criticized the Kean administration's performance in enforcing a state law that is supposed to enable communities and employees to learn about chemicals in the workplace.

The groups complained that no penalties have been assessed against the 13,200 companies that haven't completed “Part I” surveys on whether they use any of 154 hazardous chemicals. About 19,800 other companies have completed the forms.

The groups also faulted the Department of Environmental Protection for having asked just 195 of the 19,800 companies that completed Part I to complete “Part II” surveys that seek details about the chemicals, including the type and quantity of materials released into the environment.

The criticism came at a State House news conference marking the fourth anniversary of the law's enactment. The groups came prepared with a large, three-tier wooden "birthday" cake that had a single smokestack as a candle.

"For the most part, citizens of New Jersey don't have very much more information now about what companies in New Jersey are doing than they did four years ago when the law was signed," said Madelyn Hoffman, a Bloomfield-based environmental activist.

"THE RIGHT-TO-KNOW law can't be just a piece of paper that sits somewhere," said Jane Nogaki, the chairwoman of the New Jersey Environmental Federation.

A report by two members of the coalition — the Environmental Federation and the Industrial Union Council — faulted Gov. Thomas H. Kean, claiming he has "subverted the intention of the right-to-know law."

"His leadership has made a mockery of the law. His words say that he is committed to a strong right-to-know law, but his actions give the opposite message," the report said.

"His program has sent a clear signal to the polluters of this state, telling them that right to know is a law they can ignore without fear of penalty," the report said.

Kean, speaking later in the day, said he believes "the law already has made a difference." However, he voiced concern about the time it has taken to get the program operating, a delay he attributed to the difficulty of implementing such a sweeping and complex measure and incorporating the program into the state bureaucracy.

"IT SEEMS to take longer than I would like to get these things up and running," he said.
Kean faulted on pollution survey

The Associated Press

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"For the most part, citizens of New Jersey don't have very much more information now about what companies in New Jersey are doing than they did four years ago, when the law was signed," said Madelyn Hoffman, an environmental activist from Bloomfield.

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"I did voice concern about the time it has taken to get the program operating. He attributed the delay to the difficulty of establishing such a sweeping and complex measure and incorporating the program into the bureaucracy.

DEP spokeswoman Nancy Freiberg said the department isn't happy with the response to the "Part I" surveys. The DEP has proposed a rule that would allow civil and administrative penalties of up to $2,500 per violation. A comment period on the proposal ended in June, and the rule could be adopted in the fall or winter, she said.

Ms. Freiberg said "Part II" surveys are being mailed as the initial surveys are returned, "especially if they indicate very toxic materials over 10,000 pounds."

"But we need to do this in an orderly manner," she said. "It's ridiculous to ask for more information than we can absorb at one time. Obviously, you can't look at 19,000 surveys at one time."

The environmental and labor groups that joined at the news conference include the New Jersey Public Interest Research Group, the New Jersey Federation of Teachers, Clean Ocean Action, the American Lung Association, the League of Conservation Voters, and Region 9 of the United Auto Workers.

The groups also called for more state spending on the program and urged Kean to fill the vacant seat reserved for an environmental representative on the Right to Know Advisory Council.
Reluctantly, borough to obey labeling law

By David Retske

Three years after New Jersey ordered all school districts to label all hazardous substances used in schools, the borough of Collingswood has reluctantly agreed to comply with the law.

Last week, a divided school board voted to advertise for a safety and health technician to survey and label all hazardous substances used in school labs and other areas. Despite the long-awaited final decision, a safety technician and staff will be needed in the use and disposal of chemicals and filling out forms for the New Jersey Department of Health.

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Environmental groups say state lax

By Joel Siegel

TRENTON — Environmental and labor groups yesterday criticized the Kean administration's performance in enforcing the state's right-to-know law, which is supposed to enable communities and employees to find out about chemicals in the workplace.

The groups complained that the Department of Environmental Protection for having asked just 195 of the 19,800 companies that have completed pre-consent surveys to complete secondary surveys seeking details about the chemicals, including the type and quantity of materials, released into the environment.

The criticism came at a Statehouse news conference marking the fourth anniversary of the law's enactment.

For the most part, citizens of New Jersey don't have very much more information now about what companies in New Jersey are doing than they did four years ago when the law was signed," said Madelyn Hoffman, a Bloomfield-based environmental advocate.

"I think it's a scary idea," said Joel Siegel, the director of buildings and grounds. "How can you be against it if it's for the safety and health of the students?"
A coalition of labor unions and environmental groups contended last week that the Department of Environmental Protection was not enforcing the state's right-to-know law.

