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INSIDE

EPA Issues Final MSDS and Chemical Inventory Rule

EPA signed on October 8 a final rule regulating material safety data sheet and chemical inventory submissions under sections 311 and 312 of Title III. The final rule, publication of which was delayed several times, was published in the *Federal Register* October 15, two days before the October 17 deadline under section 311 for submission of MSDSs or lists of hazardous chemicals. The rule requires facilities that must maintain MSDSs under the Occupational Safety and Health Administration's Hazard Communication Standard to submit MSDSs, or lists of chemicals covered, and chemical inventory forms to state emergency response commissions, local emergency planning committees and local fire departments.

The rule contained few surprises. EPA consolidated the 23 OSHA hazard categories into five: two health hazard categories—immediate or acute hazards and delayed or chronic hazards—and three physical health hazard categories—fire hazards, sudden release of pressure hazards and reactivity hazards. These categories apply to the MSDS list submission option that was due October 17, 1987, and to the Tier I inventory forms due in March.

EPA also revised the reporting thresholds to 10,000 pounds the first two years but said it would continue to take comments on the establishment of a final threshold in the third year. The agency had indicated that it would establish a 500-pound threshold in the third year, and, according to EPA, this remains the "point of

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EPA Proposes Trade Secret Rule Under Title III

EPA published on October 15 proposed rules for claiming trade secrets under Title III. The rules include provisions for claiming and substantiating trade secrets under the emergency planning (section 303), material safety data sheet and chemical inventory (sections 311 and 312) and toxic release reporting (section 313) provisions. In addition, the rule sets out the process for petitioning for disclosure of trade secrets, for disclosure of trade secrets to health professionals, and for EPA examination of trade secret claims. EPA states that the proposed rule may be used as guidance for trade secret claims until the final rule is published.

What is A Trade Secret? In the rule, EPA follows the definition of trade secret in the Restatement of Torts, section 757, which was adopted by the Occupational Safety and Health Administration under the Hazard Communication Standard. However, EPA notes, trade secrets under Title III may be claimed on a "subset of the material which is traditionally covered under trade secrecy law." Title III allows facilities to claim only the chemical identity as trade secret.

EPA explains that it has interpreted the Title III trade secret provisions as broadly as possible. Under the rule, trade secret claims for chemical identity may be made "for the linkage between chemical identity and other information reported on Title III submissions (e.g., specific process information and special handling procedures), in addition to claims relating to the presence of a

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Reporting on Chemical Notice and Disclosure Requirements, Emergency Response Programs, and Industry Liability

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chemical at a facility or the chemical composition of the chemical." However, the agency notes, it does not expect that many submitters will be able to meet the criteria set out under Title III for trade secret linkages other than the presence of the chemical, or its chemical composition. EPA requests comments on its interpretation of the scope of a trade secret.

EPA also requests comments on when information that has been disclosed to EPA under other laws may be claimed as trade secret under Title III. For example, EPA states that emissions or effluent data disclosed under the Clean Air Act or Clean Water Act may not be claimed as trade secret because they are required to be disclosed under these laws. However, the agency is unsure about information that EPA could request under these acts but has not requested, or about information EPA has obtained but which has not been designated either trade secret or emissions or effluent data. The agency explains:

> Congress likely intended to leave undisturbed the status of information as to which no claim of confidentiality was permitted under state or federal law, or as to which a decision had been made that no valid claim was presented. However, the agency maintains, a trade secret claimant should not be required to show that the chemical identity submitted to the agency and claimed confidential would not constitute emissions or effluent data required to be made public by EPA.

Claiming a Trade Secret. Under the rule, there are five Title III submissions that may include a trade secret claim:

- The notification of any changes that would affect emergency plans, under section 303(d)(2)
- Answers to questions from local emergency planning committees under section 303(d)(3);
- Material safety data sheets or chemical lists submitted under section 311;
- Tier II emergency and hazardous chemical inventory forms submitted under section 312; and
- The toxic release inventory form submitted under section 313.

According to EPA, the process for claiming a trade secret under each of these sections is substantially the same. The facility must send EPA a copy of the information required to be submitted, a "sanitized" version of the same document with the chemical identity replaced by a generic class or category, and a substantiation of the trade secret claim.

EPA has proposed generic categories to replace the chemical identity on the sanitized forms. For section 303 claims, the agency proposes three alternatives: to allow committees and facilities to develop their own approach; to follow the five hazard categories set out under sections 311 and 312 (see related article in this issue); or to base the categories on chemical structure, rather than chemical hazard. Under sections 311 and 312, the agency proposes that those choosing a generic class or category follow the same approach as under section 303. Under section 313, the rule requires facilities to use the generic classification code proposed for EPA's section 313 list of substances.

