

Public Meeting

before

ASSEMBLY LABOR, BUSINESS AND INDUSTRY COMMITTEE

"To review State programs to maintain safe and healthy workplaces, with special attention to recent industrial accidents in Bergen County"

LOCATION: Bergen County
Freeholder Chambers
Hackensack, New Jersey

DATE: May 23, 1995
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Patrick J. Roma, Chairman
Assemblyman Stephen A. Mikulak, Vice-Chair

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ALSO PRESENT:

Senator Byron M. Baer
District 37
Assemblywoman Rose M. Heck
District 38
Assemblywoman Loretta Weinberg
District 37
Assemblyman Robert G. Smith
District 17

Gregory L. Williams
Office of Legislative Services
Aide, Assembly Labor, Business
and Industry Committee



Hearing Recorded and Transcribed by

The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625

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New Jersey State Legislature
ASSEMBLY LABOR, BUSINESS AND INDUSTRY COMMITTEE
STATE HOUSE ANNEX - CN-068
TRENTON, NJ 08625-0068
(609) 984-0445

NOTICE OF PUBLIC HEARING

The Assembly Labor, Business and Industry Committee will hold a public hearing to review State programs to maintain safe and healthy workplaces, with special attention to recent industrial accidents in Bergen County. The hearing will also review State efforts to retain employment from the affected facilities. The committee is seeking constructive ideas from all interested parties on how to improve New Jersey's efforts to promote occupational safety and health.

The hearing will be held on Tuesday, May 23, 1995 at 11:00 AM in Bergen County Freeholder Chambers, Administration Building, Court Plaza South, Room 301E, 21 Main Street, Hackensack, New Jersey.

The public may address comments and questions to Gregory L. Williams, Committee Aide, or make bill status and scheduling inquiries to Ramona A. Morales, secretary, at (609) 984-0445.

- (SEE OTHER SIDE OF THIS NOTICE FOR DIRECTIONS) -

Issued 05/12/95

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June 2, 1989

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ASSEMBLYMAN PATRICK J. ROMA (Chairman): We are about to get underway. Before we proceed, I will tell you that a number of members of the Committee are on the road, and will be here shortly.

In order to start this hearing, I would ask Assemblywoman Loretta Weinberg to lead us in the Pledge of Allegiance. (Committee members and audience recite the Pledge of Allegiance)

As I indicated, we have some members who are on the road, who are en route. We have also had to make some substitutions. Sometimes we have hearings in Trenton; sometimes we have hearings throughout the State. In order to get as much participation as possible, we took this opportunity to have the hearing here in Hackensack.

First, allow me to welcome you, and thank everyone who has taken the time to participate in these hearings.

For years, this Committee, the Assembly Labor, Business and Industry Committee, has given the highest priority to the improvement of safety and health conditions in and around New Jersey's workplaces.

When we drafted the legislation in 1992 that created the Workforce Development Partnership Program, we made sure that the Program included occupational safety and health training for workers. Almost \$4 million in grants for that training has been awarded as a result of that effort.

This year, the Committee initiated legislation to strengthen New Jersey's Public Employee Occupational Safety and Health Program. I believe it is far better to prevent injuries, illnesses, and deaths from happening in the first place than to sit back and then try to pick up the pieces after the damage is done.

Tragically, on March 25, 1995, a chemical fire gutted the Causeway Warehouse in Hackensack. Twenty-six people were injured in the fire. One hundred people were forced to

evacuate their homes. Since that fire, hazardous residues left on the site have reignited several times. But the tragedy continued.

On April 21, the Napp Technologies Chemical Plant blew sky-high, killing four workers instantly. Another worker, burned on 95 percent of his body, died several days later. More than 50 other people were injured.

Four hundred terrified residents were evacuated, kept from their homes for days. The resulting fire took six hours to bring under control. The toxic chemicals which spilled into the Saddle River during the fire were lethal enough to kill thousands of fish. We all know of the aftermath of that fire -- the tragedy.

I happened to visit that site, and actually was sickened as a result of going within a radius of four blocks. I just wonder, in terms of the impact on all the people-- When we set up this hearing, it was designed to cover a variety of areas, not only from the standpoint of what happened and what could be done in order to make sure it does not happen in the future, but also the ancillary issues in terms of impact on the workers, the people living in the area, the businesses. We received a number of phone calls as a result of both of these tragedies, and today's hearing will give us an opportunity to further review these facts.

We can only be thankful that the elementary school, which lies within one block of the plant, was closed on the day of the explosion. It is a sad commentary, but at the same time, those children were not there.

The plant, with 144 jobs, will not be reopened in Lodi, and may not reopen anywhere in the State. Twelve other businesses located near the plant have also been unable to reopen since the fire.

Could these terrible accidents have been prevented? Are we doing everything we can to make sure that accidents like

that do not happen again? What is being done now to take care of the victims, including the many hundreds of residents who have had their well-being put at risk?

We need answers to these questions. That is the reason for this hearing. In recent years, you heard a lot of complaints from the business community about excessive regulation and related paperwork. Many say that it drives away jobs. We know the benefits of industry, in particular the chemical industry, and how the various chemicals can improve our lives, making possible many of the products we use on a daily basis. However, there is a delicate balance necessary to allow a safe workplace, and also to utilize the technology that we all take for granted on a daily basis. We have to make sure that when we approach that balance, we do not jeopardize our quality of life.

No doubt there are occasions when government regulation may overstep its purpose. But situations like the Hackensack and Lodi fires highlight the legitimate need for public action to protect the health and safety of the people, even if it may seem inconvenient to some people.

As we contacted people about this hearing, one representative of the business community acknowledged the truth of this. "It's not right. People are not supposed to come to work to die." Nobody should accept the undermining of reasonable standards by an irresponsible few.

I am not at all trying to pass judgment in these particular cases. There is too much that is not yet known to draw conclusions about blame at this stage.

Again, we have heard much about what happened. There is a schematic directly in back of me which indicates how the fire in Lodi occurred. From what we can see with the mixer and the access opening, and the aluminum powder and sodium hydrosulfide powder, the mixing of those items, in conjunction with what happens to be the accidental water-- We are not

really sure how this occurred. It seems to be a minute amount of water. It may have been from the washing of hands. Somehow this water was introduced into the compound.

But, again, all of these things have been realized as a result of newspaper articles and talking to various people. I would also indicate that we have notified OSHA, and there is an investigation that is underway. We had hoped to have a status report here today, but at some point in time we will have the results of that final investigation.

As a result of the 12 hours of smoldering, chemists were called in. We all know what happened following that in terms of the response and what was done in order to contain it. Let me tell you, something like this points out the necessity of making sure that this does not happen in the future. The type of safety programs we have had, the programs we will have in the future--

I realize there is a tremendous amount of emotion whenever we have an issue like this. It is my belief that we will work together, some sides of the aisle, to make sure that we protect our workplace, and at the same time have a very good business climate in New Jersey. Sometimes that is very difficult, but I will tell you that the members of our Committee have been able to do many things in terms of helping businesses and employees. We are hopeful that we will be able to continue with that track record.

I would also like to point out that not only have we been joined by Assemblywoman Loretta Weinberg, but Assemblyman Bob Smith, Assemblywoman Rose Heck, and Senator Byron Baer. He was Assemblyman Byron Baer when he initiated the first environmental act. I want to thank each of you for being here.

We have a number of people who wish to testify. With the permission of the members, what I would like to do is to first call four representatives of the administration. We have

Mike Hollan, Department of Commerce and Economic Development. It might be a good idea to have everybody come up at one time.

ASSEMBLYWOMAN WEINBERG: Assemblyman, with your permission, may any of us make a statement first also?

ASSEMBLYMAN ROMA: Okay. If you would, I thought following the introduction, during the questions and answers, many of the concerns you have might be addressed, and it might be handled in that manner.

ASSEMBLYWOMAN WEINBERG: If I may, maybe some of the statements I have could be addressed in the introduction.

ASSEMBLYMAN ROMA: Okay. Then perhaps, if you can keep it brief, we will concede for those members who--

ASSEMBLYWOMAN WEINBERG: I usually am brief, but I will try.

First of all, thank you for allowing me to come back to my former seat on the Labor Committee to sit in for today's hearing. I appreciate your courtesy extended to both Assemblyman Smith and myself.

I commend the Committee for taking steps to prevent the kinds of loss of life and lack of concern for public safety that we have seen here in Bergen County. The explosions and fires at the Causeway Warehouse and Distribution Transport Company in March and Napp Technologies in April underscore not only the need for tough community right to know laws, safety standards, and increased training for workers, but also equally tough enforcement of these laws and standards.

Maybe -- just maybe -- both of these accidents might have been avoided, saving the lives of five people and preventing hundreds of others from being injured and evacuated. Certainly, tougher standards would have protected the first responders to these tragedies. Unfortunately, however, these standards have not been enforced and are even coming under fire as being too onerous for business to comply with.

A recent paring down of the number of chemicals on the right to know List from approximately 3000 to 800 -- and I would like to hear members of the administration talk about that -- resulted in the removal of these chemicals from the list that were responsible for the explosion at Napp Technologies. Those who argue that these safety standards are too difficult to enforce, and that the community would not suffer from a lack of safety if these conditions were weakened, might have seen their arguments literally go up in flames.

The situation is even more disturbing when one considers that Napp Technologies, which has a history of safety violations, was located in a residential section of the city. There is simply no reasonable excuse for putting the lives of private citizens, including children, in jeopardy for the sake of budget cuts. We should be working to make life safer for the citizens of our community, not gambling their lives and health by removing safety standards.

Not only are the local residents and workers being put in danger, but, as in the case of the fire at Causeway, the firefighters who answered the call to duty were also put in danger. The warehouse at Causeway was not only not permitted to store hazardous chemicals, but also had no mechanism with which to inform the firefighters who showed up just what was burning in that structure. They literally did not know what they were walking into. We are all fortunate that no one was more seriously injured as a result of this situation.

With this in mind, I would like to call the Committee's attention to bill A-2848, which is prime sponsored by my colleague, Assemblyman Charles Zisa, and of which I am the coprime sponsor. This bill would require the owners and operators of warehouses to be included in the list of owners and operators required to report the use and storage of environmentally hazardous materials. This is significant, in

light of the fact that Causeway in Hackensack was cited after the fire for storing chemicals without a permit.

Additionally, our bill would require that all facilities covered under this Act post placards indicating the type of hazardous chemical or substance stored or located in that facility. So as not to be too restrictive on businesses that are involved in the transportation of such chemicals, the bill would require that placards be placed for any substance being stored for 72 hours or longer. Substances stored for less than 72 hours would require the posting of a placard that read, "Dangerous." When storing substances for less than 72 hours, the owners and operators of such facilities would be required to immediately report the quantity and type of such substances to the municipality in which they are located, and provide a 24-hour, on-call contact person who has knowledge of what is on-site. This measure would help to secure the safety of the surrounding community, and would also assist in preventing or halting any crisis that might arise.

Finally, in an effort to safeguard the men and women who protect us all in their capacity as firefighters, this Act would require that the Uniform Fire Safety Code include the placarding requirements of the bill. This provision would allow firefighters and emergency personnel to make assessments of the situation and their course of action based on the placards before they enter the structure. The firefighters of our community take enough risks in their work that they should not be subject to even greater risks of not being adequately informed of the presence of substances and materials that may endanger them further.

Mr. Chairman, I hope you will continue the efforts that you have begun here today to halt the evisceration of our community right to know laws, as well as other standards of safety which are invaluable to the well-being of our citizens. Given your commitment to this issue, and after we hear

testimony, I hope you will perhaps consider joining Assemblyman Zisa and myself as a cosponsor of Assembly Bill No. 2848. We must work together in a bipartisan effort to ensure that the disasters which occurred here in Hackensack, and in Lodi, never happen again. We cannot afford to ease our regulatory laws for business at the cost of putting the lives of innocent people at risk.

Thank you very much, Mr. Chairman. Thank you, members of the Committee, for your indulgence.

ASSEMBLYMAN ROMA: Thank you, Assemblywoman.

Assemblywoman Heck?

ASSEMBLYWOMAN HECK: I would like to testify with the Hasbrouck Heights Fire Department Fire Prevention Bureau later on in the hearing, Mr. Chairman.

Thank you.

ASSEMBLYMAN ROMA: Thank you.

Assemblyman Smith?

ASSEMBLYMAN SMITH: I'll hold my comments.

ASSEMBLYMAN ROMA: Thank you.

Senator Byron Baer?

SENATOR BAER: First of all, I want to commend the Chairman for holding this hearing, which is vitally important not only to this county and the communities involved here, but to the entire State. I also want to thank you for your courtesy in allowing me to join you at this hearing, since I am neither a member of the Committee nor am I a member of the Assembly, although, as you point out, I long enjoyed serving with you.

I just want to make some general comments and not get into specific legislation. I am working on a number of pieces of legislation, but I think the time to present the specifics is probably later.

I think the Chairman's purpose is trying to use this as an exploratory hearing to learn everything that can be found

about jurisdiction, funding, and other factors with the various agencies. Whatever can be learned in terms of the particular incidents here is particularly valuable. Even though I realize that we may not hear some things because of the potential for litigation, there is a great deal that can be very valuable.

I just want to stress that I think we should be keeping in mind not only measures such as the very valuable measure that Assemblywoman Weinberg referred to, which creates a far safer situation were something to occur, but also preventative measures that would greatly reduce the likelihood of anything like this happening again.

We have, for instance -- as the Chairman knows who supported it -- the Toxic Catastrophe Prevention Act. Today, we learned of an enormous explosion and toxic release in a neighboring state that does not have that protection. We certainly want to see that we have that protection in relation to explosions and the harm that can come from them, regardless of whether they are a toxic risk, particularly in situations like this affecting not only the community, but the emergency response people.

I think that although we may have limited success in finding out all the details about this situation, I want to just, by way of illustration, point out that we want to see to it that the State assures that in future situations if something like this happens -- I am talking about the very beginning of it, as reported in the press, which may or may not be accurate -- there will be in place a whole series of preparations that would warn the people present about the potential for the mixing of certain chemicals to raise the temperature; that would already have in place warnings that raising the temperature beyond certain points would have the potential of causing other things to ignite and explode; that would have in place requirements for watching all this by both instrumentation and personnel who are trained to know what to

do, with their not having to look for someone on the phone to tell them, while something like this cooks and gets more and more dangerous over a period of many hours; as well as, of course, all of the things that are relevant to protect the response people and the people in the surrounding neighborhood.

I think we also want to see to it that where there are companies that have situations that could create risks to neighbors outside the plant boundaries, whether that be by explosives or by the ejecting of dangerous chemicals which fall on property, whether that be by toxic fumes or other results-- We want to see to it that the potential risk of such an impact on the neighborhood is known in advance and is part of that which is disclosed by a company in the course of its necessary communications with the appropriate authorities, so that these things are all understood in advance.

Thank you very much, Mr. Chairman.

ASSEMBLYMAN ROMA: Thank you, Senator.

At this time, I would like to call Mike Hollan, New Jersey Department of Commerce and Economic Development; Len Katz and Tom Drabik, New Jersey Department of Labor; Dr. Elin Gursky, New Jersey Department of Health; and Gerald Nicholls, New Jersey Department of Environmental Protection.

Chairs seem to be a valuable commodity this morning. I thought we would call all of you up at the beginning. I am sure there will be a number of questions, and hopefully you will be able to remain here in case some additional questions come up as a result of your testimony.

It might make sense, in terms of the order-- We want to hear from each of you, starting with the Department of Environmental Protection, in terms of an overview if you want to make a presentation, and then we will proceed with some questions.

GERALD P. NICHOLLS: Good morning. My name is Gerald Nicholls. I am the Director of the Division of

Environmental Safety, Health, and Analytical Programs for the Department of Environmental Protection. With me is Bob Van Fossen, who is the Assistant Director for Emergency Response.

I would like to address the framework we have for right to know and TCPA to address the issues at Lodi and Hackensack. Bob will describe emergency response actions that were taken in regard to these incidents.

I would like to thank the Committee for the opportunity to discuss DEP's role in workplace and community safety. There are several Federal and State statutes that address workplace and community safety. At the Federal level, the Occupational Safety and Health Act is directed specifically at workplace safety. The Emergency Planning and Community Right to Know Act requires emergency response planning and the dissemination of information concerning chemical inventories and the releases of toxic chemicals. Finally, under the Clean Air Act, EPA is mandated to create an Accidental Release Prevention Program that will protect the environment and the public from accidental releases of harmful chemicals.

At the State level, we have the Worker and Community Right to Know Act implemented by the Departments of Labor, Health, and Environmental Protection, and the Toxic Catastrophe Prevention Act implemented by the Department of Environmental Protection.

DEP's implementation of the community right to know portion of the Worker and Community Right to Know Act also implements and enhances the Federal Right to Know Program. Also, we anticipate that our TCPA Program will receive delegation of authority from EPA to implement EPA's Accidental Release Prevention Program. The TCPA Program, while designed for community safety, closely parallels the OSHA process safety management rules adopted by OSHA to protect workers.

I would now like to describe the DEP programs and examine their relationship to the tragic incidents that happened in Hackensack and Lodi.

DEP's Community Right to Know Program collects and disseminates chemical inventory and release information reported by private sector businesses. The Community Right to Know Survey is mailed to those 32,000 businesses that have standard industrial classification codes identified in the statute. The survey information is collected and sent by the regulated facility directly to local emergency response agencies -- the police department, the fire department, and local emergency planning committees. This information is transmitted to these agencies for local emergency planning purposes. It is also transmitted to DEP, where it is computerized and disseminated to any interested party requesting the information. Anyone may request the information from us, or may dial into our computerized database and obtain the information directly.