"Here we are in the fourth anniversary of this model law and the people still do not have the right to know," said Janet Nogaki, head of the New Jersey Environmental Federation, a coalition of environmental groups based in New Brunswick.

"The D.E.P. doesn't really have an enforcement strategy," said Madelyn Hoffman, director of the Grassroots Environmental Organization, based in Bloomfield.

Dr. Jorge H. Berkowitz, director of the Division of Environmental Quality, which administers the community right-to-know portion of the law, said that the program had been slowed initially by court challenges, and that more recently his division had been waiting for the Federal Environmental Protection Agency to develop its own program so the two agencies would not duplicate efforts.

"It's like telling Dr. Salk he didn't develop his vaccine fast enough," Dr. Berkowitz said of the coalition's criticisms.

The D.E.P.'s jurisdiction includes provisions in the law requiring businesses to inform the community and local emergency-response officials of the hazardous chemicals they manufacture, use, store or emit.

The coalition said the department had sent initial survey forms to 33,000 companies but had received only 19,800 responses and had done nothing to force the nonresponding companies to comply with the law.

A more detailed follow-up survey, which includes questions on the amount of hazardous substances emitted into the environment, has been sent to less than 200 businesses, and 70 percent were returned, according to the coalition.

The group demanded that the department fine the companies that did not return surveys and send out at least 15,000 more follow-up surveys by the end of the year.

Dr. Berkowitz responded that the department had published draft regulations giving it enforcement powers in May and that the rules would not be adopted until later this year.

It decided to delay sending out follow-up surveys, he said, until it worked out conflicts between the state's program and the E.P.A.'s new right-to-know program, part of last year's Superfund reauthorization.

Otherwise, he said, the state's businesses would be subjected to two different sets of complex forms with the same purpose.

"I think that's good management, quite frankly," Dr. Berkowitz said.

Once the conflicts with the E.P.A. are worked out, New Jersey will have the most advanced right-to-know program in the country, he added.

"Let's face it, we're going to be a national model," he said.

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GIVE HAPPY SUMMER MEMORIES.
GIVE TO THE FRESH AIR FUND
New OSHA Rules Get Mixed Reception Here

By BOB NARUS

NEW JERSEY labor leaders did not cheer as loudly as their counterparts in other states last week when the Federal Occupational Safety and Health Administration (OSHA) issued new regulations extending its hazard communication program to cover nonmanufacturing employees.

Nationwide, the OSHA move will give tens of millions of workers access to information about hazardous chemicals and training in how to handle them safely.

Many New Jersey workers were already covered by the state’s Worker and Community Right to Know Act, however. For them, the OSHA standard may offer less information and less protection than the four-year-old state statute it will pre-empt.

Union officials familiar with both the state and Federal programs say that the OSHA regulations cover many more chemicals than the New Jersey law does but that workers may get less information about those chemicals and less extensive training in handling them.

Some 18,000 nonmanufacturing workplaces in the state currently covered by the state program will switch to the OSHA program next May, under the regulations published last Monday.

The OSHA rules will also cover many other businesses not included in the state program, including 20,000 companies dropped from the state program in January 1986. The new regulations will even cover warehouses and retail stores, although they are exempt from some requirements.

Some 14,000 manufacturing companies were exempted from the state program when the original OSHA regulations took effect in 1985 and 1986.

In all, a state program originally designed to cover 44,000 employers now has jurisdiction over less than 4000, all of them government entities. There are 460,000 public employees in the state.

Business leaders were generally

Continued on Page 6
New OSHA Rules Get Mixed Reception Here

Continued From Page 1

pleased with the OSHA action. "It's just absolutely insane to have a different system in New Jersey than we have nationwide," said James Sinclair, vice president of the New Jersey Business and Industry Association.

And James Morford, chief lobbyist for the New Jersey State Chamber of Commerce, said: "OSHA does a very satisfactory job in this instance."

It is no accident that OSHA's hazardous communication program has been taken over by most of the state program — it exists for precisely that purpose.

National business and industry lobbyists had argued strenuously against a proposed Federal right-to-know program in the 1970's, and the idea was scrapped early in the Reagan Administration.

That move only sparked efforts by labor unions and environmental groups to enact right-to-know laws on the state and local levels.

"Four years ago, Governor Kean signed one of the country's most far-reaching right-to-know laws. Faced with the prospect of having to meet different standards in each state, some of which were much more stringent than anything proposed on the Federal level, business groups decided to support an OSHA program that pre-empted state and local initiatives."