Substantiation Questions. On its proposed trade secret claim form, the agency requires facilities to provide information on seven areas in substantiating their claim:

- The specific measures taken to safeguard the confidentiality of the chemical identity claimed as trade secret.
- Disclosures to any nonemployees or to local, state or federal government agencies that did not sign a confidentiality agreement.
- All disclosures to local, state and federal government entities for which the facility asserted a confidentiality claim and whether the government entity denied that claim.
- The specific use of the substance claimed as trade secret and why it is of interest to competitors.
- How disclosure would harm the facility's competitive position, including an estimate of the potential loss of sales or profitability.
- Whether the substance is available to the public or competitors in products, articles or environmental releases and the factors that

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States

• **California: Hazardous Waste Enforcement.** California Gov. George Deukmejian recently signed into law Assembly Bill 1410, relating to the enforcement of hazardous waste requirements. The bill requires the enforcement coordinator to establish, maintain and publicize a toll-free telephone number for use by the public in reporting hazardous waste enforcement violations. The bill was introduced last March. It passed the Assembly in June and passed the Senate in early September.

• **Illinois: Bill Vetoed.** Illinois Gov. Thompson recently vetoed a bill that would have amended the state's Toxic Substances Disclosure to Employees Act. Senate Bill 953 would have required the Department of Labor to compile and make public a report on chemical usage, indexed by chemical name, Standard Industrial Classification (SIC) code, and county of usage. The bill had passed the Senate in May and passed the House in June.

• **Missouri: Toxic Substance List Expanded.** Under a bill recently signed by Missouri Gov. John Ashcroft, employers must report information about pesticides to the Missouri Department of Health under the state's right-to-know law. Under the law, employers must submit material safety data sheets or similar information on the toxic chemicals they use or produce to the local fire department and to the state department of health. The law had defined toxic substance to include air contaminants listed by OSHA in 29 CFR 1910.1000, Subpart Z, or in the current list of Threshold Limit Values of the American Conference of Government Industrial Hygienists. House Bill 655 adds pesticides to this definition of toxic substance.

Courts

• **Clean Water Act: Citizen Suits.** The U.S. Supreme Court heard oral arguments on October 5 on whether citizens are allowed to sue for past violations of the Clean Water Act. In *Gwaltney of Smithfield Ltd. v. Chesapeake Bay Foundation* (No. 86-473), the U.S. Appeals Court for the Fourth Circuit upheld a district court decision that fined Gwaltney $1.3 million for excessive discharges into the Pagan River in Virginia. Gwaltney had corrected the problem by 1984, before the suit was filed, and a Virginia pollution control board decided not to take action. Gwaltney maintains that the Clean Water Act allows only for citizen suits for ongoing or continuous violations. The Fourth Circuit had ruled that the citizen suit provisions of the act are not clear, and that the not allowing suits for past violations would limit the deterrent effect of the citizen suit provisions (See *Community R-T-K News*, Feb. 8, 1987, p. 9). The Supreme Court has not yet reached a decision on the case.

Meetings

November 11-13: The Hazardous Materials Advisory Council will hold its semiannual conference in Orlando, Fla. The conference will include presentations on state legislative and regulatory issues and packaging opportunities for the transportation industry. In addition, a panel will assess the compliance record of the hazardous materials transportation industry. For more information, contact Gail Stanton, HMAC, Suite 907, 1012 14th St., N.W., Washington, D.C. 20005, (202) 783-7460.

influence the costs of determining the identity of the substance by chemical analysis.

- Whether the substance is subject to any U.S. patent.

Disclosures to Health Professionals. Under Title III, medical personnel are allowed access to trade secret information. In addition, local health professionals may have access to the information if they can demonstrate need. In the rule, EPA notes that health professionals are not required to demonstrate why other information—the chemical's properties and effects, measures for controlling the public's exposure to the chemical, methods for monitoring the public's exposure, and methods of diagnosing and treating exposure—would not fill the local professionals' needs. In its proposal, EPA asks whether these criteria should be included.

The agency also requests comments on the definitions of "promptly" and "immediately" when a facility responds to a health professional's request for chemical identity. In addition, the agency suggests that in cases where the manufacturer has not disclosed the identity to the user, that the user refer the health professional to the manufacturer. Also, the agency asks whether the health professional be allowed to discuss the trade secret chemical with EPA.

In addition to these issues, EPA requests comments on whether or not to require that petitions for disclosure of a trade secret include a copy of the submission in which the chemical is claimed trade secret. The agency also asks whether it should allow for the circumstance in which a submitter "mistakenly does not provide information but otherwise acts in good faith to comply with the rule" when submitting information to support the trade secret claim. In addition, EPA asks whether or not EPA may disclose trade secret information to grantees that perform agency functions.