The reporting of chemical inventories present at a facility cannot prevent all accidents. Rather, the primary purpose of such reporting is to alert the local emergency response agencies about specific hazardous materials in their community, for which they should preplan their response to incidents of such facilities.

As stipulated in the Right to Know Act, the standard industrial classification code of a facility determines whether or not a facility is regulated under Right to Know. In the case of the warehouse in Hackensack it was not regulated, as the SIC codes for warehouses are not included in the statute. With regard to the incident in Lodi, that facility is regulated by Right to Know, and had submitted its 1994 survey.

The Department's Right to Know Program surveys chemical inventories for approximately 850 chemicals, with a threshold for reporting of 500 pounds. The Department also collects the chemical inventory data required by the Federal Right to Know Program. The Federal Program requires the reporting of some 360 chemicals at a 500-pound or less

threshold, and the reporting of all OSHA-designated hazardous substances at 10,000 pounds. It is estimated that some 500,000 substances are reported under the Federal Program.

As you are probably aware, Governor Whitman has asked the Commissioners of Health, Labor, and Environmental Protection to review the issue of how many substances should be reported pursuant to the State Program, and at what threshold they should be reported. Should this review determine that there is a need for legislative changes, we will certainly seek your assistance.

The New Jersey TCPA Program is the first program of its type in the country. It was created following the tragedy at Bophal, India. It was designed to regulate facilities that handle or store substances which, if released, could cause immediate death or permanent disabling injury at the fence line of the facility. The Program requires facilities to identify the hazards and risks associated with the use of extraordinarily hazardous substances, and then requires the facility to prepare a Risk Management Program that details how these risks can be effectively managed and reduced. The Risk Management Program includes: standard operating procedures, preventive maintenance procedures, operator training, accident investigation procedures, emergency response training, safety reviews of the facility, hazard analysis and risk assessment for extraordinarily hazardous substances, and equipment and procedures for self-audit.

The TCPA Program currently regulates some 115 facilities in New Jersey -- chemical plants, potable and wastewater treatment plants, and cold storage warehouses -- that use or store any of the 104 extraordinarily hazardous substances in quantities and concentrations established pursuant to the Act.

Initially, some 650 New Jersey facilities were regulated. However, most of them decided to reduce their

inventory of hazardous substances to below the threshold quantity, reduce the concentration of hazardous substance, or switch to a less hazardous substance or process. This resulted in New Jersey being a safer place in which to work and live.

Consistent with the implementation of the Federal Clean Air Act, the Department will propose to expand the list of regulated substances to include all the chemicals listed in EPA's Accident Release Prevention Program rules. Additional toxics will be added, along with flammables and explosives. Thus, the most highly toxic flammable and explosive chemicals that could pose a threat to a community will be included.

The current Program did not regulate either the Hackensack Warehouse or the Lodi Chemical Plant, because neither facility stored extraordinarily hazardous substances in the quantities or concentrations covered by the rules. The future list may add as many as 600 facilities to the Program. However, as we have seen previously, we believe that many facilities will take risk reduction measures such as reducing quantities and concentrations or substituting less hazardous materials to avoid the regulatory process.

The issue of additional facilities and additional reporting requirements becomes critical when assessing the resources required to implement these programs versus the predicted result of list expansion.

For the past five years, the budgets of these two Programs have remained fairly constant. Increased costs due to higher salaries have been offset by the reduction of operating costs through extensive computerization and right to know, and through staff reductions in TCPA, as the number of regulated facilities declined.

Beginning in Fiscal Year 1996, the two bureaus that separately implement the right to know and TCPA Programs will be consolidated to further achieve efficiency. Any additional requirements placed on the Right to Know Program will require a

reallocation of existing resources. The Right to Know Programs in DEP, Labor, and DOH are funded by the Right to Know Trust Fund, payments to which are made by New Jersey industries. Additional requirements imposed on the Right to Know Programs cannot be funded through the existing Trust Fund revenues.

While the Right to Know and TCPA Programs are directly concerned with protecting the community, much of that protection only occurs if the worker himself, or herself, has been protected. OSHA preempts the State with regard to workers' health and safety in the private sector. A ruling by the U.S. Third District Court of Appeals clearly reinforced that in its response to a right to know workplace issue lawsuit. However, the Department will continue to work with OSHA and the EPA to foster community safety through workplace safety.

For example, OSHA and EPA are investigating the tragic accident at Lodi. A member of our TCPA staff is working in support of this investigation. When the results of that investigation are in hand, we will review all of the Federal and State reporting requirements in cooperation with the Departments of Health and Labor, and take whatever actions are shown to be necessary to protect public health and the environment.

Again, we appreciate the interest of the Committee in our programs, and this opportunity to testify.

I would now like Mr. Van Fossen to address the specific emergency response at Lodi and Hackensack.

R O B E R T V A N F O S S E N: I will just change spots with you, Gerry.

Good morning. I am Bob Van Fossen. I am Assistant Director of the Discharge Response Element, and also the Emergency Response Coordinator for the Department of Environmental Protection. I want to thank the Committee for the opportunity to discuss the Department's role in industrial

accidents which involve hazardous waste and contaminants. Today, I would like to specifically address the Emergency Response role, specifically with respect to the Hackensack Warehouse fire, and also with respect to Napp Chemical.

Before I go into that, let me just give you a little background on Emergency Response within the Department of Environmental Protection. When in an emergency situation, the goal of Emergency Response is to protect human health and the environment to mitigate any off-site and on-site exposure of contaminants that may come about from the incident. Examples of this are the fire such as at Napp Chemical and in the Hackensack warehouse explosions, oil spills, leaking drums, or chemical accidents.

The Bureau itself has 14 full-time responders who are on call 24 hours a day, seven days a week. The Emergency Response Coordinator acts as the Commissioner's delegate. What the Coordinator does is-- He has the ability to reassign resources within the Department to respond to emergencies, much like what happened at Napp Chemical, and I will talk about that in a few minutes.

Also, we coordinate very closely with other government and department staff -- EPA, the Coast Guard, counties. We also participate as a member of the Office of Emergency Management, OEM, if you will.

The counties also play a critical part with Department and Emergency Response. They act as an arm of the Department. Under the County Environmental Health Act, CEHA, if you will, counties provide additional support, knowledge, and resources in emergencies such as Napp Chemical. This is crucial, because very often they are part of the community, they are closer to respond, and they understand or have knowledge of the area where the incident may occur.

The role of Emergency Response in incidents like Lodi or the Hackensack fire comes in two phases. One is the

prephase, and the other role is during the incident itself. The prephase is very simple. We participate in training and a lot of outreach. That is with other departments, counties, with the locals, the fire officials. We work with them weekly, daily, and have training sessions with them, so we know how to react, so everybody knows how to react in an emergency situation or incident.

We also review the local environmental committee hazmat plans that each county has, each town has. What that does is, it addresses what to do in the case of a large-scale emergency or incident.

During the emergency, Emergency Response acts as a member of the unified command. As you all know, New Jersey is a home rule State. That essentially means that the local-- The person probably with the most hazmat experience could be the fire chief, or it could be another official, and he is in charge at the site. Emergency Response is a member of the Unified Command. Basically, the Unified Command is the management structure set up to deal with, or to manage the incident. The Unified Command is usually comprised of county reps, police officials, fire, State reps, and Federal reps. Again, their goal is to supply guidance, give oversight to the incident, technical support, and, real important, ensure communications. That, as we all know, is not an easy task, especially in a large incident such as Napp Chemical.

During the fire at Napp Chemical, or the incident at Napp Chemical, specifically Emergency Response functions were: to inventory materials at the site, so we would know what we were dealing with out there; identify the products of combustion -- and that will come into play with an air sampling, which I will talk about in a couple of minutes; conduct air, water, and soil sampling; recommend levels of personal protection to the people in the Unified Command so that word can get out on what we are dealing with, and what

they should be wearing as protection; advise the municipalities, counties, and State and local officials of possible public health effects; arrange support for the Command; set up meetings, briefings, debriefings; determine the cleanup levels after the fire is out, after the incident is done. If there is contamination there, what should be done? How should it be cleaned up, and at what level should it be cleaned up?

Coordinate the air, water, and soil samplings, which could be a massive undertaking; notify local hospitals, so they know what may be coming to them as a result of this incident. And, most importantly, minimize the off-site impact from this accident, from this incident. For instance, in Lodi, at the Napp fire, we instructed to have the fire water-- Instead of having it run off into the river behind, have it caught and capsulated, which we did. Then we could keep it from doing further damage to the stream or the river.

Also, at Hackensack what we did was: We neutralized the runoff so we reduced the acid that was coming off in the fire runoff.

After the emergency, such as Napp Chemical, we are there to provide oversight for the cleanup of any contamination that may be there. We have a person on-site every day as the cleanup goes on. We assure that the cleanup is done properly and effectively. We are continuing the air monitoring daily at Napp Chemical.

The assessments in the short- and long-term of the impacts of Napp Chemical -- and this was mentioned earlier -- we break that into three areas: soil, water, and air. The water in the Saddle River was initially contaminated with high levels of phenol from the water runoff from the fire. Phenol is toxic to fish. That is what caused the fish kill. Approximately 1500 fish were killed. Phenol also increases the biochemical oxygen demand in the stream, which creates a need

for oxygen. The fish could not get enough oxygen, and that also helped to create the fish kill. As I said, roughly 1500 fish were killed, mostly carps and eels.

Long-term effects: Water samples were taken four days after the incident. No phenol contamination in the river at that point in time. Sediment samples along the banks indicate that the stream is recovering. Recent tours indicate that there are fish in the stream.

The soil sample analyses: Again, with the soils what we did was, we used a lot of the information the date of the incident and the fire. We used protocols based on the air modeling and also on the weather conditions that were at the site at the time of the fire. We use that information, and we go back out and we sample the areas -- the soils in the areas where we feel it may be -- where the potential for contamination is the greatest. Based on that, we went out and did samplings, and we found no high levels of contamination in the areas we sampled.

Short-term with the air monitoring: Air monitoring began within an hour of the fire. Monitoring continues today. The initial sampling was for nitrogen, sulfur compounds, and acid gases. That comes into play back when I talked about things we do when we get on-site. We analyze for what we believe may be the compounds resulting from the fire. We sample for these compounds. Approximately 300 samples were taken during the fire for the air.

Long-term: The fire is extinguished. A meteorological station has been installed behind Napp Chemical, or what is left of it. Samples are taken twice a day for four hours. We have a sample taken upwind, and a sample taken downwind, so we know what is coming onto the site and what is leaving the site. There has been minimal detection above background, as has been detected from the daily sampling.

The public health effect: As we know, 41 people were hospitalized from the initial fire and explosion; four from injuries from the fire, and the rest suffering from minor eye and throat irritation. Fifty-eight people were examined the first day at Emergency Response Stations set up at the site.

Long-term: The Hackensack Medical Center has set up and continues to staff a hot line number that people can call if they believe they have been impacted by anything that has happened due to the incident.

Tomorrow, May 24, is the preliminary meeting of health officials. The health officials are comprised of State, Federal, local, county, and Hackensack medical professionals. They will be reviewing the data, interpreting the data, and seeing if there are any acute or chronic effects resulting from the incident and the fire. That information will be presented to the public within a few weeks.

Again, I want to thank the Committee for having me present the Emergency Response aspect of it. Thank you.

ASSEMBLYMAN ROMA: Obviously, there are a number of questions. With the people we have here, perhaps some of the others would be more in a position to answer some of them.

From a layperson's standpoint, looking at the Lodi fire-- You mentioned a number of chemicals -- phenol, methanol, isopropyl alcohol, things of that nature -- which we have all become aware of, you know, with daily use. I guess the basic question is-- Even with the OSHA investigation underway, and realizing everything that you are covering, with the basic information we have, with the chemical sodium hydrosulfite, benzaldehyde, and powdered aluminum, and the water introduction, what could have been done that was not done?

The basic information we are getting is in bits and pieces in terms of the introduction of that water. From what I understand as a layperson, that was a very minute amount of

water that allowed this to happen. Would you be in a position to comment?

MR. VAN FOSSEN: As I understand it, it was a small amount of water. I would not be in a position to comment until after the investigation is done and all the facts are known, because I have heard bits and pieces, a little bit here, a little bit there. I think until the investigation is done, I would not be able to give you a complete, or even a partial answer at all.

ASSEMBLYMAN ROMA: Well, when do we anticipate receipt of the OSHA report?

MR. VAN FOSSEN: I do not know that here today, but I can get back to you and let you know.

ASSEMBLYMAN ROMA: Do we have an approximate time frame?

MR. VAN FOSSEN: No, we do not. I know it is within a couple of weeks, but I do not know the exact-- I would rather get back to you on that, sir.

ASSEMBLYMAN ROMA: If you would. Perhaps a follow-up hearing would be in order when we have that information. I would like to put all the pieces of the picture together.

No doubt you have heard about the memo that has been circulated widely. From what you were telling me, and I refer to the Nagy memo -- and much information has been reported about it -- officially, it would seem that much of what you covered in your testimony were many of the steps that were outlined in the memo, or at least you seemed to be moving in that direction. Have you had a chance to review that memo?

MR. VAN FOSSEN: Gerry will comment on that.

ASSEMBLYMAN ROMA: Mr. Nicholls, you are familiar with the memo I referred to?

MR. NICHOLLS: Yes. I participated in writing the memo. I have with me today Alan Edwards, who also participated in writing the memo.

The memo was to Commissioner Shinn from Assistant Commissioner Nagy. It was to brief him on the actions that the TCPA Program was taking with regard to implementation of Section 112(R) of the Clean Air Act. This is the section of the Clean Air Act that mandates a Federal TCPA-like program. In fact, that Federal program, we believe, is modeled after the New Jersey Program.

The memo covered the information-- It was dated, I believe, in July '94, and it covered the information that was available to us at that time. Subsequent to the writing of that memo, a number of things happened.

1) We found some flaws in the regulations that we were about to propose; and

2) EPA changed its process of putting the items on the list, and the requirements for emergency planning. They went from a very rigorous model to a less rigorous model.

The TCPA Program has continued to comment on these issues with EPA. Most recently, we sent down about 60 pages or so to Washington. We still have some concerns. I think the point of your question is, if that memo were to have been operational at the time the Lodi explosion and fire occurred, would it have changed anything?

To the best of our knowledge at the present time, the facility is not a TCPA facility; does not have the materials or the concentrations that would be necessary to put it in that regulatory Program. When the 112(R) section of the Clean Air Act becomes operational, which is not until 1999 or perhaps even the year 2000, it is still questionable as to whether or not the Lodi facility would fall under that section of the Clean Air Act, because not all of the details have been worked out.

The TCPA Program continues to work on the revisions to the regulations, and as soon as we have a firm ground on which to propose them, we will.

ASSEMBLYMAN ROMA: This is a different question. We heard different types of reports. Again, this is not intended to point blame, but, obviously, when trends develop with a particular company, we like to have the full background.

Napp Chemical, or predecessor firms-- Apparently, there had been some history of noncompliance with State laws and regulations.

MR. NICHOLLS: In terms of the Right to Know Program, Napp Chemical complied with the Right to Know Program. I don't know of other programs that it may not have complied with.

ASSEMBLYMAN ROMA: Well, let me give you an idea. Again, until the OSHA study is completed, we will not have all of the information, but it is important that we have a starting point in terms of getting the information together. But it is my understanding, and it could be incorrect, that going back to 1988, Napp was fined for altering an air pollution control system in September of 1992. The company was fined \$1800 for installing unapproved equipment.

On October 14, 1994, the company was fined \$9400 for a name change. This points out some of the difficulties we have with some regulations. We want to look at those regulations that are necessary for safety. Apparently, there was a fine for failure to properly change the name.

Then we get into other areas, altering equipment without permission, and using chemicals in a dryer that were not on a dryer permit. Apparently, Napp was fined \$15,000 for failure to pressure test storage tanks. I understand that fine has not been paid. I know there are certain types of appeal procedures. Is there some history of noncompliance? What type of regulations were not followed?

MR. NICHOLLS: The types of violations you are describing fall under the Air Pollution Control Program.

ASSEMBLYMAN ROMA: When I ask a question in terms of regulations-- We have a system of laws, and whether it falls

under one area or another, the general jurisdiction would come through your Department. So, what I am asking is: What type of noncompliance have we had with any of the programs that were in place?

MR. NICHOLLS: I don't have a concise answer for that. I am aware that there were some violations of Air Pollution Control Permits. I will get a complete listing of the violations and the actions the Department has taken to date on each of them, and will forward that to you this week, if at all possible.

ASSEMBLYMAN ROMA: I have a number of other questions, but in fairness to the other members, I will move over to Assemblyman Smith, and then we will go back and forth.

ASSEMBLYMAN SMITH: Mr. Nicholls, in the recent past, the number of listed chemicals under Right to Know have been dramatically reduced. Is that correct?

MR. NICHOLLS: The number has been reduced from approximately 3200 to about 1000.

ASSEMBLYMAN SMITH: When did that occur?

MR. NICHOLLS: It became effective with the current reporting year for Right to Know. The reports are due in to us-- The survey forms are due in to us on March 1. So, it became effective with the reporting year for 1994.