New Jersey's right-to-know law "really was the critical juncture that forced industry to go to the Reagan Administration and ask for the OSHA standard," said Richard Engler, director of safety and health for the New Jersey Industrial Union Council, A.P.I.-C.L.O., a coalition of industrial and public employee unions.

(The other half of the state law, which requires businesses to disclose their use of hazardous chemicals to the community and to emergency response officials, has now been duplicated on the Federal level by Title III of the Superfund Amendment and Reauthorization Act, which was passed last October.)

While both the OSHA standard and the state right-to-know program serve similar purposes, they differ in several key respects.

The state's Department of Health, which administers the worker right-to-know program, consists 2,051 chemicals. According to Richard Willinger, the program's director, OSHA does not use a list, but requires chemical manufacturers to determine whether their products are hazardous according to general criteria.

As a result, many more substances are likely to be covered by the Federal program, Mr. Engler said. Under either program, workers have the right to request information about the chemicals they are handling from their employers, but the information they get will differ.

Workers covered by the state law will receive hazardous-substance fact sheets drafted by the Department of Health, while the Federal standard requires chemical companies to write material-safety data sheets for their products and supply the sheets to their own workers and their customers.

Eric Scherzer, secretary-treasurer of the Oil, Chemical and Atomic Workers, Local 8-149, and a vice president of the I.U.C., said his union conducted a study comparing the industry's data sheets with the Health Department's sheets and found the latter to be much more complete, especially in detailing possible chronic health effects like whether the substance was a known or suspected carcinogen.

His union has urged employers to use the state's fact sheets rather than the industry-generated data sheets.

While OSHA requires that workers be trained in handling hazardous substances, New Jersey regulations are much more explicit, Mr. Engler said. The state requires annual, hands-on training by technically qualified teachers.

The most dramatic difference between the state and Federal programs is their labeling requirements. OSHA allows Federal employers to use a trade name on their labels, while the chemical identity of hazardous substances must be specified on the material-safety data sheet.

The state right-to-know law includes a controversial "universal labeling" provision, mandating that precise chemical names appear on the labels of all containers, whether their contents are hazardous or not.

While the state program is generally considered stronger, Mr. Engler appeared ambivalent about Federal pre-emption.

"It's arguable that OSHA is better able to enforce it," he said.

Mr. Willinger acknowledged that he lacked the manpower to enforce the state law in 20,000 workplaces.

OSHA has cited almost 700 companies for violations of its standard in New Jersey in the last two years, according to data it supplied to Mr. Engler.

But Mr. Scherzer discounted the Federal enforcement program, arguing that most of the citations were for very basic violations, such as not having a training program.
U.S. pre-emption claim rejected in victory for right-to-know law

Continued from Page One

mation to employees about hazards in the workplace.

Indeed, one Exxon executive said the universal labeling provisions of the New Jersey statute would require the labeling of about 8,100 fixed points in the company's Bayway plant and a total of 38,500 containers. The result, the manager argued, would be to impair OSHA safety objectives.

In his 31-page ruling, Debevoise disagreed, saying the OSHA labeling requirements can 'coexist' with the universal labeling provisions of the New Jersey statute "without serious risk of one system obstructing or interfering with the other."

The right-to-know legislation was signed into law in August 1983, but its effectiveness has been hampered by a series of court decisions relating to the scope of the act and what environmentalists believe is underfunding of state agencies given responsibility for implementing it.

The law was challenged almost immediately by business groups and industry, which argued that a federal "hazards communication" standard pre-empted the New Jersey statute.

Initially, courts knocked out some 15,000 employers in the heavy manufacturing sector, agreeing the federal standard pre-empted the state statute. The decision forced users, but not manufacturers of dangerous chemicals, to comply with the New Jersey statute.

On appeal, however, the 3d Circuit Court of Appeals said those same employers in the manufacturing sector—while pre-empted in the workplace—still could be required to comply with the aspects of the law that mandate the information about hazardous substances be provided to local health officials and emergency response personnel.

The question before Debevoise was whether the state's labeling requirements would pose an impediment to implementation of the federal program. He found it would not.

The latest ruling by Debevoise is viewed by environmentalists as finally lifting the cloud of controversy over the New Jersey statute and may possibly lead to tougher enforcement of its provisions.

"We're hoping the agencies take the appropriate steps to enforce the law now that the constitutionality of the issue has been resolved," observed Shapiro.