Written comments are due within 60 days, or by December 14. Three copies should be submitted to: Preparedness Staff, Superfund Docket Clerk, Attention: Docket Number 300 PQ-TS, Superfund Docket Room LG-100, U.S. Environmental Protection Agency, Mail Stop WH 548D, 401 M Street, S.W., Washington, D.C. 20460.

EPA's Title III hotline will send copies of the new trade secret rules on request; callers will receive copies within one week, staffers promise. The hotline may be reached at (202) 479-2449 or toll-free at 800-535-0202.

FEDERAL WATCH

House, Senate Approve FY '88 Title III Appropriations

Both the House and Senate have passed bills appropriating Title III funding for EPA in fiscal 1988. The House version, passed as part of HR 2783 on September 22, would give EPA the $19 million the agency requested for Title III funding. This includes $5 million in Federal Emergency Management Agency (FEMA) grants for hazardous materials training for state and local agencies. The Senate version, passed October 15, would give EPA $29 million to implement Title III programs—the original $19 million requested plus $10 million in grants for state and local agencies, which bear much of the burden for implementation of the law.

The $10 million would be given to states through section 28 of the Toxic Substances Control Act (TSCA), which established a grants program. The grants would be available for all Title III activities and would be awarded in coordination with state emergency response commissions. According to the congressional report accompanying the bill, 75 percent of grants awarded to states would be allocated to "units of general purpose, local governments, including municipalities and counties, or local emergency planning committees to assist in performance of Title III activities." In addition, Section 28 calls for a 25 percent match from states for grants.

According to Don Ryan, a staff assistant on the House Appropriations Committee, there are "a number of problems" with channeling funding through TSCA section 28. To begin with, he said, "it's not authorized." Under TSCA section 28(d), specific authorizations were made through 1979. In recent years, EPA has not requested authorization to fund section 28 grants. According to EPA, the last such grants were made in 1981. "We're well aware of the problems facing state and local governments," he said. However, the funding faces competition. "It's in the abatement control budget, along with other very worthy projects," such as asbestos control in schools and state programs for air and water pollution.

The House and Senate differ on many points in the bill, including the total amount of appropriations for EPA. Conferees have been appointed—the House disagreed with the Senate amendment and appointed conferees October 20—and a conference is expected in the week of October 26-30, congressional staffers said.

States Lobby for Funds. Individual states intend to lobby for state and local funding for Title III programs. "We will wait for conferees to be appointed and work from there," said Jo-Ellen Darcy, in the Michigan's Washington office. Ann McCabe, on Illinois' Washington staff, said the state probably will try to lobby Congress for the funding. In the spring, Illinois also will consider a state bill giving the state authority to distribute state funds to local agencies, said Chuck Jones, director of the Illinois Emergency Services and Disaster Agency. Other states are actively seeking funding and will probably lobby key members of Congress before the conference session on the bill—"but we have to hurry," one state staffer noted.

"We have signalled our support for the Senate appropriation," said Tom Curtis, lobbyist for the National Governors' Association (NGA). NGA was called by Senator Proxmire's (D-Wisc.) staff after passage of the Senate bill, he said. However, NGA does not have a policy position on funding. For the NGA to lobby for funding, the governors would have to agree to make the matter a policy.

Kansas Governor Michael Hayden, who has been working with other governors in trying to gather support to formulate a Title III funding policy (see *Community R-T-K News*, Sept. 22, 1987, p. 6), has taken a step toward enlisting NGA support. In a letter dated October 2, Hayden wrote to NGA outlining the issue and asking what state governors could do about it, said NGA's Jim Solyst. A committee of governors' representatives could decide whether or not to make a proposal to lobby for funding, Solyst explained. If such a proposal were drafted it would be submitted to the governors for approval at the national meeting in late February, he said. NGA has informed states of the Senate appropriation measure and possible grants, Solyst noted.

EPA Issues MSDS, Chemical Inventory Rule

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departure" for comments on the final threshold. The agency will also consider the establishment of separate thresholds for nonmanufacturers, who must submit their MSDSs or lists in August 1988 and their Tier I and II inventory forms in March 1989.

Reporting Mixtures. In its final rule, the agency made several provisions regarding the reporting of mixtures. The agency states that the hazardous components of a mixture do not need to be reported on the MSDS list reporting if the mixture itself is reported. EPA softened the requirement that reporting of mixtures should be consistent on MSDSs and Tier I and Tier II inventory forms. Under the final rule, the agency requires that the submissions be consistent "where practicable." EPA also explains, "where mixtures have unknown composition, facilities should report the mixture as a whole."