ASSEMBLYMAN SMITH: Right. When did the regulations change?

MR. NICHOLLS: To be honest with you, I forget the date, but it was -- July of '94.

ASSEMBLYMAN SMITH: Okay. The reduction in the number of listed substances was a regulatory proposal of the DEP.

MR. NICHOLLS: That is correct.

ASSEMBLYMAN SMITH: Why did DEP suggest that the number of chemicals should be reduced? What was the rationale for that?

MR. NICHOLLS: There were several reasons. One, we had been criticized for quite some time that people were reporting inconsequential amounts of hazardous substances. A pound of a material on a laboratory shelf that would be used in analytical chemistry was treated the same as 10,000 pounds of that same chemical in a storage vat at the fence line of the facility, whereas, the hazards posed by those two different quantities were significantly different.

ASSEMBLYMAN SMITH: Were any of the deleted chemicals on the list of deleted chemicals under Right to Know, chemicals that were involved in the explosion at Lodi?

MR. NICHOLLS: There were three chemicals that were involved. One was on the original Right to Know list, the aluminum powder, and that remains on the list. The other two substances -- sodium hydrosulfite and benzaldehyde -- were taken off the list.

ASSEMBLYMAN SMITH: Okay. Did you indicate in your earlier testimony that there was a benefit to the Right to Know law that when companies are required to do reporting on these toxic and hazardous substances that they, as one response to that regulation, look for less toxic and less hazardous substances to use in their processes?

MR. NICHOLLS: Yes, I said that with regard to the TPCA Program.

ASSEMBLYMAN SMITH: Okay. This is hypothetical: Isn't it a shame that perhaps at least those two chemicals were not continued on the list, and perhaps at Lodi one of the alternatives there may have been that the people in charge may have decided to use a less toxic or less hazardous alternative? I mean, it seems to me that the reduction in the number of chemicals on the list-- I mean, besides the paperwork, which nobody is in favor of, a chief advantage to the Toxic Catastrophe Prevention Act which, as you know, is a Byron Baer -- Senator Baer -- when he was an Assemblyman it was

his legislation-- One of the advantages to that is that you are getting chemical companies to use less toxic and less hazardous materials.

While it is absolutely conjecture, one of the shames here with at least those two chemicals being removed from the list, is that perhaps management may have decided to use a less hazardous alternative, had they been continued on the list. I wonder if DEP-- You indicated in your testimony that DEP is looking at that list again. All right. If you had it to do over again, would you have reduced the list to 850 chemicals?

MR. NICHOLLS: At the present time, without the results of the OSHA and EPA investigation, we have no information to suggest that anything would have been any different at Lodi, given those materials on the list or off the list. We are awaiting the results of the investigation. Once that investigation has been completed, we will certainly take a very hard look at what materials there are.

But the central point of your question -- of your comment and question -- I think, is that the TCPA Program has been successful in getting these less hazardous substances used. The Right to Know Program, on the other hand, has not had that kind of an effect. The reason is that it is just an inventory program. It is not a program directed at risk management within a facility.

ASSEMBLYMAN SMITH: Right. While you mentioned that there are two different pieces of legislation, you might even go further and say there is a third, that being pollution prevention. Under the legislation that is currently in effect but is about to be changed, legislation on the Governor's desk-- It had as a goal reducing or minimizing the use of toxic and hazardous substances. That particular goal of the Act has been ripped out of the pollution prevention law, so there is this overall theme in State government, it appears to me as a legislator, that the protections for worker safety, or

even the goal of worker safety, in all of these laws -- all three of them -- by reducing the size of the list, by taking away the goal of reducing toxic and hazardous substances in the workplace as a goal of our laws, that we are, in effect, sending a message to industry that that really is not an important objective; that, whatever you want to do is fine.

As a matter of fact, the Chairman referred to the Nagy memo of July 29, 1994, which refers to the TCPA. Mr. Nagy makes the point -- I thought it was brutal -- a direct quote, wherein New Jersey was reducing its thresholds to the Federal standards. We had higher thresholds. In evaluating it, Mr. Nagy said, "However, the increases made by EPA on adoption were so large, averaging some 18 times the TCPA values with 33 of the 60 substances common to both lists assigned from 5 to 167 times corresponding TCPA values, that they are not technically justifiable in an area as densely populated as New Jersey, where substances are generally handled on small sites, and would correlate with a significant increase in the number of potential fatalities."

Mr. Nagy is a prophet. Do you have a response to that?

MR. NICHOLLS: Mr. Nagy's comments dealt with those extraordinarily hazardous substances that are covered under TCPA. TCPA is designed to protect people in the community, as opposed to the workplace.

ASSEMBLYMAN SMITH: You rank within the DEP is Assistant Commissioner?

MR. NICHOLLS: No, I am a Director, sir.

ASSEMBLYMAN SMITH: You're a Director. Are you feeling any-- Obviously, there is a change in policy in the way DEP is approaching industry in the State of New Jersey. We are now in an age of being business-friendly. Is your Department feeling any pressure to reduce the degree of enforcement--

ASSEMBLYMAN ROMA: Let me suggest just a general overall theme. While I appreciate some of the comments that are being made, in terms of legislation, there are two Committees. We are looking at a variety of issues here in the Labor, Business and Industry Committee, but there is also Policy and Rules, which is covering various bills, such as Right to Know. I think sometimes the information we are trying to elicit might be better asked with some of the questions that you have covered already, in terms of information about the chemicals. I think it is proper to ask the direction of DEP, but some of what we are moving into-- I am not quite sure what you intend to elicit from this witness, given the parameters of what he has testified to.

We have a number of witnesses here from various departments. I am not sure if the question is being posed in the correct form or to the proper person.

ASSEMBLYMAN SMITH: Well, it would seem to me that if Mr. Nicholls is the person who is responsible for the Environmental Safety Programs, especially at workplaces in New Jersey, that he is probably the right person.

ASSEMBLYMAN ROMA: Yes, but Mr. Nicholls is carrying out what is statutory authority, what is basically given to him by the Legislature.

ASSEMBLYMAN SMITH: Right. Well, no, actually, that is not true. The reduction in the list from 3000 to 850 was a regulatory decision of the DEP. That reduction resulted in two of the three chemicals that were involved in the explosion being taken off the list.

You do not have to take responsibility for that, Assemblyman Roma, nor do I. I did not vote to do that. In fact, I voted for Assemblyman Baer's bill that provided these protections. I did not vote for the regulation to reduce the list of chemicals, which, theoretically-- I mean, I have asked a hypothetical question: If, perhaps, those chemicals were on

the list, perhaps if this Division had greater support, greater authority, perhaps this thing might not have happened. But the bottom line is, it was not legislation that did it, it was regulation.

ASSEMBLYMAN ROMA: You may want to revise that question. I don't know if Mr. Nicholls had the authority to do exactly what you are asking.

ASSEMBLYMAN SMITH: Mr. Nicholls, how long have you been with the Department?

MR. NICHOLLS: I have been with the Department for 14 years.

ASSEMBLYMAN SMITH: All right. Have you been in this area of the Department for some portion of those 14 years?

MR. NICHOLLS: Yes. I have been in my present position for four years.

ASSEMBLYMAN SMITH: Okay. During that four years, the reduction in the list occurred under your tenure?

MR. NICHOLLS: That is correct.

ASSEMBLYMAN SMITH: Did you have input on that decision?

MR. NICHOLLS: Yes, I did.

ASSEMBLYMAN SMITH: Okay. Did you, unilaterally and as head of the Division, come up with the suggestion to reduce the list of substances on the Right to Know list, or was that a policy directive sent to you from some other portion of the Department?

MR. NICHOLLS: The redevelopment of the list, the changing of the list, arose within the Bureau of Hazardous Substances Information, came through the Assistant Director for Release Prevention, and to me. I approved both of their actions and moved it up to the Assistant Commissioner level and to the Commissioner level. It was promulgated as a rule under a New Jersey Administrative Code.

ASSEMBLYMAN SMITH: Okay. Why did you feel comfortable with that? Why did you endorse that decision?

MR. NICHOLLS: We had received many reports from both our own emergency responders and emergency responders in the field that the listings they had received were ineffective, because they were so lengthy and did not tend to focus hazard. The primary reason was to reduce the list so as to focus on the most toxic, the most hazardous substances. At the same time, we instituted a computer database so that this information would be available on-line to emergency responders, citizens of the State, and consultants, in an effort to get the best possible information with the greatest focus to the greatest number of people.

ASSEMBLYMAN SMITH: In light of this recent history, are you still happy with that decision?

MR. NICHOLLS: I think the decision was a sound one.

ASSEMBLYMAN SMITH: You still confirm, affirm, and believe it was the correct decision, and you want to see it continue in that form?

MR. NICHOLLS: Until we have the results of the investigation and we know exactly what happened, our information is that whether or not those substances were on the list would not have made any difference. We are awaiting the results of the investigation, and we will certainly look at that. If it appears that adding substances to the list is the appropriate thing to do, we will certainly do that.

ASSEMBLYMAN SMITH: Will the results of that investigation be shared with the Legislature?

MR. NICHOLLS: It will be an OSHA and EPA document. It will be open to anyone.

ASSEMBLYMAN SMITH: So you are not conducting the investigation?

MR. NICHOLLS: No. I do have one person from the TCPA Program acting in support of that, providing some advice and

information, but we are not the agency conducting the investigation, sir.

ASSEMBLYMAN SMITH: Thank you.

That is all for the moment, Mr. Chairman.

ASSEMBLYMAN ROMA: Assemblywoman Weinberg?

ASSEMBLYWOMAN WEINBERG: I actually have some questions of the gentleman who testified about the Emergency Response role.

You talked about your training component.

MR. VAN FOSSEN: Yes?

ASSEMBLYWOMAN WEINBERG: How big a training staff do you have?

MR. VAN FOSSEN: All of our responders train, and also we participate with the Office of Emergency Management, which takes advantage of State Police, fire, and county officials. So, all told, you have a very large pool of people who participate in training and give training.

ASSEMBLYWOMAN WEINBERG: Are they responsible for training the private industry workers?

MR. VAN FOSSEN: They are not responsible, but they provide the accessibility for that training to local fire, and also county and State.

ASSEMBLYWOMAN WEINBERG: You talked about the soil samples you took along the Saddle River after the Lodi fire, and you said that the banks are recovering.

MR. VAN FOSSEN: Yes, ma'am.

ASSEMBLYWOMAN WEINBERG: What does recovering mean? Does that have some time element involved?

MR. VAN FOSSEN: When I speak to "recovering," I speak to the fact that we are starting to see fish come back into the river and vegetation is starting to appear in the river again. The samples we have taken indicate that there are no levels of contamination from the fire or the incident at Napp Chemical.

ASSEMBLYWOMAN WEINBERG: You did not talk about any similar study in terms of the Hackensack fire.

MR. VAN FOSSEN: Water samples we have taken due to the Hackensack incident indicate no levels of contamination in the Hackensack River.

ASSEMBLYWOMAN WEINBERG: Has the Department fined anybody in either of these incidences?

MR. VAN FOSSEN: The Department has not fined anybody in these incidences at this point in time.

ASSEMBLYWOMAN WEINBERG: Is that awaiting some action?

MR. VAN FOSSEN: Well, with the Napp incident, again, we are waiting for the investigation from OSHA and EPA. With the Hackensack incident, nothing is planned for that. Again, the first goal of the Department is to get the incident resolved and get the contamination cleaned up; work on that route, and then if fines or penalties are warranted down the road, then we look at that. But in these two instances, I cannot say that we talked about it at this point in time.

ASSEMBLYWOMAN WEINBERG: So you are not sure whether fines or penalties are warranted in terms of Hackensack?

MR. VAN FOSSEN: There are no plans at all for Hackensack. For Napp Chemical, we are waiting for the investigation, to see what that bears.

ASSEMBLYWOMAN WEINBERG: Why are there no plans at all for Hackensack?

MR. VAN FOSSEN: Because with the Hackensack fire, the chemicals that were released into the river were neutralized. The responsible party acted quickly, at our direction, to neutralize the chemicals that did go into the river. So, at this point in time, there is no reason to-- They are working to clean it up, and there is no reason to assess a fine or a penalty at this point in time, with the responsible party moving along and getting the cleanup done.

ASSEMBLYWOMAN WEINBERG: You are satisfied that that site is now safe?

MR. VAN FOSSEN: I am satisfied that that site is moving in that direction, yes, ma'am.

ASSEMBLYWOMAN WEINBERG: Well, moving in that direction and safe are--

MR. VAN FOSSEN: As of today, there is some product that is still on-site, which the responsible party is moving to get it off-site. Now, that is product. That is not waste, so there is some economic value for that product. The responsible party is trying to move that product out of there. The last of the waste, or the contamination, I understand -- and we are waiting for a report -- should be out of there today, or the next day. We are waiting for reports on that.

ASSEMBLYWOMAN WEINBERG: The Hackensack fire took place on what date?

MR. VAN FOSSEN: I don't know, but-- (consults with colleague in audience) March 25, I believe.

ASSEMBLYWOMAN WEINBERG: And we are still waiting for the responsible party to move what might be considered unsafe product off that site?

MR. VAN FOSSEN: They have been moving product off-site, but there is still more to be moved off-site, yes, ma'am.

ASSEMBLYWOMAN WEINBERG: Have we given them any kind of a deadline?

MR. VAN FOSSEN: We have given them a directive. I don't have the directive in front of me, but the directive does establish a deadline to get the product and any leftover waste off-site.

ASSEMBLYWOMAN WEINBERG: I just wonder if there is enough of a sense of urgency about cleaning up that site. As you know, it is located in a residential area, and surrounding neighbors are, at the very least, concerned about what is

happening to their products and the safety of themselves and their families. They have backyards, lawns, and so on. I respectfully suggest-- I do not get a sense of urgency about seeing that this site is made as safe as possible very quickly.

MR. VAN FOSSEN: Yes, ma'am, I appreciate their concerns. We feel this site is safe -- the product that is stored there. Any contamination that is there right now is containerized, and we feel it is not a concern. The other structural cleanup from the fire itself should be proceeding, but what is left on there we feel is not a concern. We feel the responsible party is moving quickly to try to get that removed. So, in fact, we do not feel it is a health concern at this point.

ASSEMBLYMAN ROMA: In response to the Assemblywoman's question, obviously, with the reigniting of the fire and the concerns, there really should be a plan in place. I am sure you have the details of that plan. What we would like to know -- if you could report back to the Committee -- is exactly what is being done and what the plan is for resolution of this matter. There have been different reports in the newspapers in terms of fines and deadlines being pushed back and ahead.

We would like a resolution -- period. We would like a blueprint -- period. That information in writing would basically tell us what is being done and, if it is not done, what penalties would be imposed.

We have a number of other people who wish to testify. This is a very important issue, and I don't want to cut off any of the questions. But we did prepare a series of questions. I might give you that information so you can give us responses to what we have. But, additionally, in view of the fact that there is an investigation that is underway with OSHA, we are somewhat curtailed with some of the questions we would like to ask.

What might also be helpful, in terms of agency responsibilities and staff on-site regarding the incidents, is what role they played. Is there a report of the staff actions, some sort of chronology that would make it easier for us to understand what was done? For many of us, other than what we have pieced together, today is our first opportunity to be able to pull together some very important aspects of what occurred, in terms of the analysis of the incidents, all of that information, the criteria being utilized in order to make the area safe for the people in the surrounding area.

There have been many questions. I think that type of information and analysis of what you people are doing, and how they are making that area safe, would be extremely important to this Committee.

I will submit those questions to you and ask for responses, which will allow us to move now to the Department of Health.

ASSEMBLYWOMAN HECK: Mr. Chairman, before you release these gentlemen, may I make a statement and ask some questions? (no response)

Very briefly, I am more aware of the Lodi situation. As you know, my office is just south of that area, and I was aware of that situation just minutes after it occurred. One of the reasons, Mr. Chairman, is, as you know, I am an asthmatic, and I was warned not to go to the site because of the heavy smoke and problems. But our fire chief, our fire prevention chief, our chief of police were in touch with me, because I am part of the Hazmat Team in Hasbrouck Heights, which is the adjoining town. So I had two jobs to do on that particular day, as the Mayor of the Borough of Hasbrouck Heights and as an Assemblywoman. As you know, our office was in touch with EPA, with your staff, and we have been on a continuing basis.

We have had meetings, Mr. Chairman, to show our concern about not only the workplace, which, of course, is very

important-- I am going to interject here. I think it is important for us to look at what in-house support system is given in every workplace. I think we might have to evaluate that. I am looking at that, after listening to this conversation.

I had forgotten, for awhile, that my husband was in a business where very dangerous chemicals were stored and used on a daily basis. The people involved in this business -- the workers -- they were concerned that there may not have been jobs, even in another area. I think that has to be addressed. Sometimes, as Ray Heck would tell you, when you work with dangerous substances on a daily basis, it becomes routine. When you mention the names of those chemicals to someone like me, I become petrified. So the point is, are we looking toward more in-house support systems, in-house training. No matter what the amount of the substance involved is, you can die from some of these things, just by inhaling chlorine gas, if you mix two chemicals even in a small way. I, as a homemaker, know that if I clean tile and mix two chemicals, I can be dead within a matter of seconds. So it is not the amount we are talking about here either. We are also talking about the training of the individuals.

Who is in charge of -- or, who is responsible to make certain that proper procedures are in place? Paperwork is not going to do it. It is going to be the overseer, so to speak, in that particular plant.