However, Hal Bozarth, a lobbyist for the Chemical Industry Council of New Jersey, did not rule out further legal action on the issue. Bozarth, who noted he had yet to read the decision, said it appeared that the "judge has lost sight of the protection of the workers as afforded by the OSHA standard as he looked at the legal nuances."
The New York Times
SUNDAY, NOVEMBER 20, 1988

First Right-to-Know Violations Issued

Right to Know Law have lagged because of court challenges by chemical manufacturers and other industrial interests and because of the department's lack of technological and administrative preparedness when the law was put into effect in 1984.

State officials said that, despite the slow startup of the law, which operates in conjunction with a Federal statute, it has already been responsible for training thousands of employees and community residents from workplace hazards and toxic industrial accidents. The businesses were cited for not having filed hazardous-waste survey forms with the department last July, a requirement of the 1984 law. State officials and others say that the implementation and enforcement of the New Jersey Worker and Community Right to Know guidelines was impaneled by the department's last July. The law calls for the environmental agency and the Department of Health to conduct a survey of hazardous substances used by businesses and public agencies. It requires inventories of hazardous substances and, when completed some time next year, will have produced a vast computerized storehouse of data on where the substances are used and stored in every municipality in the state.

The purpose of the law is to inform private and public employees about hazardous substances through training programs and detailed labels and signs at their places of work. Local fire departments and county governments will be given access to inventories of hazardous wastes that are used or stored at businesses in their communities. Information on how to best deal with the substances in emergencies is provided by the state.

In addition to the state law, right-to-know guidelines were contained in Title III of the 1986 Federal Superfund Amendments and Reauthorization Act. New Jersey shares the responsibility for administering these guidelines with the Federal Environmental Protection Agency, and the guidelines include surveys on hazardous substances stored or emitted from businesses and landfills. Peter Burkhalter, an environmental specialist with the Department of Environmental Protection's Bureau of Hazardous Substance Information, said that about 620 businesses had been served violation notices recently for failing to return the hazardous-substance survey forms. Businesses as diverse as major chemical manufacturers, dry-cleaning stores and gasoline stations are affected. The deadline for returning the survey forms to the environmental agency was last July.

Because last July was the first deadline, he said, all the companies in question have been assessed the minimum $100 fine, but could be penalized up to $2,500 each day for each substance they fail to report. The companies have 30 days to pay or appeal the $100 fines.

In the course of providing names on the Department of Environmental Protection's list of violators, department spokesmen produced some companies that later were found to have actually complied with the survey requirement and had their violations rescinded.

However, Thomas McCarthy, distribution manager for the Oxford University Press in Fair Lawn, which is listed as a violator, said the survey was completed and sent to the department last May. "I remember when the survey was filled out by our maintenance person," he said. "It was a huge thing that was pages and pages of chemicals, 90 percent of which had nothing to do with us. We have copier toner and soap here, but we don't..."
Right-to-Know Violations Issued

Continued From Page 1

store it in any quantity."

It was "ironic," Mr. McCarty said, "that we have spent so much money over the years coming into compliance with all these regulations, like no smoking and storing our copier toner in cabinets, and this one little thing gets you on their list."

Frank Gagliano, an enforcement supervisor for the environmental agency, said that it had not received the Oxford University Press's survey as of last week and that "the administrative order and penalty against them is still in effect until they prove otherwise."

Richard Dime, assistant director of the department's Division of Environmental Quality, which oversees the right-to-know program, said that the agency was receiving late surveys each day and that it was possible a very small number of listed violators could come into compliance and be taken off the list within a few days.

"There are instances where we miss a person who really has complied," Mr. Dime said, "but they are few and far between." The notices, he said, "have begun going out and they will continue going out now at the rate of 100 a week."

Richard Willinger, program manager of the state's right-to-know law in the Department of Health here, said the agency had taken action against 61 public agencies in the last year for noncompliance with reporting regulations or for failing to have employee training programs or keep proper records.

Fines of up to $7,500 were either waived or reduced, he said, as an incentive for the violators to comply expeditiously with the new law. Six additional notices of violation will be issued soon, he said.

"This is our first round of enforcement of right to know," said Dr. Jill Lipoti, acting chief of the bureau, which administers the law with other state and Federal agencies. Dr. Lipoti said that under Title III of the Federal right-to-know provision, 860 companies had returned surveys on air emissions and about 250 had not yet complied with the deadline, which also was in July.

Officials said that 192,000 businesses in the state would eventually receive the survey forms as part of the overall effort.

In all, it is estimated that 30,000 or 40,000 businesses will fall under the state law when the second annual survey is completed by March, environmental officials said. The other companies might be exempted because they do not use or store hazardous substances or because the quantity of substances they have falls below the threshold of the law.