The final rule also adds a new section on the calculation of the quantity of mixtures. According to the final rule, if the facility is reporting each component of the mixture, "then the concentration of the hazardous chemical in weight percent (greater than 1 percent of 0.1 percent if carcinogenic) must be multiplied by the mass (in pounds) of the mixture to determine the quantity of the hazardous chemical therein." However, if the facility is reporting the mixture itself, the total quantity of the mixture must be reported.

Inventory Forms. On the Tier I and II inventory forms, EPA has retained the reporting ranges from the proposed rule. However, the final rule changes the method for calculating the average daily amount for inclusion on the Tier I and Tier II chemical inventory forms. Originally, the agency had proposed dividing total annual weights by 365. In the final rule, the average daily amount is calculated by dividing the total of all daily weights by the number of days the chemical was present on the site. In addition, facilities must indicate on the form the number of days used in the calculation.

EPA also has revised the entry for chemical location on the Tier II form. The new form provides space to report the building or lot where the chemical is found, and then allows space to describe the location of the chemicals, instead of requiring a site plan or site coordinates, in order to allow flexibility to meet the needs of the local committee and fire department. Despite comments requesting that the maximum daily amount be removed from the form, EPA retained this entry. "Because the maximum daily amount describes a 'worst case' scenario, it is useful to both emergency planners and emergency responders," the agency explains.

Certification. A number of commenters had been concerned about the strength and breadth of the certification statement on the inventory forms. In the final rule, EPA has removed the word "immediately" so that the person who signs the form does not have to have been *immediately* responsible for preparing them. Rather, the agency explains, "the statement indicates that the person signing has read all the information and has been responsible in a supervisory capacity—directly or indirectly—for the gathering of the information."

EPA also responds to concerns over responsibility for the content of the MSDS. The agency states that a recipient of an MSDS is not "generally responsible for its content." EPA adds, however, "If the owner or operator is aware of inaccurate or inconsistent information, he should take reasonable steps to clarify the information or alert the recipients of the information when it is distributed that it may be inaccurate."

Exemptions. Among other clarifications, EPA addresses confusion over the exemptions to reporting, especially regarding the relationship between exemptions listed in the OSHA Hazard Communication Standard and in Title III.

EPA explains that the research laboratory exemption applies to research facilities and to quality control laboratories inside manufacturing facilities. EPA adds, however, that laboratories that produce chemicals and full-scale pilot plants are manufacturers and do not fall under the research laboratory exemption. The agency notes that the interpretation is consistent with OSHA's under the HC Standard.

In response to questions about the household product exemption, EPA explains that the exemption applies to household and consumer products, "either in use by the general public or in commercial and industrial use when in the same form and concentration as the product intended for use by the public." The exemption would apply to the products when purchased in larger quantities, "if packaged in substantially the same form as the consumer product and present in the same concentration." However, the exemption does not apply to substances in different concentrations or to substances if stored in bulk.

EPA also clarifies the relationship between Title III exemptions and exemptions under OSHA's Hazard Communication Standard. A product may be subject to the HC Standard but exempt from sections 311 and 312. EPA explains, "Because Title III contains exemptions from the definition of hazardous chemical that do not occur under the OSHA Hazard Communication Standard, not all MSDSs are subject to the MSDS reporting requirements under Title III."

For example, OSHA requires MSDSs for some consumer products, while Title III does not. In addition, steel "and other similar non-reactive solids" are exempt from Title III MSDS requirements. "Even if subject to the OSHA MSDS requirements, steel and other manufactured solids are excluded from Sections 311 and 312 reporting," EPA states.

In the rule, EPA makes other clarifications, including how and where to submit revisions to MSDSs, that warehouses off-site must be treated as separate facilities, and that hazardous materials brought on-site by a contractor need not be reported unless OSHA requires the facility to have an MSDS for the material. The agency also emphasizes that the reporting thresholds do not mean that a material stored below the threshold is not hazardous and that the public may have access to information about these substances. "Facilities must respond to all requests for MSDSs, including requests for MSDSs below the threshold and MSDSs for listed chemicals."

The rule became effective immediately upon publication in the *Federal Register* October 15, 1987. Submissions of MSDSs or lists were due on October 17 for manufacturing facilities, and Tier I and II inventory forms are due in March 1988. For nonmanufacturers who became subject to the Hazard Communication Standard in May, MSDS or list submissions are due in August 1988 and Tier I and II inventory forms are due in March 1989.

Testimony Favors Increased HazMat Regulation

State and local officials need more information about hazardous materials transported through their communities, according to testimony before the House Government Operations Subcommittee on Government Activities and Transportation October 14. The hearing was held in response to concern in California over the Department of Defense's transportation of hazardous materials through Los Angeles. Another hearing was held on October 19 in Los Angeles.