So, is there something that you are looking at now, because of these instances, that might preclude this happening again?

MR. VAN FOSSEN: I agree with you. I believe there is a lot of education we need to do, not only for the emergency responders, but also for the people working in a situation like this. There have been initial discussions on how to do that

education. I believe that would be a goal of our Department, along with EPA, OSHA, and other agencies involved; to formulate that type of education and get that out.

ASSEMBLYWOMAN HECK: I think communication is very important here, because my main concern in sitting with you in Trenton was the fact that residents were not receiving enough information; that fear was taking over, and we had to do something about that. I, myself, was being told stories about, "Don't go into the office. You don't know what is in the carpeting, in draperies, etc." I was assured by you when you showed me all of the overviews and the day-by-day precautions that you have taken that, indeed, if there is a fear within one's self, even though you found no toxic substances, that a good spring cleaning would be in order to alleviate any of that if, indeed, it did exist.

Again, we have been working in our office with no problem. But I think the people across the street and around the corner-- The winds were not going south, as I recall the reports. They were going west and north of that particular explosion and fire. I believe you have taken some steps, as we discussed. I know you put an ad in the paper, and I think you were going to send out flyers. Flyers are available at the municipal building. Are you going to continue communicating with those people, because the residents are very concerned?

The Chairman has told me that he is very concerned about the people who are suffering loss of dollars because their businesses have been inactive since April 21; that they have not been allowed to go in to see what, if any, damage has been done. There is something going on here that we must expedite, and that is: What is the future of this area? We know that Napp Chemical will not be able to build again. Just behind that, I believe, is another big chemical company. Am I correct?

MR. VAN FOSSEN: Next door to it, to the right of it.

ASSEMBLYWOMAN HECK: Next door. So the point is, perhaps we should be looking at what precautions should be taken here, too, because, again, the fear of the residents is such that whatever was lacking at Napp, if, indeed, there was something lacking, and it may be just a simple thing as important as education, that that be looked at at the other company as well, because fear has taken over. We are getting a lot of people who have been becoming ill because of the conversations that are going on. "I can't breathe properly." Now that we are reaching this point of hot air, warm weather, we are going to have odors emitting from that fire. I mean, that's normal, but by the same token, I think it is going to create a very frightening situation for the residents.

The Chairman is certainly correct in precipitating this kind of a meeting, so that we can communicate to those people. Is there something they should be fearful of now that the weather is changing, or is there not something? I mean, should they be taking extra precautions if it is a hot, humid day, or if it is a foggy day? These are things I think you have to address now. It is not winter where the windows will be closed. They will be open.

MR. VAN FOSSEN: I agree with you, on the communication issue especailly, I believe. From meetings you have had with us, getting the flyers out, getting the word out in the newspaper for people to see and actually hear what the Department is saying, is critical. We will continue to do that.

ASSEMBLYWOMAN HECK: Might I suggest, in keeping with what the Chairman and I have discussed, that you perhaps hold a public meeting for the residents of the area? I know you are going to hold a meeting with the health officers. Am I correct?

MR. VAN FOSSEN: Yes, ma'am. Then, once we have gotten the analysis back, and we have gotten the recommendations from the health officials, the next move was to have a public hearing.

ASSEMBLYWOMAN HECK: You are also going to have a meeting with all of the firefighters and the personnel who were on-site, so they can communicate to you some of their concerns?

MR. VAN FOSSEN: We had an initial meeting three Friday nights ago, I believe, to do that.

ASSEMBLYWOMAN HECK: Has that been helpful?

MR. VAN FOSSEN: Yes, ma'am, it was very helpful to hear what some of the complaints were and to find out maybe what happened on-site from firsthand accounts. I believe there were approximately 80 to 90 people there, mostly first responders from the fire department.

ASSEMBLYWOMAN HECK: We have a couple of them here today.

MR. VAN FOSSEN: So it was very beneficial, yes, ma'am.

ASSEMBLYWOMAN HECK: If you could keep the Chairman advised -- I think it would be appropriate that we understand the situation -- on a routine basis, please?

MR. VAN FOSSEN: Yes, ma'am, that will happen.

ASSEMBLYWOMAN HECK: Thank you very much.

Thank you, Mr. Chairman.

ASSEMBLYMAN ROMA: Thank you, Assemblywoman.

In order to move the hearing along, I have suggested that we will submit written questions, some of which we have asked. I understand the difficulty of not having the OSHA reports, so some of the information might not be available. But it is the best way to get information together. We are going to submit those questions to you, and we suggest a period of two to three weeks for you to get that information back to us. We would also like to follow up with OSHA to find out what is being done. Hopefully, if we can schedule another hearing, we can get a representative to give us a status report.

One of the items, in looking over the news clippings-- We have not only questions about the Lodi fire, but I guess with the Hackensack fire we are talking about a

chemical. Investigators -- and this is according to a news clip -- found that company employees had been hitting bags of chemicals with baseball bats, pinata style, trying to granulate flammable chemicals that had solidified during shipment. I cannot imagine why that would be allowed to occur, whether it is covered by many of the laws we are talking about, or in terms of a comprehensive company policy. But it seems that the company that was going to accept shipment would not accept the shipment if it was not broken up. That does not make any sense.

I believe, you know, that with the information we have here, we should look into it to find out what is being done. But it points out that if it is being done in one place, it may be done in other locations. We really should be looking at some sort of workplace safety training, finding out what is being done. I would hate to think that with all of the safety programs that we have put into place, the time and energy we have devoted, both Republicans and Democrats working together for different programs, that we would have a situation where, because we didn't have the workplace safety training, that we read about some situation in some other county where someone picks up a bat and is hitting a sulfite, or whatever the chemicals might be-- It gets disbursed into the air, and we have another fire.

There has to be some thread of consistency here, that we should look into these various matters and have more workplace safety, more training. As the Assemblywoman pointed out, it is extremely important that everybody is on the same wavelength.

I am going to ask you, with those questions, to put them together and to get them back to the Committee. Hopefully, we will be in a better position to continue that aspect.

Will you be around for the balance of the hearing in case there are some questions that come up?

MR. VAN FOSSEN: Yes, sir.

ASSEMBLYMAN ROMA: Which now allows us to shift to the Department of Health, Dr. Elin Gursky. Good afternoon.

S E N I O R A S S T. C O M M. E L I N G U R S K Y:
Good afternoon, Mr. Chairman.

Honorable Committee members, Senator, I am Dr. Elin Gursky, Senior Assistant Commissioner in the Department of Health.

ASSEMBLYMAN ROMA: I am sure your statement is going to take into account the question I am going to ask you, but it is the same jurisdiction issue in terms of Lodi and Hackensack with respect to the safety and health of the employees of the facility, the emergency personnel, much the same as we asked of DEP. But in terms of going over that, if you could similarly address those issues of jurisdiction, what was done, and the interrelationship of the Departments, that would be appreciated.

Please proceed.

SENIOR ASST. COMM. GURSKY: Thank you. I have some prepared comments. With respect to your time and the agenda here, I will attempt to be brief and answer all of your questions.

First of all, the Department of Health would like to thank you and the members of this Committee for this opportunity, especially you, Assemblyman Roma, for your sponsorship and support of the amended Public Employees Occupational Safety and Health Act -- PEOSH. This amended Act, when passed by the Senate and signed by the Governor, will enhance the potential for the State to obtain approval from the Federal Occupational Safety and Health Administration for a State plan for PEOSH and Federal funding for the PEOSH programs in the Departments of Labor and Health.

You have already heard about the investigations that are taking place and that we are awaiting the OSHA report. Pending the receipt of these reports, we will review the

recommendations and look toward making the appropriate changes, providing guidance for public workplaces and emergency responders.

Regarding the short-term and long-term health impacts associated with the Lodi fire, the Department of Health will be participating on a scientific panel -- which you heard described earlier today -- reviewing the air, water, and soil environmental monitoring data and the medical reports of the fire, police, and EMTs that responded to the incident. As you also heard, this meeting will convene tomorrow.

I would like to describe some of our occupational health activities in the Department of Health. The Occupational Health Service is involved in regulatory activities through the enforcement of the health provisions of the PEOSH Act and the workplace and community provisions of the New Jersey Worker and Community Right to Know Act.

In addition to the regulatory responsibilities, the OHS has established an extensive surveillance system to identify cases of occupational diseases. Through hospital, physician, and laboratory reports, death certificates and hospital discharge records, a system to record and document the number of new cases of occupational disease was initiated in 1985. In addition to identifying individuals with an occupational disease, the Service is involved in intervention action by conducting consultative industrial hygiene investigations at the workplaces where the individual, with an occupational illness, worked and was exposed to the causative agent.

The Department of Health has no jurisdiction regarding the occupational health and safety of the employees in the private sector. In the mid-1970s, the State of New Jersey elected to have Federal jurisdiction over occupational safety and health in the private sector. As a result, the State of New Jersey is specifically preempted by the Federal OSH Act

from enforcing occupational safety and health standards in the private sector workplaces.

The PEOSH Program has the responsibility to implement the Department of Health mandate under the 1984 New Jersey PEOSH Act. This mandate is to develop and enforce occupational health standards for public employees throughout the State and to encourage employers and employees in their efforts to improve the working environment. The Department of Labor is the lead agency for this legislation, and is responsible for enforcing the safety provisions of the law.

Under the PEOSH Act, the Departments of Labor and Health share responsibility for the enforcement of occupational safety and health standards in the public sector. The PEOSH Act covers both paid and volunteer firefighters and first aid squads. The Departments of Labor and Health enforce safety and health standards which directly affect emergency responders. For example, the Firefighter Standard contains provisions for protective clothing; respiratory protection requirements; personal alert safety systems; hearing protection; life/safety rope, harnesses, and hardware; and fire apparatus operation.

The Occupational Health Service has published "Guidelines for the Emergency Management of Firefighters." I would like to show that to you. I have a number of publications we have put together available for you here today.

We have this (holds up booklet), we have "Bloodborne Pathogens," we have "Hazardous Material Regulations," we have a number of publications that have been made available, and we would like to share those with you today.

The PEOSH Program in New Jersey conducts industrial hygiene inspections in response to public employee complaints, referrals from other agencies, high hazard workplaces, and emergencies. Educational seminars and training programs are conducted for public employees. In addition, educational materials -- such as I have shown you -- are distributed across

the State. The seminars and materials discuss methods for reducing occupational health hazards and review the requirements of health standards.

The New Jersey Worker and Community Right to Know Program was designed to protect workers, community residents, and emergency response personnel from exposure to hazardous substances produced, used, and stored in private and public facilities.

Responsibilities for the implementation of the Act are divided among the Department of Health for the workplace and emergency services provisions of the Act; the DEP for community and emergency services provisions of the Act; and the Department of Labor for worker discrimination and collection of Right to Know assessments.

The Federal Hazard Communication Standard has modified the scope and implementation of the New Jersey Worker and Community Right to Know Act. The Hazard Communication Standard provides for the training of private workers about hazardous chemicals and for the labeling of containers with hazard warnings. The implementation of the Hazard Communication Standard in private workplaces preempted New Jersey's requirement for private employers to file a survey with the State Department of Health and provide their workers with training. However, the labeling of containers pursuant to the New Jersey Right to Know law, for the benefit of emergency responders, must be completed in the private sector workplaces covered by the law.

Under the Right to Know Act, all public employees, including emergency responders, who are exposed or potentially exposed to hazardous chemical substances, must receive initial and annual training. I can just discuss briefly the fact that we do work in conjunction with my colleagues here at the table across State agencies to ensure businesses, unions, local

government agencies, and community residents are apprised of these laws and the standards.

We will be continuing to work on the issues we are discussing today and we will review these investigations carefully. We will cooperate with this Committee as you direct.

Thank you.

ASSEMBLYMAN ROMA: Thank you, Doctor.

One point that I think is extremely important. You referenced a PEOSH bill that I sponsored -- it went through the Assembly -- Assemblywoman Heck, I believe, and Assemblywoman Weinberg being cosponsors. I believe it was a matter we took up in the Labor Committee. Our Vice-Chairman, Steve Mikulak, is here. He assisted me with that initiative, as he does with all other matters we have in the Labor Committee. That bill, as I understand it, is in the Senate and has passed out of the Appropriations Committee; also, Regulated Professions and Labor, and is now ready for a Senate vote.

If you would assist us and send on to the Senate President the need in order to have that bill up-- It has been moving along very quickly, and we would like to have that up for a final vote and send it to the Governor's desk. We worked, I think, about six months on that bill. It is an extremely important piece of legislation. If you could assist us, we would appreciate it.

DR. GURSKY: We would be happy to.

Thank you.

ASSEMBLYMAN ROMA: I know we have a series of questions. I am also going to send along the questions that we have prepared, so that you can give us responses. Due to the fact that we are waiting for some other reports, we will take that information, digest it, and distribute it to the Committee.

Questions from the Committee? Assemblywoman Weinberg, did you have a question?

ASSEMBLYWOMAN WEINBERG: No, nothing.

ASSEMBLYMAN ROMA: Assemblyman Smith, did you have some questions?

ASSEMBLYMAN SMITH: No, thank you.

ASSEMBLYMAN ROMA: Assemblywoman Heck?

ASSEMBLYWOMAN HECK: No, thank you.

ASSEMBLYMAN ROMA: Assemblyman Mikulak?

ASSEMBLYMAN MIKULAK: No, thank you.

ASSEMBLYMAN ROMA: Thank you, Dr. Gursky.

We are going to have Len Katz and Tom Drabik, New Jersey Department of Labor.

A S S T. C O M M. L E O N A R D J. K A T Z: Thank you, Mr. Chairman.

Members of the Legislature: I am Lenny Katz. I am Assistant Commissioner for the Division of Workplace Standards in the New Jersey Department of Labor. I appreciate this opportunity to share with you the New Jersey Department of Labor's role in worker safety and health, and what our Response Team in the Department of Labor has done, and is continuing to do to assist the workers from the plant. Tom Drabik will give you a very detailed account of his activities in that regard. If I may, I will start off with, again, our role in worker safety and health.

As my good friends from the Department of Health usually do-- They take care of me pretty good. We work real well together. The Doctor has described the New Jersey Department of Labor's role relative to workers' safety and health in PEOSH fairly well.

In 1965, New Jersey had a Worker Safety and Health Act. It was a comprehensive Act. It was so good that Congress stole it and, in 1970, created OSHA. New Jersey has been a model for a lot of Federal legislation, and our Worker Safety and Health Act was one of those models.

As was indicated, we were thereby preempted, in 1970, and chose not to, in 1975, submit a State plan to enable us to

keep that program. We have, nevertheless, worked very closely with OSHA these last 25 or 30 years. OSHA has, in fact, from the outset, and continues to fund us in the New Jersey Department of Labor to provide what we call an "OSHA On-Site Consultation Program." We have industrial hygienists and safety experts who, at the request of any employer in the State, will come and visit that employer's facility, do an A to Z inspection, and provide that employer with a report, the same as if OSHA had come in and done an enforcement inspection. We do not have enforcement authority. That is why the employers look to us and have us come in. It is a free service. If the employer asks us to look at a specific safety or health hazard in his plant or facility, we will do that. Or, if the employer, as I said, asks us to do an A to Z inspection, we will do that. We will provide the employer with a very detailed report as if OSHA had come in on an enforcement inspection. "Here is where your violations would have been," and, "Here is what you need to do to correct them." We work with the employers to correct any violations that OSHA would have found and to provide safety and health training, if the employer so requests.

The only thing we ask for this free consultative service is that if we find a serious hazard, what OSHA would define as a serious hazard, the employer has to, up-front, agree to correct that hazard in a specific time frame.

I also, as the Department of Health has, would like to thank this Committee and the Chairman for your sponsorship of amendments to PEOSH. We are optimistic, and have been doing everything we can to move that through the Senate, and we will continue to do so. We are optimistic that if and when that bill goes through and our PEOSH Act is amended to satisfy the Federal criteria for a State plan, we will get some more Federal money to enable our Public Employee OSHA Program to be better than what it is today.

We, as OSHA is now-- OSHA has been going through a process of reinventing itself, and one of the areas of reinvention, and one of the areas we would like to explore in our State plan when we get it, is to be more involved in the public sector also, a consultative program. We have had a number of requests from our Public Employee OSHA Advisory Board to provide public employers with a consultative service. If we get this additional funding, we are going to strike out in that area.

As was ably described by the Department of Health, the Department of Labor's role in the Worker Community Right to Know Act is a very simple one: simply to collect the fees that are required under the statute, and to investigate and take action if any public employees are discriminated against and invoking their rights under that Act.

Under our PEOSH Program, as the Department of Health recognized, we have set a standard. Our current PEOSH Act does now, and even with the amendments, enables us to exceed Federal OSHA standards. We have exceeded Federal OSHA standards in a number of areas, and one of those is for our firefighters. We, in 1933 (sic), set a standard for firefighter protection for protective gear, respiratory protection-- I do not want to repeat what the Department of Health identified, but I think that standard is unique throughout the country.

When I mentioned earlier that 1965 legislation that created the New Jersey Worker Safety and Health Act, it was never repealed. It was just preempted, so that is still on the books. One of the pieces of that legislation provided for the establishment of a New Jersey State Industrial Safety Committee. That Committee still exists. It is made up of members from our top corporations in New Jersey. Their safety experts meet with us at least four times a year. We provide training throughout the State with those experts in the private

sector to both public and private sector safety personnel. We have had a number of seminars, which were well-attended, with hundreds of people in different programs. We have had training on electrical hazards, confined spaces, back injuries, and maybe we need one relative to the situation we are here for today.