The state and Federal laws that provide the underpinning for New Jersey's right-to-know effort involve a complex set of jurisdictions and administrative responsibilities. These are shared by the Federal Environmental Protection Agency, the State Department of Environmental Protection and the State Departments of Health, Labor and Treasury, as well as the State Police.

Still in dispute is whether Federal or state labeling regulations for workplaces will prevail. Carla Israel, a spokeswoman for the 90-member Chemical Industry Council of New Jersey, said that chemical manufacturers and other industrial interests were challenging the state's elaborate and expensive labeling rules. Known as universal labeling, the state regulations require signs and labels not just on chemical drums, vats and pipes, Mrs. Israel said, but on "ridiculous" features like water pipes.

The Federal regulations, she said, are less complex and more practical. However, Mr. Willinger said that the state labeling regulations were the practical ones because the signs and labels that they require pointed out more clearly the personal dangers in a workplace and warned of potentially dangerous interactions between chemicals that were side by side.

"It's a complex law, and it is true that it is taking a long time to get a handle on it," Dr. Lipoti said in a recent interview. But, she added, "We're really reaching the public now and they are definitely exercising their right to get information."

Most requests for information on specific plant sites and substances made by fire departments and other local agencies, Dr. Lipoti said, "are sent out of here within 30 days."

Mr. Willinger said the Department of Health had compiled official fact sheets on 900 hazardous substances so far.

In this regard, Mr. Willinger explained, New Jersey has surpassed every other state and even the Federal Government in the right-to-know area. Although there are more than 2,000 substances that eventually must be listed on fact sheets, he said, other states implementing right-to-know programs had compiled and published information on no more than 200 hazardous substances.

Millions of New Jersey's 900-substance fact sheets have been supplied to the Environmental Protection Agency, other states and the Canadian Government, he said, making the state something of a national model in the right-to-know field.
Putting Title III To Work
Local Inspections Yield “Astonishing” Results

Across the country Local Emergency Planning Committees (LEPC) are struggling to meet their obligations under SARA. Title III. This interview with Charles Griffith of Ann Arbor, Michigan, illustrates the considerable success of an LEPC working in conjunction with a local inspection program. Griffith would like to see states and other localities pass similar laws.

Q: In your experience as an LEPC chair, what are the biggest obstacles to putting Title III to work?

Griffith: You’ve got to have complete and accurate reporting by all covered facilities. When Congress gave enforcement authority to EPA, it didn’t provide very many resources for a compliance program. And although there are citizen suit provisions in the law, I don’t think we can rely on every LEPC and citizen group running to federal court all the time either.

Q: How does the Washtenaw County Right-To-Know ordinance work?

Griffith: The ordinance, which is administered by the County Health Department, requires chemical reporting similar to Title III, but has much wider scope — including reporting thresholds as low as 27.5 gallons. The compliance strategy has two critical elements: first, all businesses are sent official notices of reporting requirements and forms, and second, annual inspections are conducted to verify these reports. Penalties can be assessed locally for noncompliance, but haven’t been needed yet. And perhaps most importantly, the program is funded by inspection fees ranging from $100 to $600, based on the total volume of these substances on-site.

Q: What sort of results are these inspections producing?

Griffith: It’s been astonishing: half of all our facilities triggering LEPC site-planning about 45 in number - were discovered through the inspection program! And this is in a relatively progressive community with some basic publicity and awareness about Title III.

Inspections have uncovered numerous unexpected safety and environmental problems, such as dangerous storage practices. In one case inspectors found that a local businessman was storing explosive blasting caps in his home basement. Inspection of a water treatment plant revealed unsecured chlorine tanks served by corroded feed lines. In this particular case, our LEPC analysis suggested a potential community “vulnerability zone” of up to five miles around the plant.

Q: In terms of inspections, what sort of numbers are we looking at?

Griffith: Just over 330 inspections have been conducted so far this year. Some of the findings were: 272 facilities with no provision for secondary containment, 146 facilities with unregistered underground storage tanks, 117 sites with open floor drains running directly to storm sewers or rivers, and 29 facilities with soil contamination problems. Inspections also found facilities with illegally stored hazardous wastes. It is important to note that many of these facilities are not necessarily SARA reporting facilities— in fact, probably over half are not. Yet their hazard to the community and emergency responders is obvious.

Q: What sort of reception have you received from the inspected facilities?

Griffith: The biggest complaint has been over the fees, but overall businesses are cooperative. Frankly, our biggest problem has been government facilities, like the University of Michigan. Some companies have publicly stated that the inspection program has spurred them to streamline their operations and reduce unnecessary inventories of hazardous materials. Others have even volunteered to build containment structures or install monitors and alarm systems. All in all, I think the program has been well received.