The oversight hearing was called after local officials in Los Angeles learned of the transportation of rocket fuels—including nitrogen tetroxide and hydrazine—on the Ventura Freeway in Los Angeles to the Vanderburg Air Force Base. Local and state officials now have required the shipments to take an alternate route, but at this hearing, the subcommittee examined why the materials were transportated through Los Angeles in the first place and what could be done to prevent it from happening again.

A Lack of Information. Several representatives expressed concern that state and local officials were not aware of the transportation of hazardous materials through Los Angeles. Representative Henry Waxman (D-Calif.) pointed to "a lack of vital information." The transportation of hazardous materials through heavily populated areas was "recklessness, the result of a regulatory quirk and bureaucratic indifference," said Waxman. He called for increased regulation by the Department of Transportation. Without leadership by DOT, Waxman continued, "safety turns on a roll of the dice."

Current regulations do not take into account the hazards posed by "ultra hazardous shipments," Representative Gerald Kleczka (D-Wis.) continued. In addition, he said, the regulations do not require recordkeeping, so there is no mechanism to discover whether the transportation company picked the best route. Representative Thomas Sawyer (D-Ohio) questioned the subcommittee on how to improve transportation regulations. "How do we ensure the public safety in the absence of control? How do we prepare states and localities?" he asked. "This is a national problem that demands an interjurisdictional—that is to say federal—response."

Fred Millar of the Environmental Policy Institute told the hearing that DOT regulations do not require hazard assessments of worst-case scenarios. In addition, when the Air Force, at DOT's request, submitted a risk analysis for its shipments of nitrogen tetroxide, the report was marred by "gross carelessness" and mistakes, alleged Millar, and no alternative routes were considered. Finally, he maintained, the Air Force has not communicated the results of its research on hazardous materials to communities. Information about the materials must be shared with public officials and with citizens, Millar said. "Our citizens are in blissful ignorance."

DOT: Greater State Responsibility. Alan Roberts defended his agency's hazardous materials regulations. The office recently revised all its placarding and labeling requirements and adopted a system of identification numbers for shipping papers, he pointed out. In addition, he said, the office is revising the routing guidelines that it issued seven years ago and will initiate a "much more massive distribution." Roberts said that the responsibility for routing of hazardous materials shipments properly lies in state hands and called for greater state responsibility.

In response to concerns over the Air Force's choice of an urban route for its shipments, Roberts noted that rural routes are not necessarily the safest. Use of major interstates can reduce the time the material is in transit, thereby reducing the risk, Roberts explained. He also referred to 1985 Federal Highway Administration statistics on highway fatalities, which indicate that the fatality rate on rural interstate highways is 38 percent higher than on urban interstates. In addition, according to these statistics, the rate on federally aided (noninterstate) highways in urban areas is 92 percent higher and on federally aided rural highways, it is 248 percent higher. "There are other things to consider besides population," Roberts said.

Inadequate Regulations. Representative Cardiss Collins (D-Ill.), chair of the subcommittee, questioned Roberts on the adequacy of DOT's regulation of the Air Force transportation of hazardous chemicals and on the adequacy of the department's hazardous materials transportation regulations in general. Other representatives questioned Roberts on the extent of communication with communities and with states about transportation and about the lack of a risk assessment requirement under the agency's hazardous materials regulations.

Union Carbide: Risk Reduction. Thomas Rogstad, director of safety at Union Carbide Corporation, shared with the committee his company's techniques in reducing the risk posed by hazardous materials. For a transportation route, the company analyzes risk in three areas—the hazard of the chemical, the characteristics of the population along the route, and the chances that the chemical will be released. The result is a rating of the route used to judge the risk of the hazardous materials transportation and used to "target risk reduction," he explained. Rogstad added that the analysis of the route is not all done from headquarters. Instead, company employees actually drive the routes to evaluate all variables. Representative Sawyer asked Rogstad whether he thought all companies should be required to conduct risk assessments. Rogstad answered, "We definitely do them; we would like other people to do it."

Millar concluded the hearing with another plea for increased risk communication. "This wouldn't be news if this wasn't something that people are not aware of," he said. And, he noted, despite Union Carbide's testimony, "I haven't seen route studies from Union Carbide." There must be better means of communication, said Millar. In reference to the transportation of nitrogen tetroxide, he quipped, "If the trucks are only used for nitrogen tetroxide, they could all be shocking pink."

LIABILITY & ENFORCEMENT

Court To Hear Consolidated Suit on EHS Chemicals

A federal district court has decided to consolidate two suits filed against EPA calling for removal of certain chemicals from its extremely hazardous substance (EHS) list under SARA Title III section 302. A.L. Laboratories filed its suit to remove bacitracin from the 406-chemical list in the district court for the District of Columbia (No. 87-1991) on August 28, after an appeals court dismissed the suit on jurisdictional grounds (see *Community R-T-K News*, Sept. 8, 1987). The Chemical Manufacturers Association (CMA) filed suit September 2 seeking removal of phthalate dibutyl, phthalate dioctyl and phthalate dimethyl (No. 87-

2377). The suits are the first filed under Title III.