I will work with the New Jersey State Industrial Safety Committee. As I said, it is the top companies throughout the State and the top safety and health experts. I will sit down with them to see if we can't put on a seminar to address the safety issues that Assemblywoman Heck and the Chairman have asked us to address today.

I will be here to answer any questions. I don't want to cut Tom short, because he has, in fact, been very much involved in the Lodi situation.

THOMAS DRABIK: Thank you.

Mr. Chairman, Assembly members, Senator: My name is Tom Drabik. I am responsible for the New Jersey Department of Labor's Response Team. As opposed to the response we talked about earlier, our response is when there are worker dislocations of any type. When a company is closing or having downsizings of any magnitude, the Department of Labor Response Team goes into action to take those people and provide the services we have available to us, thanks to the Workforce Development Program, the Job Training Partnership Act training, our employment service, various outplacement services, and our Unemployment Insurance Division within the Department-- We take care of the needs of a worker who is being laid off through no fault of his own, obviously, as the Napp Chemical and Causeway people were.

ASSEMBLYMAN ROMA: Mr. Drabik, if I may -- and I do not mean to interrupt you -- each of the employees has been interviewed, processed, if you will, in terms of accessing all of those benefits?

MR. DRABIK: That is correct. As a matter of fact, we had a discussion this morning. Just to put it into perspective, I was on alert the day of the fire. We were in touch with the union and met with those people. Myself and one of my union liaison people met with the workers at the union hall the Tuesday following the Friday fire. We then set up an appointment to come back where we could register them for Unemployment Insurance benefits at the union site, so as not to precipitate them going to one of our local offices. We figured we could do it all at once in a setting that they were used to. They had gone through enough trauma in the last couple of days, so we did that on-site, registered them for Unemployment Insurance benefits, registered them for our various Employment Service services in terms of job search assistance, classes, vocational testing, the various things that were going to lead to a job. We also had the Bergen County Private Industry Council's representative in the room. The Council gets the Job Training Partnership Act from Federal funds through our Department to provide retraining to what we call the "dislocated worker population." Obviously, losing work through no fault of your own makes you an automatic candidate for those funds.

So, yes, we did that all on-site. As I said, there was a discussion this morning. There were some questions about some of the services in the Department that the union members had. We made arrangements just this morning, in the audience, to go back and answer those questions next week for the membership.

ASSEMBLYMAN ROMA: When can the employees expect to start receiving those benefits?

MR. DRABIK: Employees have already started receiving them. We were able to work something out. Now, initially when we went there, that Tuesday, the company-- There was a company representative at the union hall who indicated that the company

had agreed to extend the salaries of the people for a two-week period. Since then, the company has been even more cooperative, and has extended the benefits to the people through July, I understand, or into July, at any rate.

We have made a determination that, in fact, these people, as best as we can determine, will not be on a short-term layoff, although I am making -- and I want to get into that-- We are attempting to get people to get Napp back into operation. But our determination was that they could receive those Unemployment Insurance benefits at this point. As I said, we also registered them for the Employment Service benefits, and indicated to them when we talked to them that they should indicate an interest, those who might want to go to further training to get into other types of work that is available to those individuals at this point.

We have done some of that, although it has been minimal at this point, because people are really interested in seeing if, in fact, Napp is going to go back into operation. You can't lead people into training when they have other plans that they, hopefully, are going to get involved with. They are eligible, obviously, at this point in time. We are working through our Workforce Development Fund, both the individual grants and, of course, trying to work with the company if, in fact, we can find a new location for the company and bring in other equipment. If the individuals need retraining on that new equipment, we have the Workforce Development Funds available for that.

I know one of your questions to Commissioner Calderone was: How are the funds, the grants?" The companies', obviously, are very sparse at this point in time. The individual grants -- the individual training grant portion of our Workforce Development Funds-- We do have some funds available. We have fairly exhausted, until the next fiscal year, our individual grants to companies and to unions for

retraining workers, but we do have some pockets of that money available for these workers. The timing is probably real good in terms of that for another fiscal year.

ASSEMBLYMAN ROMA: Obviously, whenever someone loses his employment, that is a tragedy, but in this case it is a double tragedy.

MR. DRABIK: It really is.

ASSEMBLYMAN ROMA: Whatever you can do to expedite those requests, we would appreciate it.

Is there anything that has not been done that should be done, in terms of the Department of Labor, with accessing benefits?

MR. DRABIK: Not to my knowledge. We have been there. As I said, we will come back again, although I understand it will be just to answer questions. Everything in terms of registration of people for our various services has taken place already. I should mention that we did start a program. We have been working with Napp. There was a dislocation in 1993, so we have been working with that company. We had, prior to the explosion, some ongoing classes through our funding sources in terms of basic literacy and English as a second language, operating at the company site. We have now made arrangements through the union that we are going to continue those classes at the union hall. From what I understand, 45 individuals have reregistered to start that up again, and we have been able to provide the funds to do that so that, again, people can be more eligible to get other jobs, should that be necessary, or even to perform their jobs in a better manner if, in fact, we can get Napp back up and operating.

ASSEMBLYMAN ROMA: Questions from the Committee? Assemblywoman Weinberg?

ASSEMBLYWOMAN WEINBERG: Thank you, Mr. Chairman.

I was on the Labor Committee, along with Chairman Roma, when the Workforce Development Act was passed, and I was a cosponsor. You are telling me that you do have funds from there now at the end of this fiscal year to handle some of the problems that are coming to light because of the unemployment caused by this tragic incident.

What happens if, God forbid, something similar happens next year? Do you know?

MR. DRABIK: Well, again, we have had to really be very cautious in terms of the individual Workforce Development grants to companies. We probably could have spent two or three times the allocated funds for various companies. So it is a matter of us at the Department of Labor really looking at what grants appear to be providing the jobs that are going to be in existence for a long period of time and providing the training that leads to those jobs.

We are real pleased that the Workforce Development Program is paying. We had a customized training program in the Department which began in 1978 that had \$2 million to it. Basically, in a one-month period of time, we were about tapped out of those funds. Now the funding has escalated, as you are well-aware, up to a \$20 million figure for those individual grants -- not the individual grants, but for the company grants for retraining within a company site. We could spend three times that if we needed to.

So I guess my bigger concern is that we really, hopefully, are going to keep that funding level at at least what it is at this point. If, in fact, it can be escalated, we could certainly allocate it to companies that have put applications in to us, but because of our processing of it cannot be funded.

ASSEMBLYWOMAN WEINBERG: Will we get a report from you about these specific 100-some-odd workers that have been

displaced on exactly what you have been able to actually accomplish on their behalf?

MR. DRABIK: We certainly could do that. I don't think it is going to be an extremely favorable thing in the very short term, because we are working with Napp to hopefully get them back into operation, looking at various sites. Our business resource network that falls within the Department of Labor brings in the Department of Commerce and Economic Development, the various utilities. So our goal now is working with the company to try and find a site that, in fact, they can utilize to get back into operation in some place. We are still waiting for some specifications before we actually pin down maybe some possible sites, and then it is a matter of whether they are acceptable to that company.

In the interim, a lot of the people are obviously waiting for those jobs. I mean, they are long term. They have their friends. We are not putting a lot of people into training at this point, unfortunately. Not because of anything we are not doing. It is just by nature, and that happens all the time. We deal with over 300 companies a year. If people feel they are going to have their jobs back, they want that at all costs. We are even going to provide training to get them that job back, you know, if, in fact, the company comes back.

So, the answer is, "Yes." I can provide you with that. I hope you will take into consideration, however, that if I give you a short-term report, it is not going to have a lot of favorable -- people getting back into other jobs. We could do something later in a longer term when, in fact, Napp makes a decision to come back or not to come back. At that point, if they should decide not to come into New Jersey and move elsewhere and not build anywhere, I think then we will start having a lot of positive results with people accessing the Workforce Development individual training grants.

ASSEMBLYWOMAN WEINBERG: I just have one other quick question for the other gentleman, if I may.

You talked about the fact that your Department does workplace inspections, audits, so to speak--

ASSISTANT COMMISSIONER KATZ: Consultations.

ASSEMBLYWOMAN WEINBERG: --at the request of employers.

ASSISTANT COMMISSIONER KATZ: Yes, Assemblywoman.

ASSEMBLYWOMAN WEINBERG: Did either of these employers ever request such an inspection, to your knowledge?

ASSISTANT COMMISSIONER KATZ: I checked that, and neither one ever did.

ASSEMBLYWOMAN WEINBERG: On the Industrial Safety Council that you spoke about training--

ASSISTANT COMMISSIONER KATZ: Yes?

ASSEMBLYWOMAN WEINBERG: --do you have an outreach to employers on the type of training you would offer to the workers involved in things like the handling of chemicals, perhaps the mishandling that took place in this--

ASSISTANT COMMISSIONER KATZ: I am sure there is enough expertise on that Council that we could, absolutely. I think we have had a half a dozen of them this year. They have been mostly safety issues, as I said, confined space, electrical hazards, back injuries. I am sure we have the expertise and we can expand into this area. I will bring that before the next Committee meeting.

MR. DRABIK: I probably should point out, if I may add to what Lenny said, that 3 percent of the Workforce Development funds also went into health and safety training. We expended that over the course of the year through Rutgers and the Industrial Union Council, the State AFL-CIO, to provide some trainer courses, hoping to get maximum benefit if we can bring some union members in, train them, and then they could go back to their individual sites and provide some training. So that

has also been a beneficial part of training that we have been able to provide through the Workforce Development Partnership funds.

ASSEMBLYMAN ROMA: Commissioner Katz, Mr. Drabik, anticipating a number of these questions, we also have written questions for you. If you would be kind enough to fill out that information and return it to us, we would appreciate it.

Assemblyman Smith?

ASSEMBLYMAN SMITH: Certainly, jobs and benefits are important, but so, too, is health. I think New Jersey had a study back in the early 1990s, done by Mount Sinai Hospital, indicating that each year in New Jersey we have 2500 workers die of occupational injuries or illnesses, and there are 14,000 or 15,000 exposed to substances that initiate occupational illnesses.

Does the Department of Labor see its role to do any follow-up on behalf of the health of the workers in either of these two facilities? Are we going to know from the Department of Labor whether there has been an impact on the health of the workers who were exposed to the chemicals as a result of these fires or explosion? Is that in your role?

ASSISTANT COMMISSIONER KATZ: I think the Department of Health has already indicated that they are following up on that.

ASSEMBLYMAN SMITH: All right. So Labor is not doing that?

ASSISTANT COMMISSIONER KATZ: Right.

ASSEMBLYMAN SMITH: Okay. If I might, Mr. Chairman, to the Department of Health: Are you doing that? Are you doing a follow-up on the health of the workers at both of these facilities? Is that true?

DR. GURSKY: (speaking off-mike) Let's refer to our Occupational Health Service Director.

KATHLEEN O'LEARY: Not specifically. We do not have jurisdiction with respect to private employees in this State. What we will do is-- Actually, one of the meetings is tomorrow. There is going to be a panel put together looking at the data that has been generated. Maybe after those discussions, it will be more clear whether there are workers still there with health effects and what the role would be for the Health Department.

ASSEMBLYMAN SMITH: So the answer is, "No."

MS. O'LEARY: Not directly.

ASSEMBLYMAN SMITH: You are going to talk about it, but the answer is that there is no specific responsibility on the part of the Department of Labor or the Department of Health to follow up on the health of the workers who were exposed to substances in these two near catastrophes.

MS. O'LEARY: We may have more information tomorrow, after the first meeting.

ASSEMBLYMAN SMITH: Okay. How about with regard to the firefighters?

ASSEMBLYWOMAN HECK: Mr. Chairman, as a point of clarification for Assemblyman Smith, if he reads the Fire Status Report from the Department of Environmental Protection-- That was one of my questions, and that was one of our major concerns. I was assured that everyone involved was advised that they should call the Hackensack Medical Center hot line if there were any problems, that they have a listing, and they are being taken care of properly and followed up.

ASSEMBLYMAN SMITH: Yes, but see, that is the problem. The workers may not know either what they have been exposed to from the products in combustion or the products in the explosion. They have no idea what the long-term impacts are. Today, they feel fine, but next year they could have a respiratory illness.

ASSEMBLYWOMAN HECK: Assemblyman Smith, they have been advised. I know the firefighters have been advised. The Environmental Protection people have told me -- am I correct? -- that everyone has been advised that there will be a follow-up of maybe up to five years.

ASSEMBLYMAN SMITH: What follow-up in five years? I did not get the impression from Labor or Health that there was a follow-up on employee health. Is there a follow-up on employee health by DEP?

ASSEMBLYWOMAN HECK: Someone is raising his hand in the back. I don't know who that is.

GARY ALLEN: (speaking from audience; no microphone) The Hackensack Medical Center is putting in a 20-year program so they can look at the individuals who may or may not have been exposed.

ASSEMBLYMAN SMITH: Who are you, sir?

MR. ALLEN: I am Gary Allen, of the Emergency Response Program, DEP.

ASSEMBLYMAN SMITH: Okay. Who is paying for that?

MR. ALLEN: It is being done through Hackensack -- JIF, which is a fire department acronym. Maybe someone can help me out with this. It has to do with-- The Joint Insurance Fund is taking care of those individuals who are part of that -- the fire department services, the emergency respond services. They will be overseeing this 20-year study.

ASSEMBLYMAN SMITH: All right. How about the private employees of the chemical companies involved? Who is paying for those medical services?

MR. ALLEN: The private employees were all out of the building when the explosion occurred. They were not exposed. The individuals who were taken to the hospital were not as a result of the chemicals. They were a result of the fire itself and the explosion.

They have also been advised to contact the individuals at Hackensack Medical -- its Advisory Service for Physician Referral. That information is being tracked and will become part of tomorrow's meeting.

ASSEMBLYMAN SMITH: That answer raises an additional question with regard to the community. What is being done for the residents of these two communities with regard to -- this is for the Department of Health -- the impact on the community from the exposure to chemicals released by the fire/explosion?

DR. GURSKY: I think we are going to hopefully know after the meeting tomorrow exactly what our follow-up should be.

ASSEMBLYMAN ROMA: Could you provide that information to the Committee? We have heard about a number of reports that will be forthcoming. While this is the first of the hearings, if you would direct that information to the Committee, we would appreciate it.

DR. GURSKY: I would be happy to.

ASSEMBLYMAN ROMA: If I may, I realize that we have a number of people who want to testify. I apologize for the length of the hearing, but it is such a critical topic, that it was really necessary to get as much information as possible.

As I indicated before, each of the Department heads will receive a set of questions. We would anticipate responses within two to three weeks.

I would like, with the permission of the panel, to shift over to Commerce for a moment. Mike Hollan?

With all of the information we are discussing this afternoon, and this morning, obviously there are many different aspects on what occurred. One of the areas that Assemblywoman Heck has spoken about is the various businesses that have been impacted. We have heard a number of different stories. We have heard of a nursery business that had inventory near the fire in Lodi that was covered with some type of chemical material. Apparently, they cannot sell the stock they have. They are

waiting for some sort of declaration from DEP. Until that happens, they cannot get insurance reimbursement -- those sorts of situations.

I believe there is a Mr. Farhi here, who is an attorney representing some of the businesses. There is a domino effect with these businesses that cannot get in, cannot make an assessment, and need to move ahead in terms of what they are going to do tomorrow. They are making payments for rent, for mortgages. The business aspect is something we would like you to address.

M I C H A E L H O L L A N: Yes, sir. My name is Mike Hollan. I am Director of Intergovernmental Relations in the Department of Commerce and Economic Development.

We have a broad range of programs available at Commerce for businesses. Certainly, these programs are applicable and available to businesses in this area that have suffered through recent events.

ASSEMBLYMAN ROMA: That's a good start. Generally speaking, we receive a number of phone calls in our legislative offices, and we will make phone calls to an agency to get the information. In this case, we would call your Department.

But what sort of outreach are we doing to make sure that those businesses that I have referred to are aware of what is out there, what might help them, what might assist them? Did you get a list of the affected businesses?

MR. HOLLAN: No, I do not have one available. No, I do not. I don't know off the top of my head whether we have such a list.

ASSEMBLYMAN ROMA: Well, I believe following this, you will probably speak to Mr. Farhi, who has a number of clients there. He might be able to give you that information.

But there should be some type of a system in place as to those businesses that have been impacted, and what can be done in order to move ahead and straighten out some of their

problems. When I heard about the situation with the nursery, where the plants could not be sold, and here is the stock sitting there-- At best, that person is going to receive his wholesale costs. There is no retail involved in that. For the most part, they have lost a season. From what I understand, if we could have moved that along, that person could have at least received the insurance reimbursement. That might be one example, but there are many other examples.

I would like to know what we can do to find out who those affected people are, and what we can do to help them.

MR. HOLLAN: Yes, sir. I think, over time, we have discovered that the best method of getting on that situation as to programs and services we have available, and to finding out what businesses need and which businesses are in need, has been through local elected officials, through legislative leaders such as yourselves and members of the Senate. They are best in contact with individual businesses in their districts and in their areas, towns, and communities. They do not hesitate to call me, and other members of our Department, with specific businesses and their problems and how we can help.