Q: What lessons for LEPCs do you draw from the whole inspection process?

Griffith: Our LEPC could easily have asked companies nice general questions and put together its emergency response plan without ever finding any of these problems. You can do a lot with voluntary information, but without a structure in place to ensure complete and accurate reporting, you don’t get very far. There is no substitute for first hand information from inspections.

Title III makes it easier for citizens to become environmental watchdogs, but it doesn’t go far enough. Too much of the burden rests on citizens, without much real power. Our local Right-To-Know ordinance is a big step forward.

— Charles Griffith, (313) 449-2759

Interview by Paul Orum

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For copies of the Washtenaw County Ordinance, Report of Inspection Findings or EPA “Successes” Report contact Paul Orum (202) 546-9707.
Legal Corner

RCRA and You: What Every Title III User Should Know

What is RCRA?
RCRA is the Resource Conservation and Recovery Act, the nation’s main law governing hazardous and non-hazardous wastes. Subtitle C of RCRA imposes requirements on the generators, transporters, treaters, storers, and disposers of “hazardous waste.” Subtitle I imposes requirements on underground storage tanks containing other hazardous substances or petroleum.

Why should I care about RCRA?
Many of the facilities you are dealing with under Title III are also covered by RCRA. Through RCRA you can:
- get information useful to emergency planning and to general environmental policymaking;
- force facilities to prevent releases, to clean up contaminated areas, and to better prepare for emergencies.
RCRA is particularly useful where facilities, or the hazardous materials they use, fall through Title III reporting loopholes, despite the threats they pose. RCRA enables you to take these additional hazards into consideration in planning and policy making.

What information does RCRA provide that can help protect emergency workers and communities?
RCRA generates various documents that can help Title III users assess threats to the community. These may be obtained from facilities through section 303(d)(3) of Title III or from the appropriate agency through the Freedom of Information Act.
Documents include:
- Inspection Reports - Each facility treating, storing or disposing of hazardous waste (a “TSDF”) must conduct regular inspections for equipment malfunctions, deterioration and operator error. Records of inspections and corrective actions must be maintained for at least three years.
- Accident Reports - Covered facilities must file reports whenever an accident triggers use of the facility’s contingency plan, regardless of whether off-site human exposure occurs. (Title III only requires emergency notifications and reports for accidents resulting in off-site human chemical exposure.)
- Contingency Plans - Covered facilities and generators of hazardous waste must adopt contingency plans containing specified features. These plans make useful starting points for local emergency planners.
- Other Information - RCRA generates many other records and reports useful to you, including, but not limited to:
  - groundwater contamination reports;
  - on site hazardous waste records by name, location and quantity;
  - waste analysis records;
  - notification forms covering location, content, construction and condition of underground storage tanks.

How can I use RCRA to prevent chemical accidents, to clean up contamination, or to make facilities improve preparation for chemical emergencies?
RCRA regulations contain numerous specific requirements. Wastes must be packaged, labeled, and handled in specific ways. Facilities must meet detailed technical design and operation requirements, and must take specific steps to prepare for emergencies with respect to equipment, training, site layout, etc.
RCRA regulations also contain several broad performance standards. Covered facilities must be designed, constructed, maintained and operated so as to minimize the risk of fire, explosion, or unplanned releases. Companies must correct problems uncovered in inspections before releases occur.
If a facility is violating any of these requirements, you can publicly pressure it to comply, urge the responsible agency to enforce the law, or bring a citizen suit against the company yourself.
If a facility poses a substantial and imminent threat to health or the environment, EPA can require whatever action is necessary to remove that threat, regardless of whether a specific RCRA violation has occurred. You can also bring a citizen suit to remove the threat.

Editor's note: Feel free to call Carol Dansereau for EAF's new handbook on using Title III in conjunction with RCRA, or for general information on the status of RCRA reauthorization in Congress.