CMA requested that the two suits be considered together, maintaining that the cases are similar because commercial harm would result from keeping the chemicals on the list. Judge Oliver Gasch agreed to consolidate the suits. A.L. Laboratories had opposed combining the suits, saying it would delay resolution of their case and that, because bacitracin is a pharmaceutical regulated by the Food and Drug Administration, it should be considered separately from industrial chemicals.

A.L. Laboratories argues that the chemicals should not have been included on the EHS list; both plaintiffs charge that they should have been removed. EPA sources have said that 40 of the EHS list chemicals, in fact, did not meet the original criteria of the list—acute toxicity—and were only included because of technical errors. The EHS list, formerly the CEPP list, was developed prior to passage of Title III and was mandated as the EHS list in the legislation.

The agency proposed to delete these chemicals when it published an "interim final" list last November. However, to delete the substances, the agency would have had to prove by April that, essentially, the chemicals posed no hazard, and there was no standard to do this. In April, the agency revised the interim list and postponed its decision on the 40 chemicals. EPA will publish a notice of availability of data on bacitracin within two weeks, and will "indicate its direction" on the decision to remove the chemical, said Carrie Wehling, an attorney in EPA's Office of General Counsel. According to another EPA source, the agency will probably indicate bacitracin will be deleted.

Both sides have asked the court for a summary judgment, and a hearing date has tentatively been set for November 6. "The ruling the court will make may very well affect all 40 substances," Wheling said. If the court agrees with the plaintiffs that the four substances should be removed, suits will be filed to remove the other 36 substances in question, Wehling predicted.

INDUSTRY WATCH

Disaster Drill Leads to Planning Improvements at Johnson Wax

Over the past year, Johnson Wax has made numerous improvements to its hazardous materials contingency plan, according to Charles Hawk, safety manager of the U.S. Safety and Environmental Group for the company. Johnson Wax held a full-scale emergency exercise in August 1986, and over the past year the company has worked on improving its plan based on the lessons learned from the exercise. In August 1987, the company held an update session evaluating the year since the drill, and in November, the company expects to have completed the update of its emergency manual.

The full-scale drill last August, staged at the company's Waxdale plant near Racine, Wisconsin, tested the capability of company and county emergency personnel in their response to an alcohol spill and flash fire. The full-scale drill began as a "yellow" alert and graduated to a red alert as 50 victims with simulated injuries were treated by medical personnel. Victims with plastic wounds, broken bones and burns had been instructed to improve, worsen, or even "die," depending on the treatment they received. Once the disaster on site had been handled, the drill continued as hospital emergency rooms treated victims and responded to the anxious questions of friends and relatives.

Better Communication. The response to the staged accident was good, though the drill did illustrate some weaknesses in the company's emergency response plan. According to Hawk, there was a need for better communication. Instead of communicating by radio, responders had to rely on messengers to communicate with other responders. Hawk said that the Flight for Life Helicopter was supposed to land in a designated area during the drill, but because the fire department and the helicopter were on different frequencies, the fire department could not tell the helicopter where to land. The helicopter eventually chose its own landing area, but "it would have been nicer if we could have had direct communication," Hawk said.

The emergency forces have purchased a radio system for communication. In addition, county forces have established an emergency government channel to ensure communication among the various forces in the county. "The whole area of communication is a key one," Hawk said. Internally, the company recently installed a new emergency communication system to notify company personnel of emergencies and give employees instructions about evacuation. Hawk said that with the previous system announcements could only be made to the entire plant, but the new system allows the company to target divisions of the plant and to communicate with employees outside the building.

Improved Medical Response. Another direct result of the drill is the county-wide use of triage tags, Hawk told *Community R-T-K News*. The paper tags are divided into four color-coded parts. The first part is green to indicate that the patient can wait. The second is yellow to indicate that the victim needs hospital attention but that the injury is not life-threatening. The red portion indicates that the injury is life-threatening, and the fourth portion is black, to indicate that the victim is dead or beyond help. The tags are used by many hospitals, Hawk said, "but they are not widely understood by emergency forces." As a result of the drill, the company realized they needed more training on the tag.

The drill also resulted in improved identification of medical personnel. Hawk said that the triage officer in the drill had worn a blue vest—"it didn't stand out with other dark-colored uniforms." Now all company medical personnel will wear white hats, and nurses from the nearby medical center will wear color-coded identification tags. The content of medical bags has also been improved. Hawk said that before the drill, company staff medical bags contained the "typical supplies," but not what was needed for a large-scale disaster.