We certainly work with the Office of the Business Ombudsman of the State in terms of permitting, the Department of Environmental Protection and the Department of Labor, which also has many programs available. Additionally, we have a lot of financing loans and loan guarantee programs available through the Economic Development Authority. Some of these are available for working capital, which quite honestly may apply in many of these instances here. Many of these businesses may need working capital to keep their businesses afloat. These are not just for large businesses. These loans start at the few-thousand-dollar level and work up to the several-million-dollar level.

We certainly have a lot of technical assistance. Our Division of Development for Small Business, and Women and

Minority Businesses is very active and proactive in getting out conferences, seminars, lecture series, bringing people valuable information, everything from business plan writing to actually helping them to secure financing, site location, and working with our Divisions of International Trade and Economic Development and our Commission on Science & Technology -- all these things together. We do not take a cookie-cutter approach to economic development. Businesses quite often need a more tailored response to their needs. So we have individuals who are well-learned in the available resources of the State and the private sector, which we are working very closely with and I will have available.

ASSEMBLYMAN ROMA: Let me give you a practical approach: You have a disaster that occurs in Lodi with the various situations that I have described to you. I would think that one of the first things that would be done would be to get in touch with the Chamber of Commerce to find out what member businesses have been affected. I mean, I know Assemblywoman Heck has received a number of phone calls, as I have.

What we would like to do, if it has not been done already, is to get that information out to the business community so that we can provide them with some relief.

MR. HOLLAN: Absolutely, sir. I have brought some information here. What I will have done for you, for all the affected legislative leaders and for local officials, is a package of information so that they know what is available, and they can deal firsthand with the businesses and have them directed to the proper people, and tell them to expand their business and keep their business going.

ASSEMBLYMAN ROMA: Do you have a number of copies you can leave with the Committee?

MR. HOLLAN: I will leave these here with you now, and I will have copies sent to your office today.

ASSEMBLYMAN ROMA: As indicated, Assemblywoman Heck is in Lodi. Her office is right in the area. It would be a good satellite area for distribution of anything -- Districts 37 and 38. So we have plenty of offices where you can send the information for distribution.

Again, the questions we submitted to you, if you would take the time to review them and answer them, it would expedite some of the questions I have.

Are there any other questions from the members of the Committee? Assemblywoman Weinberg?

ASSEMBLYWOMAN WEINBERG: None.

Mr. Chairman, first of all, I would like to compliment you on the way you put this material together and the written questions you set forth for each of the administrative departments. But I have one comment to make, which is not necessarily complimentary to the people with whom I am working at this moment.

I know what it is like to work in a bureaucracy. I spent some years of my life doing that. But the Hackensack fire took place almost two months ago, and the Lodi fire took place a month ago. What I hear here is a lot of: "We are going to be meeting tomorrow," "We are planning to draw up plans," "The site will be cleaned up after we find out, you know, what they are going to do about cleaning up the site." There is a lot of what I said very early on. There seems to be a lack of a sense of urgency.

We had two major incidents within very close to where we are sitting now. There was loss of life. There were injuries. There was economic loss. I would like to hear from the administrative departments here, and very quickly, a response to this on all of these levels. As I said, I think the Chair and this Committee did an excellent job of putting this together, but I certainly do not want to wait another two

months to hear the answers. I think the reaction has been slow. I think it has been-- Well, it is almost as if these things are not terribly important.

I mean, granted we are all located not so close to Trenton up here, but this was a major catastrophe in a very, very developed area. Something has to be done to help the people who were affected, to make them feel safe in their homes, and to make sure that it does not happen again.

ASSEMBLYMAN ROMA: Thank you, Assemblywoman.

Are there any other questions? (no response)

I want to thank you, Mr. Hollan. Will you be available in case some other questions come up?

MR. HOLLAN: Yes, sir.

ASSEMBLYMAN ROMA: Assemblywoman Heck has another legislative meeting. She would like to give testimony with the Fire Departments of Hasbrouck Heights, Lodi, and also Hackensack.

I call Frank Pistill and Arthur Jackson from the Hasbrouck Heights Fire Department; Richard Johnson, from the Hackensack Fire Department; and Thomas Canzanella.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Thomas Canzanella isn't here. He is actually the-- He is an official in the Professional Firefighters Association of New Jersey. He has testimony, which I will distribute at this time. It includes some description of--

ASSEMBLYMAN ROMA: Fine. Thank you.

ASSEMBLYWOMAN HECK: One of my main reasons for being here was to let you know that I think the firefighters, the emergency management teams, and the police officers -- police departments -- did an outstanding job. Since Hasbrouck Heights was on the scene for 26 hours, it might be advisable to hear all of the precautions that were taken and the safety measures that were taken as they fought the fire, which was tremendous.

Do you want to sit here, Frank?

ASSEMBLYMAN ROMA: I would like to publicly commend the emergency personnel. We know of your work and your dedication. But unfortunately, during this tragedy, we learned firsthand about all of the things you did, and you ought to be commended.

Please proceed.

CHIEF FRANK PISTILL: Thank you.

Good afternoon to everyone. I would just like to say that initially we received the request and we responded with a ladder and an engine for a relay system of water. We were advised immediately by the Lodi Command of the necessary safety precautions to take with regard to breathing apparatus and protective gear. Initially, we assisted in the containment of runoff water from the chemical company in an attempt to stem the flow into the sewer system until samples could be taken by DEP and EPA. We were kept abreast of any findings on an ongoing basis during the entire scenario we were there. We did have some incidents where our gear was contaminated due to specific runoff where areas had become slippery. Those individuals were removed from the scene and transported to the hospital.

The gear and other equipment -- at that time, we were not aware of the degree of hazard -- were containerized and, at this time, we still have materials and equipment stored in our DPW until we receive the final report as to the possibility of either disposal or decontamination. We have turn-out gear at this time that has been sent away. We are in the process now -- and it is a continual ongoing process -- of attempting to recycle some of the equipment we had.

We were kept well-aware through the entire situation by the Lodi Command of the findings as they became available to them for any additional precautions that we might have to take with regard to our personnel and our equipment. Of course, after the fire was over and we returned our apparatus to town,

we went through an extensive decontamination, removing the equipment and completely going over our apparatus, being extremely careful as far as any runoff of water from the vehicles as they were being decontaminated.

ASSEMBLYWOMAN HECK: They did not want to bring anything back to other areas as they were moving it either.

Safety Officer Artie Jackson was at the Command Post. He is also very articulate as far as the safety measures are concerned, so I would like him to say a few words about the precautions that were taken that day.

CHIEF PISTILL: Arthur is also my Fire Safety Supervisor.

A R T H U R J A C K S O N: I would like to thank Assemblywoman Heck for inviting me here today.

We learned a lot from the Lodi incident. As time goes on, it seems that we have more and more of this type of incident throughout the country. Lodi's Fire Chief-- Being a former Fire Chief myself, I can only imagine what he was up against when he responded to that situation, a chemical plant explosion. They set up a Command Post very well. They contained, as best they could, the runoff chemicals at that time.

We face a very unique situation. Years ago, in the fire service, somebody questioned the wisdom of why we run into a building when everybody else is running out. Well, we are firefighters, and that is what we are supposed to do.

DEP was on-site and, as the Chief has testified, they kept us apprised of updates on an ongoing basis. Assistant Chief Greco, from our jurisdiction, who could not be here today, worked very closely in the days afterward with Lodi in order to keep up with any developments as they proceeded.

As DEP monitored the air quality in different areas and became more aware of what chemicals were involved, we were advised, and we advised our membership on what their

alternatives were. Anyone who had any symptoms or any problems, even if they developed several days later, were advised to immediately go to Hackensack Medical Center and explain that they were in the situation in Lodi, and the hospital would take appropriate action.

As far as legislative avenues in controlling hazardous chemicals, being a former Fire Chief and Fire Department Safety Officer, it is a very good avenue to pursue. I guess what I would recommend to the Committee, as they get involved in this legislation, would be to have former fire chiefs and fire -- (portion of testimony lost due to equipment malfunction) -- you have an idea, you have different levels of education with people in the fire service. Some towns change yearly on a fire chief. It is every two years in my particular town.

There is a lot to do. I think the fire service could provide tremendous input in helping if any legislation action is anticipated. I think we could help you significantly.

ASSEMBLYMAN ROMA: We would be glad to assist you in any way possible. Thank you.

Questions?

ASSEMBLYWOMAN WEINBERG: I appreciate your comments on that. Really, with the leadership of my colleague, Assemblyman Zisa, certainly members of the Fire Department, most particularly the Hackensack Fire Department, were involved with the drafting of the legislation we have that brings warehouses under State legislative control, to try to avoid what took place in Hackensack. They were really the best resources since, as you so ably pointed out, they were called to a fire, and they had no idea what it was they were walking into, absolutely none. Some of them were sick, and so on, thereafter, so the importance of the first responders knowing what it is they are responding to, even if it is not in a chemical plant, but in a warehouse, became very important. It is their input that caused this suggested legislation to evolve.

ASSEMBLYWOMAN HECK: Another Hackensack fire, if you recall, years ago-- Pat and I put through the truss roof law and the signs to be placed on the buildings just for that reason, because of the firefighters and the deaths that occurred. So any safety precautions that they might recommend would be advisable to review.

Thank you very much. I appreciate it.

ASSEMBLYMAN ROMA: Thank you, Assemblywoman. Thank you, gentlemen.

Again I have to make a slight change in the program.

Yes, Chief?

C H I E F R I C H A R D J O H N S O N: (speaking from audience) May Hackensack come up? Would that be okay?

ASSEMBLYMAN ROMA: Okay, come on.

I have just been advised that the Napp workers also have a special class. They will be leaving shortly.

Chief, please come forward, and right after that we will go to the Napp workers. All right?

CHIEF JOHNSON: Okay, thank you.

ASSEMBLYMAN ROMA: It is always difficult when you are trying to accommodate everyone, but please bear with me.

CHIEF JOHNSON: Thank you very much.

My name is Richard Johnson. I am the Fire Chief in the City of Hackensack. This is Deputy Chief Richard Carucci. He is my Fire Subcode Official, and he is also the Deputy Chief of Operations in the City of Hackensack.

On March 25, we had what appeared to be a small routine fire. However, it escalated into a rather dangerous and stubborn fire to extinguish. An hour or so into this fire, we realized that we had a more serious incident than initially anticipated. This building was a warehouse and, unknowingly to us, contained hazardous materials. These chemicals, mostly oxidizers, made the fire worse, and complicated our operations.

Emergency response personnel began to develop skin rashes and throat irritations. We sent approximately 30 of our personnel to the hospital with injuries. As a Fire Chief, I am deeply concerned about firefighter safety. This fire was scary. It reminded us of the Ford fire in 1988 where we lost five of our firefighters. We do not want this to happen again.

We need a way of knowing when these chemicals are stored in warehouses. We need strong Right to Know legislation. Rather than weakening Right to Know, we need to encourage private industry with incentives to install better fire protection measures and programs to train workers. We need to support legislation recently proposed by Assemblyman Zisa and Assemblywoman Weinberg. This legislation would alert us to the storage of chemicals in buildings, and would require warehouse facilities to report the use or storage of hazardous substances. We need a State mechanism to reimburse communities that suffer these large-type fires and disasters that struck Lodi and will happen again.

Finally, we need support from the State Division of Fire Safety to provide more training to the State's fire services, and an increased emphasis on strong and responsive emergency management programs from our State Police, who are responsible for emergency management here in the State of New Jersey.

What are the short-term and long-term effects in the City of Hackensack? Injuries suffered by emergency response personnel; loss and damage to equipment; sheltering and evacuation requirements that affected residents; and finally, the loss of a tax-generating revenue source.

Tragedies and large-scale incidents will always be a part of our city, and any city. The average community will suffer a disaster once every 12 years.

In conclusion, I think we need to develop local and State cooperation and form a coalition of government and

private industry to generate new policies and procedures to alleviate the consequences of disasters, and to develop strategies to mitigate hazards that affect our communities.

I thank you very much for listening to me. It is a pleasure and an honor for me to be here as a Fire Chief.

ASSEMBLYMAN ROMA: Thank you, Chief.

Will you please make available, if it has not been done already, a copy of your testimony.

CHIEF JOHNSON: I certainly will.

ASSEMBLYMAN ROMA: Thank you.

Mr. Carucci, did you have something to add?

DEPUTY CHIEF RICHARD CARUCCI: No, I don't. The Chief hit it right on the head.

ASSEMBLYMAN ROMA: Chief, thank you. Thank you, Mr. Carucci.

CHIEF JOHNSON: Thank you very much.

DEPUTY CHIEF CARUCCI: Thank you.

ASSEMBLYMAN ROMA: Rick Engler, IUC. I understand that there are Napp employees with you. Please identify them as you proceed.

For the benefit of the people who are waiting to give testimony, some of the Napp workers have English as a second language. They have a class following this testimony, so we have made accommodation for them. Again, we did not anticipate the length of time, but we still have a number of people, and we need to have these accommodations to proceed with this hearing.

Good afternoon, Mr. Engler.

RICK ENGLER: Thank you very much, Chairman Roma.

My name is Rick Engler. I am a Vice President of the New Jersey Industrial Union Council, AFL-CIO. We are one of the umbrella organizations of labor in the State. We represent 235,000 workers, many of whom toil every day, on a routine basis, exposed to toxic substances. On behalf of all of us, we

would like to thank you for holding this hearing, and also just note, with all sincerity, that we are pleased that there is somebody in the New Jersey Legislature of your caliber when it comes to addressing occupational safety and health issues. You provide a tremendous leadership, along with some other people in the Legislature. Certainly, you have been a tremendous champion of this issue, and we are most supportive and thankful for that effort.

With me today are three other people, two who are rank and file workers from Napp Technologies in Lodi, representing their local union, the Amalgamated Clothing and Textile Workers, Local No. 7587. They are going to start with an official statement on behalf of their local union. They will introduce themselves as we go along; actually, Leo Santiago, who is the Chief Stewart, and Edward Ruiz, who is also involved with the local union. To my right is Eric Scherzer, from the Oil, Chemical, and Atomic Workers Union.

ASSEMBLYMAN ROMA: Mr. Engler, before you proceed, we heard from the various Departments, including Labor, in terms of applying for the benefits, and other types of information. I assume that all of the forms have been filled out. Perhaps some things were done this morning, but is there anything further that might be needed that we have not covered in those areas, or are we pretty much up-to-date?

MR. ENGLER: Well, I think there is one immediate concern about medical follow-up around continuing health benefits to maintain that. I don't know if you want to speak to that.

In general, I will say that we think there is a need for continued follow-up by all the Departments. The Department of Labor presentation was, I would say, the most responsive of all the State Departments in responding. I was at the union meeting to see the actual visible support and immediate response by the Plant Closing Team. We will look forward --

and I think I can speak on behalf of the Clothing and Textile Workers on this, as well as the IUC -- to working with all elected officials, with management, to resite the facility in an appropriate location, with the absolutely necessary safeguards, but I will go into that in my testimony.

I thought, given the lateness of the hour, that it would be appropriate to hear first from the people most exposed to the--

ASSEMBLYMAN ROMA: That is important. Sometimes we act as a clearinghouse to try to get things done that have not been done yesterday. To the extent that we can further that communication-- That was part of my inquiry.

MR. ENGLER: Sure. We will continue that discussion.

ASSEMBLYMAN ROMA: Thank you. Please proceed.

EDWARD RUIZ: Good afternoon, Chairman Roma.

Members of the Committee, Senator: My name is Edward Ruiz, and I am about to read a prepared statement by the Amalgamated Clothing and Textile Workers local.

The Amalgamated Clothing and Textile Workers Union, Local No. 7587, welcomes the opportunity to speak out at this important hearing. The lives of New Jersey's industrial workers may well depend on public policy recommendations which come from this and other such hearings called by our elected officials.

We come to you as workers from Napp Technologies in Lodi, where we saw friends and coworkers killed in the horrible explosion on April 21. We hope that through our testimony today and our actions in the coming months, we can help to create an atmosphere here in New Jersey that will build the best memorial for those who died -- to win for all workers strong and effective enforcement of our nation's health and safety laws.

We also hope to win back our jobs by participating in the effort to find a new location where Napp Technologies can

build a new plant, and where together we can be a model industry/worker/community cooperation.

We are cooperating with the investigating authorities from OSHA. We call again for a comprehensive investigation by the U.S. Chemical Safety and Hazard Investigation Board, the agency which Congress set up to look into this kind of disaster, but which needs to be funded so it can do its job. We hope the members of this Committee will call for the Board's funding, so that it can get on its way with its work, beginning with Lodi.

Unfortunately, these days it seems that safety in the workplace and public safety in the communities where industries are located are not high priorities in Washington. Severe budget cuts are crippling the monitoring and enforcement of our country's workplace health and safety laws. These cuts mean that the lives of workers, our lives, are being placed at a greater risk. Will Lodi have to be repeated again and again before Congress hears this message? We hope not.

Effective Federal programs are the first line of defense against workplace accidents. Proper funding of OSHA, of the National Institute of Occupational Safety and Health, and of the Chemical Safety and Hazard Investigation Board is essential. If Congress continues to slash their budgets, these programs will not be replaced at the State, county, or municipal levels.

Workers and their communities have a big stake in this issue right here in New Jersey. Safe workplaces mean safer communities. We want jobs, and we know we have the right to safe jobs, jobs that do no damage to the environment or the surrounding communities. That is what we hope can rise out of the ashes of Lodi.