Toxic Release Data Bolsters Clean Water Act Enforcement

The Toxics Release Inventory (TRI), less than a year old, has already been used extensively by environmental and grassroots groups to profile toxic pollution, call for reductions in waste discharges, and press for stronger enforcement of environmental laws.
However, this is only the tip of the iceberg in terms of the usefulness of the TRI data. We are just beginning to realize how TRI data can be used to strengthen many types of citizen campaigns. For example, TRI data has proven to be invaluable in Houston, Texas where activists are pushing for designation of Galveston Bay and the Houston Ship Channel as toxic “hot spots” under the Clean Water Act.
Section 304(l) of the Clean Water Act requires States to develop lists of impaired waters, identify point sources of toxic pollution and quantify toxic discharges. The law mandates individual control strategies for each such point source.
Citizens can petition to have a body of water added to the state toxic “hot spots” list until October 4, 1989.
It is commonly known in the Houston area that the Ship Channel is one of the most polluted bodies of water in the State.
However, the Houston Ship Channel and Galveston Bay (the receiving water body of the Ship Channel) were not included on the list of toxics impaired waters for the State of Texas.
In testimony before the Texas Water Commission on April 13, activists used TRI data to demonstrate that many of EPA's designated “priority pollutants” are being discharged into the Houston Ship Channel. EPA uses these priority pollutants as a way of determining if a body of water should be included on the toxic “hot spots” list.
At the hearing, Water Commission representatives claimed that their own tests showed only insignificant levels of toxic pollutants in the Houston Ship Channel. In-depth analysis of TRI data for the Houston area is expected to reveal that extremely large amounts of toxic pollutants are being discharged into the Ship Channel and eventually ending up in Galveston Bay. The burden of proof will be back on the Texas Water Commission to provide a better explanation as to where these toxic pollutants are going.

Don't worry, be happy! According to a paper industry spokesperson in Houston, Texas, “the only clearly demonstrated effect of TCDD (tetrachlorodibenzo-p-dioxin) on humans is chloracne.” TCDD is a known animal carcinogen.
Putting Title III To Work

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Q: In your experience as an LEPC chair, what are the biggest obstacles to putting Title III to work?

Griffith: You’ve got to have complete and accurate reporting by all covered facilities. When Congress gave enforcement authority to EPA, it didn’t provide very many resources for a compliance program. And although there are citizen suit provisions in the law, I don’t think we can rely on every LEPC and citizen group running to federal court all the time either.

To cite an example of the problem, isocyanate exposure at a recent plastics plant fire here in Michigan sent a number of fire fighters to the hospital. Follow-up investigations revealed that the company probably should have reported these chemicals under Title III. No one at the state level was prepared to take enforcement action, and the EPA protocol required a referral of the case from the SERC [State Emergency Response Commission]. And even if the EPA were to fine the company, it would still be a basically reactive strategy. We need to be finding out about these places BEFORE they send people to the hospital.

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Please send me more information!

☐ SARA Title III introductory information packet
☐ Full list of 14 resource packets on SARA Title III
☐ “Community Plume” newsletter (an EPI/FOE publication)
☐ $________ My tax deductible contribution is needed to help cover postage & publication. (Checks to RTK/PIRG Ed. Fund.)

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Send to: Working Group on Community Right-to-Know • U.S. PIRG Education Fund • 215 Pennsylvania Ave., SE • Washington, DC 20003-1107
Manage My Risk? Prevent Your Pollution!

The chemical, petroleum, and paper industries are worried about your right to know. They didn't want you to have one in the first place, and now they're afraid that you might exercise it. After all, if the public found out what chemicals were routinely discharged into the environment, they might demand that something be done about it? Right? Right.

That's why "risk communication" is the name of the game in industry and government circles these days. Plant managers are attending risk communication seminars to learn from high priced public relations experts how to put the industry spin on Toxic Release Inventory information. This is what the experts advise: It is better to see a headline that reads "Emissions Reduced By Ninety Percent In Last Decade" than one that proclaims "XYZ Corporation Spews Tons of Ozone-Destroying Chemicals into the Air."

Basically, this means industries will try to take the media advantage - which is what Community Right-To-Know is all about - away from citizens, by releasing carefully tailored emissions information directly to the press. And since industries have the information first, they can control the release of the information.

This spring, companies will be meeting with LEPCs, local officials, reporters and editorial boards prior to the July 1, 1989 reporting deadline for 1988 emissions data. In many cases, companies will be telling the media that they reduced their emissions over the releases reported in 1987.

But these reductions may not be real reductions associated with the installation of pollution control devices or reduced use of hazardous materials. Rather, they may be paper reductions stemming from a change in emissions estimation methods. Or they may reflect a downturn in production, or a transfer of wastes form one environmental medium such as the air, to another, such as an off-site disposal facility.

Citizens can get a jump on the July 1 deadline by contacting the media first to alert them to the availability of the information and to caution them about misleading reductions claims. Focus on the lack of pollution control devices reported by industries in your area. (Analysis of the 1987 reports for Maryland and Illinois revealed that 75 percent of the large releases into the air are totally uncontrolled. North Carolina data revealed nearly 100 million pounds of toxic air emissions in a state with NO toxic air pollution regulations.) Emphasize the need for government and industry action to control the releases of pollutants, rather than the release of information.