Training. Johnson Wax has a complete fire training site with simulated unloading sites and storage tanks so that the company's emergency response brigade can practice with real fires. Company emergency personnel are also sent to various sessions in other parts of the country for practice, and local fire departments use the site to train their personnel. Since the drill, Hawk said the company has "a better apppreciation of some of the problems you encounter. Our training is now more slanted toward hazmat spills than fires, though we train in both areas." The company also has begun videotaping its drills. "You see a lot of things better when things aren't happening so fast," Hawk said.

The emergency response brigade has a training session every week, Hawk said. One week they may have a fire alarm at a random spot in the plant. The brigade responds and then reviews the pre-plan for that kind of emergency. "Another week they may go to a training room and see a film or video. Another time, it may be a practice on site," Hawk explained. The company also holds table-top, or paper, drills. "You can learn a lot from these," Hawk said. "Sometime in the future, we will try another large-scale drill; perhaps we will tie in with SARA. We can see how our plan fits with the county."

An Updated Manual. The company's updated emergency response manual is now complete, said Hawk, though it needs "a few adjustments." Not only will the company make copies available, it will also put the manual on computer so that it can be accessed by any computer terminal in the company. "That way it will be all up to date. There's always someone who doesn't have time for the update," Hawk commented. The updated manual will also be sent to local emergency officials to replace the manual they have now.

ROUNDUP

Federal

EPA: Petition to Remove Dyes. On October 5 EPA received a petition from the Ecological and Toxicological Association of the Dyestuffs Manufacturing Industry (ETAD) to remove two substances from the Title III section 313 list of chemicals for which annual release reporting is required. ETAD asks that C.I. acid blue 9, diammonium salt and C.I. acid blue 9, disodium salt be removed from the list of 329 chemicals and categories. "The primary reason that acid blue 9 has been categorized as an animal carcinogen in several countries has been the incorrect interpretation by the IARC of the studies involving subcutaneous injection leading to injection-site fibrosarcomas," ETAD said in its petition. According to the industry group, it is generally acknowledged by scientists that this interpretation is incorrect. The agency must respond by April 2, 1988.

EPA: Melamine Petition. On October 6 EPA received a petition from Melamine Chemicals Inc. of Donaldsonville, La. to remove 1,3,5-triazine-2,4,6-triamine from the Title III section 313 list of chemicals for which annual release reporting is required. The substance, used in making melamine, causes bladder cancer at high doses, but only under certain conditions. EPA must respond by April 3, 1988.

ATSDR: Toxicological Profile Drafts. The Agency for Toxic Substances and Disease Registry (ATSDR) has prepared drafts of toxicological profiles for ten of the 100 hazardous chemicals most commonly found at Superfund sites. EPA worked with ATSDR to put together the hazardous chemicals list, and under section 110 of SARA, the Superfund Amendments and Reauthorization Act, ATSDR must prepare toxicological profiles for each chemical. The profile drafts currently available are: benz (a) anthracene, benz (a) pyrene, chrysene, dibenz (a,h) anthracene, heptachlor, arsenic, chloroform, chromium, nickel and n-nitrosodiphenylamine. For copies of the drafts contact Georgi Jones, Director, Office of External Affairs, ATSDR, Chamblee 28 South, 1600 Clifton Road, Atlanta, Georgia 30333, (404) 236-4620. Written comments on the profiles should be submitted before January

17, 1988. Profiles for an additional 15 chemicals will be available as soon as possible, and a 90-day public comment period will also be provided.

EPA: National Dioxin Study Released. The Environmental Protection Agency released on September 24 the results of a two-year study on dioxin contamination, which identified 100 production facilities and associated dioxin-contaminated sites around the nation. The majority of contaminated sites are located in Missouri, where waste oil mixed with dioxin-contaminated production wastes was used to control road dust, parking lots and horse arenas, according to the study. EPA focused on 2,4,5-TCP (trichlorophenol) use in manufacturing facilities and associated waste-disposal sites, drawing on data provided by hundreds of soil and fish samples from areas near chemical plants around the country. The dioxin study was conducted on congressional request after serious contamination occurred in Times Beach, Missouri; Love Canal, New York; and Jacksonville, Arkansas.

EPA: Agency Awards $1.2 Million Grant to NGA. The Environmental Protection Agency has issued a grant to the National Governors Association (NGA) to help provide state assurance of hazardous waste programs to the agency. Under section 104(k) of SARA Title III, states must assure EPA by October 1989 that they have sufficient capacity to destroy, treat or dispose of hazardous waste expected to be generated within their borders for the next 20 years. NGA will develop state-recommended guidelines for this provision by November 1988. For more information on the "State Capacity Assurance Project," call Malcom Bliss at EPA, (202) 382-4677.