Let's not compound the tragedy that took place last month by letting good jobs disappear here in New Jersey. Is that too much to ask? We do not think so. We are very hopeful

that our elected officials will see that out of this disaster we have all been presented with a greater opportunity to do things differently.

We workers need a good job, and New Jersey needs healthy communities and companies. Working together with our public officials, with company officials, with local community and environmental groups, our union is prepared to do its part in helping to keep these jobs and Napp Technologies in New Jersey as an appropriate location and on terms that are acceptable to all parties.

Thank you.

ASSEMBLYMAN ROMA: Any questions? (no response)

Please proceed.

ERIC SCHERZER: I am Eric Scherzer, here with the Vice President of the Industrial Union Council, also representing the Oil, Chemical, and Atomic Workers. I have shortened my testimony a little bit -- I will give you a whole written testimony -- to move things along a little bit. I want to focus on the causes of accidents and taking some steps to prevent future occurrences, which is what I think your Committee is addressing.

First of all, as the brother from the Amalgamated Clothing and Textile Workers mentioned, this Committee can do something about the Chemical Safety and Accident Investigation Board. It is a Federal Board that has been refused funding by President Clinton. If there was a serious airplane crash in Lodi, the National Transportation Safety Board would be out here with an overall comprehensive look at this accident. We cannot do that with a chemical accident, because the Board was not funded. People are appointed, and then the Board was disbanded. It never met, never functioned.

One small thing, perhaps, that this Committee can do would be to recommend that the entire New Jersey congressional delegation put this thing back on the agenda in Washington. I

know it is primarily out of your jurisdiction, but I think you have some pervasive powers in calling this situation to the forefront.

What is clear as the investigation continues, is that some people have already started to blame the workers. One of those people is Governor Whitman, who was quoted in The Bergen Record as saying, "What happened there, unfortunately, is that the workers in the plant mixed chemicals incorrectly."

ASSEMBLYMAN ROMA: May I ask you a question as we get into that? Some of the information and the chart we have-- I still have a lot of questions as to what happened, but we have been told that there was a minute quantity of water that was mixed in with these chemicals. Is that correct? Do you know?

MR. SCHERZER: I do not think that any of us--

LEO SANTIAGO: I don't know where that came from. We do not agree with the authority in Lodi, because they came five days after the tragedy and said that the explosion was because water was mixed with the powder. I don't know where that came from.

ASSEMBLYMAN ROMA: Is that not the case?

MR. SCHERZER: Our information, from talking to some of the investigators, is that they have not reached a conclusion on that yet.

ASSEMBLYMAN ROMA: Most of what I have read in the newspapers, and most of what I have heard, seems to indicate that water was introduced with these chemicals and that was what caused the smoldering and ultimately the fire.

MR. SCHERZER: Well, let me read you--

ASSEMBLYMAN ROMA: I guess my follow-up question is -- and it is difficult when you have a hypothetical like that to move ahead-- That would seem to point out the necessity for the additional training, the safeguards, and things of that nature. In all of these programs that we worked on-- If that occurred, if somehow that did occur, the worker safety programs

that we are talking about would be extremely important. But again, it is only based upon the information we have. Until we learn firsthand what it was that caused that fire, it is all supposition. That is why I asked the question if anyone knew specifically how the fire started.

MR. SCHERZER: I certainly cannot comment on the specifics, but I can read you something that the National Fire Protection Agency said about one of the chemicals. They said -- and I quote -- "Sodium hydrosulfite heats spontaneously on contact with air and moisture, and may ignite surrounding combustible material. Closed containers may rupture violently when heated. Exposure to moisture either from humid air" -- this is their quote -- "or small amounts of water may result in spontaneous chemical reactions which may generate sufficient heat to initiate thermal decomposition."

We are awaiting the results of the investigation on this matter.

ASSEMBLYMAN ROMA: That information you read from in that report, if you could provide it to the Committee, that would also be helpful.

Thank you.

MR. SCHERZER: I would be glad to.

ASSEMBLYMAN ROMA: I did not mean to interrupt you. I have asked the question two or three times. Perhaps it is unfair, but we are still trying to get beyond the basic understanding of what happened.

MR. SCHERZER: It should not be a surprise to anyone that a chemical such as this one could be involved in a destructive and fatal explosion. However, I want to point out that this chemical is not specifically covered either under New Jersey's Toxic Catastrophe Prevention Act -- as you have already heard -- or by the OSHA Process Safety Management Standard, and now it has been cut from the Right to Know list

as well. All of these Acts are too limited in scope and in application, and we have witnessed the destructive results.

If it had been covered, the company would have been required, in the words of T CPA, to anticipate the circumstances that could result in chemical releases, and would have been required to take precautionary and preemptive action to prevent such a release. If this process were properly covered, the process would have undergone a prior investigation to specifically determine what could have gone wrong. Every possible reaction, every equipment defect, every mechanical failure, and even every human error would have been thought about. Preventive measures for each of these situations would have been devised and implemented. Training of operators and supervisors who handle these chemicals would have been conducted. Training would also especially cover emergency situations. There would have been a requirement in place to investigate near misses, accidents that almost happened, you know, so we could prevent the ones that really do happen. Equipment inspections would have been conducted with sufficient frequency. Operating procedures would not have been changed without the implementation of a management of change procedure.

All of these elements are required to prevent future accidents like the one in Lodi. It is far too easy to blame the victims, when management systems must be in place to control hazardous operations. Since people are human, errors sometimes occur. But even when errors are made, proper management systems are designed to catch errors. Proper management systems have controls to prevent errors from causing explosions. Proper management systems prevent death and destruction.

In this case, the investigation is still not complete. In this case, initial evidence does not suggest human error. In this case, it is irresponsible to blame human error, when the management system is most probably at fault.

In this case, the lack of coverage by both State and Federal standards was a tragedy. Lack of enforcement of State and Federal laws could have resulted in this disaster. If we want to prevent future Lodis, we must not shy away from proper regulation.

Others will speak about various other laws which should be strengthened, but because of my experience as a chemical worker I must mention one, the New Jersey Right to Know law. This law covers small quantities of hazardous materials which are not covered by TCPA and process safety management, and would have covered the chemicals in Lodi if they had not been removed from the list. While other standards should be strengthened, Right to Know is on the books now.

Just one experience has shown me how important the Right to Know law is. When the universal labeling provision of the law went into effect, chemical plants all over the State were required to label each and every drum of chemicals. This is still the only law requiring this universal labeling. You cannot imagine just how many drums of chemicals were labeled for the first time under this provision, and we must ensure that it stay in place -- drums of defective product, drums of chemicals in process, drums whose labels have been worn off because of water or weather, drums whose labels are ripped or torn, drums with labels all covered. Drums of unknowns were labeled for the first time. For the first time, universal labeling turned every worker into an enforcement agent for public health. It turned every worker into an accident prevention officer. It was simple. If a drum did not have a label, it was in violation of the law. It wasn't hard to explain.

Believe me, with tens of thousands of enforcement agents on the job, drums were labeled, accidents were prevented, communities were not devastated, and lives were saved. The "blame the victim" rhetoric will never prevent

accidents. Proper and, yes, even expanded regulation and on-site enforcement will, and has in many cases, saved lives. It is too late for the fire in Lodi, but let's make sure that these programs which come out of this Committee will prevent future Lodis.

I just want to comment for one second on some of the previous testimony, in terms of the labeling program in particular. The testimony from DEP was that this plant was in compliance with the Right to Know law. Maybe it was, maybe it wasn't. It probably means that there was never an inspection there. We only have two people in the Department of Health inspecting workplaces in this State. They inspect 200 workplaces, on the average, a year. There are 43,000 workplaces covered by the Right to Know law. It should be noted that that staff is in danger of being cut by cutbacks in the program.

In addition, my information from the Department of Health is that approximately 60 percent of the employers that are inspected are at least partly not in compliance. So we have a tremendous problem here, and we are cutting funding for this agency as well.

DEP said, "We are awaiting the results of the investigation to see whether these substances should be added to the list," I think in response to your question, Assemblyman Smith. In my mind, it makes no difference. These are hazardous substances. Whether or not they were directly the cause of this accident-- We should be concerned not only about this accident, but the next one. We should restore those chemicals to the list. In fact, what was not talked about before in the decision-making process about restoring chemicals and cutting chemicals from this list, were the hundreds of letters from firefighters, labor organizations, and both Professional Firefighters Associations, opposing the cutting of the list when it was done, and opposing the 500-pound threshold as being too high.

One final point about the testimony and the Hackensack study that was mentioned. Talking to the workers here, they didn't really have any familiarity with the Hackensack study of long-going and ongoing health effects. Some of the workers were in the parking lot right next to the plant, exposed to the fumes, without any equipment, because they left it all in the plant as they evacuated. Clearly, this is something that we don't want to see slip through the cracks.

That's it.

ASSEMBLYMAN ROMA: Thank you.

ASSEMBLYMAN SMITH: One question?

ASSEMBLYMAN ROMA: One question.

ASSEMBLYMAN SMITH: We heard testimony earlier that even if the two chemicals that were deleted from the list were on the list, it would not have made a difference. Can you respond to that?

MR. SCHERZER: Sure. I think that clearly one of the things that the Right to Know-- I don't think that anyone really knows. I don't know about--

ASSEMBLYMAN ROMA: In all fairness to the witness, we have said repeatedly that we are waiting for certain types of information. We went through a number of scenarios. I don't know. I understand the direction you are moving in. It is always a good idea to try to get a concrete answer, but I think it is unfair to this witness, in view of what he has testified to.

ASSEMBLYMAN SMITH: Well, if he feels it is unfair, I suggest he does not answer. But if he thinks he can answer the question--

MR. SCHERZER: The only thing I can say is, it is clear, when dealing with chemicals such as these, that proper training, labeling, and information about these chemicals that we would get from the Right to Know Program could possibly prevent future occurrences.

ASSEMBLYMAN SMITH: Well, isn't it a possibility that if the chemicals were labeled, the workers who were working with them-- There would be less of a chance that they would handle them improperly.

MR. SCHERZER: That may have been. The investigation is still going on.

ASSEMBLYMAN SMITH: I mean, I don't know if they were handled properly or they were not handled properly, but certainly more knowledge in the workplace, more labeling, would help people to do their jobs in a more safe fashion. I think that is kind of a guiding principle.

MR. SCHERZER: I think that is a guiding principle. In fact, that was the reason we opposed the reduction of chemicals on the list in the first place, as well as the hundreds of firefighters and professional organizations that did that, at that time. We did not see the justification then, and we do not see it now.

ASSEMBLYMAN SMITH: Thank you.

ASSEMBLYMAN ROMA: The report you referred to indicated that moisture in conjunction with that chemical might also cause the problem. Assuming that they would label-- I am not using it as a point of contrast, but we need to look at some of these areas to see what we can do to improve the safety. That is a given. But if that information is correct in terms of moisture, then even if you had the labeling requirement, you would still have had the same problem.

MR. SCHERZER: Dealing with a substance like that, you would take other precautions to--

ASSEMBLYMAN ROMA: But there is the possibility of the introduction of moisture into that compound, even with all of the other requirements and things we would do in order to improve workplace safety. I mean, that is what I understood from the report you gave -- or that part of a report you gave us. I do not mean that to be adversarial in nature.

MR. SCHERZER: No, I understand.

ASSEMBLYMAN ROMA: I guess you made us think about what other things we should be looking at. Perhaps that will be the subject of some other things we can discuss.

MR. SCHERZER: I think that under a program like the Toxic Catastrophe Prevention Act, or under the OSHA Process Safety Management Standard-- We work, in our industry, with lots of extremely hazardous chemicals. Under those two laws in particular, investigations must be done now. Hazard analysis must be done now to take a look at any possible way-- I am not talking about this substance or this process, but the moisture may come in contact with a substance that reacts violently with moisture. When those studies are done, you take a look at what could possibly go wrong here. If those things possibly went wrong, how would we react to them? How would we prevent those things, if they went wrong, from causing a violent explosion? That is why those laws were put into place.

My perspective -- and perhaps this situation will show this in the long run -- is that those laws are too narrowly confined in scope and in the chemicals they cover. Our union has been arguing for quite awhile for expansive coverage of these kinds of systems when dealing with these kinds of hazardous chemicals. That is the kind of thing that we would see would be preventative in the long run.

ASSEMBLYMAN ROMA: Thank you. You will make that testimony available?

MR. SCHERZER: Sure.

MR. ENGLER: I will just abbreviate my remarks enormously, because much of it has been covered.

First, I would like to indicate that we are very serious -- as the Industrial Union Council -- about being supportive of the Napp employees and the union -- the Clothing and Textile Workers and management, in terms of resiting the plant. Obviously, that has not gotten most of the attention

today, but we really, genuinely do want the assistance of all elected officials to help resite the plant, because there are jobs at stake, and because we believe as the ACTWU testimony stated, that this can be a model example of workers, union, management, government agencies, and the community working together. We think that is what it is going to take. The reality is, to resite a chemical plant in New Jersey in the climate today-- People do not want chemical plants in their backyards. We think there will have to be some new approaches so that we can have industrial facilities, so that we can retain the manufacturing base of our State to the extent possible. That is going to take efforts by unions, management, and the immediate plant neighbors and local elected officials cooperating. We are planning to be very supportive of that effort.

I would like to indicate essentially seven points to summarize where I think we are on behalf of the IUC and what should be done with regard to safety and health.

The first is just one word. You know, I have been sitting here and listening to all of this, and it really is one word. It is "stop." In other words, we talk about positive initiatives. The reality is that right now with the New Jersey Legislature, there are three major antiworker initiatives that will-- Even if I cannot say paragraph 2 of this law will lead to these people dying, I can say -- because it is irrefutable -- that people are alive today because of these laws. In other words, people are living because kids in chemistry labs in schools have chemicals labeled, and you do not have poisonings. How can I prove-- How can I develop data to show that those people wouldn't be dead if there were no labels. It is an impossibility.

So the first thing is to stop the three significant -- and these are just some of the attacks on workplace health and environmental health-- Number one, the attack on the Right to

Know law. We have still not heard the Department of Health and the DOH Commissioner, or any of the staff, say that they truly believe in their own Universal Labeling Program. That Program is about putting the real name of chemicals, not trade names or code names, on containers. We still have not heard them say that they are dropping their plan to transfer, prior to gutting, the requirement of universal labeling to DEP. The last we heard -- because we have not been getting any real response on this -- they were still planning to take the Universal Labeling Program, send it over to DEP, and then change the requirements so that they would no longer protect worker health. For all the rhetoric about they don't have statutory authority to protect workers, the reality is that the Health Department does help to protect the workers in private sector workplaces. The labeling is done in private sector workplaces, and that is important.

In fact, just recently, in the greatest use of the Worker and Community Right to Know law to date, 3000 individuals filed separately roughly that number of Right to Know requests with the Department of Health for both chemical fact sheets and for information about the labeling requirements. The working people of our State think that the Right to Know law is important.

The second attack, which is already out of the Assembly, is on the Pollution Prevention Act, where specific provisions that were voted, you know, by the Assembly would weaken occupational health preventions in the Pollution Prevention Act. I understand that is still pending in the Senate. Hopefully, even though we are, again, not going to connect it to Lodi, this particular tragedy, there are certainly these connections to be made. We hope the Legislature will slow its rush to deregulate.

Third, which directly could affect Napp workers, is the effort at so-called "tort reform." This is an effort

directly related to occupational safety and health. Under OSHA right now, the average inspection, depending on what figure you want to look at, is between 60 and-- On average, an OSHA inspection takes place between every 60 and 90 years. Now, obviously, when there is a disaster, OSHA comes in and does an investigation, as in the Lodi tragedy.

The ability of victims to sue third-party suppliers, not, for example, management, but the supplier of the defective vessel or an unsafe product, or something that wasn't properly labeled by the initial manufacturer, serves as an incentive for corporations to provide safer safeguards. And yet, we have Governor Whitman leading the charge for tort reform, and in the so-called deal announced by the Business and Industry Association, which was not a deal that any worker in this State, or any victims agreed to-- In the BIA memo of May 17, it is really fascinating, it is amazing, that the agreement, which is expected to pass the Legislature, would cap punitive damages at five times the amount of compensatory damages or \$350,000, whichever is greater. Exempted from the cap are awards and lawsuits involving discrimination, civil rights, biased crimes, AIDS testing disclosure, sexual abuse, and injuries caused by drunk drivers.

We support those exemptions. We support no caps, because we think it is a vital incentive toward public health to have the right to sue, and in those rare cases where punitive damages are awarded, they should be awarded. But isn't it incredible, isn't it the height of insensitivity to support this type of deal immediately -- and I am talking about the highest officers of State government -- after a plant explodes and five people tragically die. That's wrong. There should be no caps on punitive damages. I mean, it is just a contrast between why someone dies by a drunk driver and can sue and have no cap, or sexually abuse, or these other things which

are certainly worthy of having no caps, but not workers who die day in and day out in the workplace. It is just inexcusable and unbelievable.

So, those are three things that can stop: the attempt to take away people's right to sue; the attack on the Pollution Prevention Act; the attack on the Right to Know law.

We also think the Right to Know law ought to be adequately funded. There has not been an increase in the funding of the Community and Worker Right to Know law since 1983. We understand there is some consideration of doing that, and we are highly supportive of that effort. There ought to be more than two inspectors at the current levels -- which Brother Scherzer referred to -- to do, for example, universal labeling inspections.