—Deborah Sheiman, Natural Resources Defense Council, (202) 783-7800

Two Chemical Accidents in California

Nine Chevron fire fighters were injured in a fire April 10th in the hydrogen cracking facility at Chevron's Richmond CA refinery. One fire fighter was list in critical condition with burns over 70-80% of his body, and two others were seriously hurt.

According to Chevron's public service department, a high pressure hydrogen gas pipe failure led to a leak which then ignited. The resulting high intensity fire ignited hydrocarbons in an adjacent pipe and weakened the structure of the cracking tower causing it to fall. However, despite the collapse, the catalytic vessel was not breached. Air monitoring in the surrounding hills by Chevron and the Alameda and Contra Costa Health Department showed no significant concentrations of dangerous pollutants. However, a Coast Guard official commented that the monitoring techniques being used by local officials may not be sufficiently sophisticated to detect many important pollutants.

Seventeen Ventura County fire fighters were hospitalized after exposure to the fumes of a fire at the Pacific Intermediates chemical company in Saticy, CA on April 10th. 1,500 community residents voluntarily evacuated.

Pacific Intermediates blends chemicals for sale to pharmacies, and had a large store of hazardous chemicals on the site. Under CA Health and Safety Code Ch. 6.95 the Fire Department is authorized to inspect facilities handling hazardous materials. Pacific Intermediates refused entry to inspectors on their first visit. After obtaining an inspection order, a fire inspector along with an environmental health inspector were seriously injured during the inspection by an unspecified hazardous substance leak. Materials at the site during the inspection included large quantities of caustics, solvents, explosives, and pyrophoric materials, among them hydrogen gas, lithium crystals and at least 4 different cyanide compounds. Materials were often incompatibly stored. Fire Chief Perry said that the company was cited several months ago for numerous fire and hazardous materials violations and court actions are pending.

—Susan Cooper, National Wildlife Federation, (202) 797-6895
U.S. judges affirm Jersey chemical labeling law

By TOM JOHNSON

A federal appeals court has upheld New Jersey's right to order manufacturers to label all chemicals in the workplace as a way of protecting firefighters, police and the public from hazardous substances.

The 24-page decision by the U.S. Court of Appeals for the Third Circuit in Philadelphia may finally pave the way for the state to begin enforcing perhaps the most crucial aspect of its controversial worker and community right-to-know law, according to officials.

The so-called universal labeling issue has been the subject of a bitter five-year legal battle started by the New Jersey State Chamber of Commerce and a host of manufacturing interests. Implementation and enforcement of the law, once hailed as a model for the rest of the nation, have been half-hearted, largely due to a series of conflicting court decisions.

"Good," said Edward Lloyd, general counsel for the New Jersey Public Interest Research Group (NJ PIRG), which intervened in the case, when told of the decision. "It is a very important law and I hope it puts the litigation behind us," Lloyd said. "It is time to implement the law in full and provide protection to the workers and citizens of New Jersey."

Richard Shapiro, director of the Division of Public Interest Advocacy in the Public Advocate's Office, called the court's decision a ringing endorsement of the validity of the New Jersey law.

"It essentially means that everything is going to have to be labeled, including workplace hazards" Shapiro said.

Opponents of the state law had argued that it was pre-empted, particularly provisions dealing with labeling chemicals in the workplace, by a less stringent federal Occupational Safety and Health Administration (OSHA) standard which requires only labeling of hazardous substances.

Hal Bozarth, a lobbyist for the Chemical Industry Council of New Jersey, one of several trade groups that contested the law, said he could not say what course the plaintiffs would take, but added: "I still firmly believe the federal standard, on its face, pre-empts the state statute."

Besides arguing the federal standard affords sufficient protection to the workers and public from hazards in the workplace, the plaintiffs also contended the two laws together would only lead to confusion and significant additional expenses for employers.

The appeals court discounted that argument, saying the two labeling requirements could coexist "without serious risk of one system obstructing or interfering with the other."

The court also noted there were significant differences between the New Jersey law and federal standard, including a state requirement that all chemical containers be labeled, not just those containing hazardous chemicals as is necessary under the OSHA standard.

"If the New Jersey Legislature has deemed it necessary that firefighters be informed whether a container contains a harmless substance such as water, the firefighter must also need to know whether a container contains a chemical sufficiently hazardous that it is considered a workplace hazard," the court found.