States

The following changes update the state addresses that were listed in the October 8 Special Supplement to *Community Right-To-Know News*.

KANSAS

Karl Birns, Manager
Right-To-Know Program
Bureau of Air Quality and Radiation Control
Kansas Department of Health and Environment
Forbes Field, Building 728
Topeka, Kansas 66620-7432
(913) 296-1690

MISSOURI

Missouri Emergency Response Commission
P.O. Box 3133
Jefferson City, Missouri 65102
(314) 751-7929

NEW JERSEY

New Jersey Department of
Environmental Protection
Division of Environmental Quality
Bureau of Hazardous Substance Information
SARA Title III Project
CN 405
Trenton, New Jersey 08625
(609) 292-6714

SOUTH CAROLINA

Ron Kinney
Bureau of Solid and Hazardous Waste
South Carolina Department of
Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201
(803) 734-5189

Correction: In the Oct. 8 issue of *Community R-T-K News*, p. 11, col. 1, paragraph 2, the sentence should read: "EPA also explains that the release notification requirement applies only to facilities at which a hazardous chemical is produced, used or stored." The requirement does not apply to hazardous chemicals, as we stated.

Meetings

November 4: The Center for Energy and Environmental Management will hold a seminar on SARA Title III Reporting Requirements in October in Washington, D.C. and in November in St. Louis. For more information, contact Robin Gildersleeve, CEEM, Box 200, Fairfax Station, Virginia 22039 (703) 250-5900.

October 27–28: Government Institutes will sponsor a course in Washington, D.C. titled Complying with the Community Right-to-Know Act, Understanding Your New Requirements Under EPCRA. For more information, contact Lori Belateche, Government Institutes, Inc., 966 Hungerford Drive #24, Rockville, Maryland 20850 (301) 251-9250.

October 27–29: APCA, an association dedicated to air pollution control and hazardous waste management, will hold a conference in Washington, D.C. on Managing Environmental Risks. The conference will include sessions on effective risk communication, decision-making challenges, policies of government agencies, case studies and legislative perspectives. For more information, contact Barbara Yunk, Meetings Department, P.O. Box 2861, Pittsburgh, Pennsylvania 15230, (412) 232-3444.

November 2–4: The Center for Chemical Process Safety will hold the International Conference on Vapor Cloud Modeling in Cambridge, Massachusetts. The conference will include field-scale test modeling, source modeling, vapor cloud dispersion models, developments in vapor cloud modeling, fire and explosion modeling, and consequence modeling. For more information contact American Institute of Chemical Engineers, Meetings Department, 345 E. 47th St., New York, New York 10017.

November 17–18: Government Institutes, Inc. will offer a course in Washington, D.C. on environmental laws & regulations compliance. For more information contact Government Institutes, Inc., 966 Hungerford Drive #24, Rockville, Maryland 20850 (301) 251-9250.

December 1–3: The Hazardous Materials Management Conference and Exhibition/West will be held at the Long Beach Convention Center in Long Beach, California. The conference program has 29 sessions and 10 workshops geared to the needs of the industry on the West Coast. For more information, contact Tower Conference Management Co., 331 West Wesley Street, Wheaton, Illinois 60187, (312) 668-8100.

December 8–9 and January 26–27: DuPont will conduct a seminar on Strategies for Crisis Communications Management. The seminar will teach skills for communication with the media, corporate headquarters, employees, government officials and agencies and the community. The December seminar will be held in New Orleans and the January seminar in Chicago. For more information contact DuPont Company, P19-1105, P.O. Box 4500, Greenville, Delaware 19807, (800) 532-SAFE or (302) 999-6995.

December 10–11: Executive Enterprises will hold a conference on insurance claims for environmental damages. The conference, held in New York City, covers technical and legal considerations and includes example case studies. For more information contact Executive Enterprises, Inc., 22 West 21st Street, New York, New York 10010-6904, 1-800-831-8333 or 1-800-223-0787.

December 14–15, January 14–15 and January 28–29: Practising Law Institute will hold conferences in New York City, Chicago and San Francisco on the impact of environmental regulations on business transactions. A practicum is included to discuss issues attending a hypothetical business acquisition by a public company. For more information contact Practising Law Institute, 810 Seventh Avenue, New York, New York 10019, (212) 765-5700.

March 8–9 and September 20–21: DuPont will conduct a seminar on Strategies for Crisis Communications Management. The seminar will teach skills for communication with the media, corporate headquarters, employees, government officials and agencies and the community. The March seminar will be held in Philadelphia and the September seminar in St. Louis. For more information contact DuPont Company, P19-1105, P.O. Box 4500, Greenville, Delaware 19807, (800) 532-SAFE or (302) 999-6995.

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