The third point is, we support the amendments proposed by Assemblypersons Zisa and Weinberg which would add warehouses that store chemicals, which would ensure chemical placarding. However, I would just indicate a slight warning there. There is a possibility that the chemical industry in this State, which has always said it supports Right to Know-- Then, of course, you talk about what they mean by that. It means something very different from what workers who are exposed to chemicals mean by Right to Know. Tied into this attempt to change placarding for emergency responders for the better would be attempts to take away the current universal labeling provisions.

We think there ought to be a Right to Act, call it. We tried to get that passed through the leadership of Assemblyman Smith a number of years ago on the Assembly side, and I believe you were a sponsor of that legislation also. That would have meant that there would be mandatory safety and health committees in the workplace, further worker training, regular walk-throughs of the workplace on a regular basis to

examine and make recommendations for safety and health improvements.

Maybe we didn't talk about it too much then, but we believe there ought to be the right of trained safety and health committee members to temporarily shut down specific operations in eminent danger situations. We were ridiculed by the business community when we talked about the fact that trained workers ought to have the right to temporarily shut down unsafe conditions in life-threatening or environment-threatening settings. We were ridiculed. The economy of the State is going to collapse, literally. The economy is at risk. More jobs have been potentially -- potentially -- lost by just the Napp tragedy than by all the safety and health laws in our State put together, and certainly by the three that have been cited as interfering with the business climate. We think that is still something that should be considered.

We think that there ought to be a system of hazard monitors. In other words, if we are concerned about worker health, the environment, and jobs, we can add, or retain roughly 2000 industrial jobs by simply saying that at each manufacturing sector workplace above a certain size, or whatever criteria you want to use, that are covered by laws -- by combinations of Right to Know, Toxic Catastrophe, or Pollution Prevention-- That would be something we would have to look at, but there ought to be at least one full-time hourly worker in a unionized workforce designated by the union who would help to monitor working conditions, as well as the impact on the environment. That would, as I said, protect the environment, protect worker safety, and would help to retain roughly, depending on how you calculate it, 2000 jobs.

We think there ought to be more neighborhood participation. We think the communities do have the right to participate in the review of safety and health concerns in the

neighborhood. I want to make that clear. From a union perspective, we think that neighborhood and community participation in monitoring of industrial facilities in their midst is an important thing in order to preserve jobs. Having the community look over the shoulders of people, both in management and in the union, is a good incentive, because jobs are concerned and are dependent upon that facility.

Finally, my last point is, we support -- the IUC supports job and income guarantees for workers displaced by workplace or environmental hazards or regulation. We think there are rare cases -- rare cases -- when a plant might be shut down due to environmental or worker safety and health regulations. I mean, there are absolutely a handful of cases of that nature, although a handful is too large a description for what has actually happened in New Jersey.

We do not think workers ought to be blamed for losing their jobs through no fault of their own. We think the State, perhaps through an extension, at some point, of their Workforce Development Partnership Act, or some other means, ought to simply say that when something like this happens, workers should not be thrown on the trash heap; that, first, they are the victims, because they suffer toxic exposures most severely; and secondly, if something like an explosion happens and a plant shuts down, then they are placed in double jeopardy and their income is lost, with all the consequences to their standard of living and their families.

We think that despite all the cries of budget woes, people should come first, and we ought to be looking at ways in this period-- Job training is no answer in and of itself when there are no jobs. There ought to be an exploration of how people can retain their standard of living when these things happen.

That is basically seven points on what should be done. I would be fascinated to hear from the Business and Industry Association why -- and I realize--

ASSEMBLYMAN ROMA: You'll hear from them, because I understand they just walked in a little while ago.

MR. ENGLER: --why the exclusion of workplace injuries and things like this from the tort reform deal--

ASSEMBLYMAN ROMA: Unfortunately, there are so many ancillary issues. I wish we had a couple of days in order to cover everything. But at least this is a starting point here in terms of the number of issues that concern all of us. It is my hope that it provides the illumination to be able to understand what happened.

Mr. Engler, as always, it is a pleasure to see you, and thank you, Mr. Scherzer. Thank you for being with us.

You will supply that written information?

MR. ENGLER: Yes, I will.

ASSEMBLYMAN ROMA: Mr. Farhi, I understand you also had some time constraints, and you are on your way out.

M I C H A E L F A R H I, E S Q.: Yes, thank you.

ASSEMBLYMAN ROMA: Again, I apologize. We try to do the best we can in terms of accommodating everyone. I wish everyone could go first.

MR. FARHI: Thank you for your courtesy and consideration, Mr. Chairman and members of the Committee.

Mr. Chairman, as you indicated earlier, I am here today at your invitation to speak on behalf of several of the business owners.

ASSEMBLYMAN ROMA: Did you have the opportunity to meet Mr. Hollan during the recess.

MR. FARHI: I have spoken with Mr. Hollan, and also Mr. Drabik, who generously agreed to speak to me for a few minutes.

ASSEMBLYMAN ROMA: I am sure they will be able to provide immense assistance.

MR. FARHI: They were both very helpful. Both gave me their cards. We will be in touch with them.

Mr. Chairman, as you indicated in your opening remarks, one of the less publicized -- if I may use that word -- group of victims of the explosion in Lodi has been the store owners who were neighbors of Napp Chemical Company. Seated to my right is Ms. Lee, who is the owner of a framing store which shared a common wall with Napp Chemical, and was one of the most severely hit businesses as a result of the explosion.

The store owners that abutted, or that were neighbors of Napp, are not impersonal faceless corporations -- these are small business owners, employers in the Borough of Lodi -- but people who have mortgages to pay, and other obligations, which they have been unable to pay because their businesses and livelihoods have been destroyed as a result of the explosion.

Mr. Chairman, I am not here today to point fingers and to make accusations. That is for another day, in perhaps other forums. But there are a number of issues that I would like to address, perhaps in a constructive way, so that in the future the damage and the injury to store owners, property owners which abut businesses which have dangerous chemicals and dangerous substances, will be less than they were in this disaster.

One suggestion, or one area of discussion, Mr. Chairman, applies to what has been talked about earlier today, the Right to Know Act. In listening to the very helpful comments of the State department officials and others, it seems to me that there may be one link that is missing in the chain of communication that begins with the businesses' disclosure of chemicals, and which ends with the transfer of that information, or the release of that information to local police and fire departments. The missing link in the chain, Mr. Chairman, is the link between the local emergency officials and the community at large; specifically, the business owners and store owners in the town, particularly those who have bought, in this case, the chemical company.

That information is apparently on hand, or the information such as it is, is on hand, or it is supposed to be on hand with the local police and fire departments, but it seems to me that there is no mechanism for store owners and others to have access to that information simply because they do not know about it; they do not know it exists.

It seems to me, Mr. Chairman, that one thing that may be done is very simply notice posting, or notice publication in local borough halls, in local libraries, or other offices of public access, so that store owners, when they are making a decision to come into a town to open up their business and start a financial and personal commitment to a business, will know what risks they may be taking, or what risks they may be exposing themselves to before they make that decision. I realize that has a lot of implications as far as businesses coming into a community, and political implications, but I think that in view of this disaster in Lodi it is important for neighbors of chemical companies, and others such as Ms. Lee's company and others, to know what they are getting involved with when they make a commitment to open a business next to what may be a ticking time bomb.

It seems to me that it would be a relatively low-cost investment of governmental resources to simply put a notice, similar to other types of notices -- Workers' Compensation notices -- that are posted on work sites -- to put an 8 1/2 x 11 notice in public places, letting them know what the Right to Know law has required businesses to know. It is, at least to me, simply another link in the chain of information.

On the other end, Mr. Chairman-- Again, the testimony today has been very helpful. Perhaps the Commerce and Economic Development area -- and Mr. Hollan testified very comprehensively and very articulately-- It seems to me that there is something missing in the process. It is not any fault of Mr. Hollan, or the people he works with, but it seems to me

that the Labor Department's Response Team might be a very good model for Commerce and Economic Development, to develop a response team for small businesses that are affected by disasters such as this one. Just as Labor is prepared to come in and speak to and service displaced workers, and injured workers, as Mr. Drabik testified, perhaps, in the future, Commerce could develop a model program to come in, when these disasters occur, and service small business owners and store owners with a variety of programs and services that Mr. Hollan testified are available.

It seems to me that that Department is depending more on outreach from the bottom up than from the top down to service those particular victims, namely, the small business owners. That might be a useful improvement, again, perhaps coordinating it with Labor, or perhaps on their own. It seems to me to be a relatively low-cost, low-government involvement way of providing remedies to those who are affected by this type of disaster.

That is all I have, Mr. Chairman, and I thank you for your time.

ASSEMBLYMAN ROMA: Mr. Farhi, I want to thank you for being here. I realize the difficulty you are running into in terms of helping your clients. It certainly is another aspect of the ancillary difficulties that occur as a result of the tragedy. Sometimes, with all of the information we hear, these aspects are lost because of the intensity of the issue. But rest assured that we want to have a plan in place that would assist everyone. Hopefully, after speaking with Mr. Hollan, you will have the necessary information to be able to help your clients. Do keep in touch with us and let us know of your progress.

MR. FARHI: Thank you, Mr. Chairman.

Just very briefly, I would like to thank-- I know she is not here, but I would like to thank Assemblywoman Heck for

her assistance and services in the Borough of Lodi to displaced store owners. Without minimizing at all the tragic deaths of the Napp workers and the injuries, and the job displacement of the Napp workers, the store owners have been victims, too. Assemblywoman Heck was quick to recognize that, and we appreciate her help in that regard.

Thank you.

ASSEMBLYMAN ROMA: Thank you. I will pass that information on to her.

Thomas Canzanella, Professional Firefighters Association of New Jersey.

Mr. Canzanella, were you present in the room when I made the announcement before?

THOMAS P. CANZANELLA: Yes, I was. I was in the back of the room, but then you wanted to take the Napp people.

ASSEMBLYMAN ROMA: Oh, I'm sorry. I thought you had stepped out.

MR. CANZANELLA: Thank you very much, Mr. Chairman. The Professional Firefighters Association of New Jersey appreciates the opportunity to come and testify before you and the Committee.

My name is Thomas Canzanella, and I am the Vice President of the Professional Firefighters. In my capacity, I comment and develop legislation and regulations that serve our membership's health and safety.

It is absolutely imperative that responsible members of the State Legislature, such as yourself, step forward to protect the citizens, and to protect the firefighters who are sworn to protect their lives and property, to stop the administration's systematic dismantling of the occupational safety and health protection, such as Right to Know regulations. I use the terminology "systematic" because in addition to weakening those laws, we also believe that underfunding those agencies, in effect, cripples them so they

cannot enforce what is left of the regulations, and they become, in effect, paper tigers that the employers are not very wary of.

The administration would also like to roll back, or at least prohibit regulations such as those governing the occupational safety and health of firefighters, such as those embodied in the PEOSH standards, which are far greater and more stringent than the Federal regulations. We have had an OSHA fire brigade standard in place for some 15 years, and we were successful in New Jersey in having that reformed until we got the NFPA standards, which are far greater. I think that is important to recognize in this State, because in 15-some-odd years we have lost at least 15 firefighters in the line of duty. That is far greater than the national average for a state, excluding the City of New York, which is a whole different ball game in terms of fire protection. I think we have made great strides in firefighter protection.

One of these protections I speak of is the Worker and Community Right to Know law which, in effect, sees to it that in accordance with C.F.R. 1910.120, which is the hazmat waste and emergency response standard, emergency responders receive the proper information and training prior to their arrival at a hazardous material incident, which is the key to successful mitigation. When I talk about successful, I mean minimal loss of property, minimal adverse effect to the environment, and, most importantly from my perspective, that my firefighters do not get injured.

I would also like to mention to you that I am a Lieutenant in the Hackensack Fire Department, and I was on duty the night of the warehouse fire. In that particular case, my units responded to what appeared to be a minor fire in a warehouse facility. There were no markings on the building, nothing in the trade name of that company, nor were there any DOT placards on the trailers that were parked at the loading

dock, which would have indicated to me, who is a hazardous material training instructor, that we were walking into a hazardous material situation. It was only when we advanced a hand line into the center of the building and applied water on a small fire that the fire erupted across the ceiling and came back down upon us, chasing us out of the building.

In the process of making that retreat, one of my members lost his mask, ingested some toxic smoke, and was treated at the hospital. Another one of my members was lost and needed to be relocated. I would say to you, after 15 years of being a firefighter, that is probably a firefighter's greatest fear, being separated from his comrades and dying alone. So you can imagine in those first few moments of that fire when it began to unfold, the intensity of the situation.

As my Chief mentioned before, some 26 firefighters were treated at the hospital. Some missed up to a month's worth of work. We operated at that scene for approximately four days. To echo some of Assemblywoman Weinberg's concerns, here we are two months from the fire, and on several occasions, including just several days ago, we responded back to that warehouse and spent the entire day extinguishing fires as a result of weather conditions causing those chemicals, which are still present on the scene, to reignite combustibles and cause a fire.

Now, I heard someone mention here today that they were allowed to leave that product on the scene, because it had some monetary value. Well, I would ask you, as elected officials, what about the monetary value of the services that the Fire Department provides in terms of tax dollars? We tie up equipment there all day. My people are on overtime. We have equipment loss; we have equipment that cannot be contaminated; and, of course, we have the associated medical costs.

ASSEMBLYMAN ROMA: Mr. Canzanella, I don't know why that debris was allowed to remain there, why it was reigniting,

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but I will assure you of one thing: As a result of a number of conversations we have had, there will be a plan in place. I understood that that was being done. Sometimes you assume that someone is taking care of something, but now that it has been brought to our attention I have been given the assurances from DEP that they will work out that plan. I spoke with the local officials and the county officials, and now everyone is on notice to take care of it.

MR. CANZANELLA: Thank you.

I would just also like to touch on a few more points, and I would like to ask you to think about the long-term effects to my firefighters, who slogged around in that product for three days. Someday down the road, they will be retired, hopefully in somewhat good shape. They are going to cast a fishing rod, and when the arm goes along with the fishing rod outside the boat, they are going to wonder why. It could well be because of exposures they had such as the Hackensack warehouse fire, where they got cardiopulmonary abnormalities and the like. I heard about the program they put together with the Hackensack Medical Center for 20 years. Well, I hate to tell you that C.F.R. 1910.120 requires employers, such as the Hackensack Fire Department or the Lodi Fire Department, to maintain the medical records of those firefighters for some 30 years after the last day they are employed by that department. The reason for that is because in the latter portion of their lives and their careers, they are beginning to get sick and they do not know why. That is the only way we are going to find out why, and that is the only way they are going to receive just compensation.

Finally, I would just like to touch on-- I am very surprised that the Division of Fire Safety isn't represented here today, because they have a very important role in the training of recruit and active firefighters. The administration is attempting to take out some \$200,000 from

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their budget, which is earmarked at basic and annual firefighter training, including hazardous materials training. The loss of this money speaks for itself. It has prohibited the Division from accepting an offer from my union, which developed hazardous materials training under a Federal grant, to have our instructors come in, train the county fire instructors, give them the programs, hand them off, so that they can go out and train New Jersey's firefighters, paid and volunteer. I think that is fundamentally wrong. I don't think the Division of Fire Safety should be sent out to do licensing inspections, which is the plan, because the administration found a way for them to generate some money. I think they should be doing what their mandate is: training firefighters so that they can operate safely and effectively.

That basically concludes my remarks. If you have any questions, I would be glad to answer them. I did work at the fire that night.

ASSEMBLYMAN ROMA: Are there any questions from the members of the Committee? (no response)

Some of these proposals we have worked on in the past, such as the truss roof legislation. Unfortunately, it took a Cliffside Park, it took a Hackensack, it took a number of other things-- It took us many years to have that proposal in place. Let me suggest to you that if there are some legislative proposals that you have worked on, if you would pass them on to the Committee-- We have always been supportive of our firefighters, and all of our emergency personnel.

MR. CANZANELLA: Thank you very much.

ASSEMBLYMAN ROMA: Thank you.

Dolores Phillips and Bill Wolfe, New Jersey Environmental Federation.

In consideration of everybody waiting, the Committee is not having lunch.

D O L O R E S A . P H I L L I P S: Neither have we.

I have revised my testimony three times, at this point, and it might be four by the time I am finished. I think we would like to be succinct and specifically address the concerns the community has.

For those who do not know me, I am Dolores Phillips. I am the Legislative and Policy Director for the New Jersey Environmental Federation. With me is Bill Wolfe, who is the Policy Research Director for the organization.

The Federation itself is interested in coming to testify before you today to briefly explain to you some of the work we have been doing on specific pieces of legislation that effect the areas that are being discussed today, research that we have come across, and also to make some recommendations to you -- all in a succinct manner, so that we can move forward.

I think ultimately for both the workers and the community, the goal here, I believe, and one that you have shown a lot of leadership on, as has Assemblyman Smith, and Senator Baer, through his work, is prevention. The laws that are in place now that have begun to address the issue of prevention ultimately take the form of a regulation. Unfortunately, today, in the climate we are seeing, both in New Jersey and also in Washington, the term "regulation" has become an anathema to many. I felt it was necessary to bring this up, because ultimately when we look at the terror of regulation, the regulation has resulted because of a particular disaster or problem that has arisen. Whether it is seat belt laws or whether it is the FFA, it has always been as a result of a particular disaster that has occurred.

All of you are certainly aware of that, but at this particular time, when we are beginning to watch many environmental laws that are on the books that are for the protection of public health and environmental health, we are now watching them being weakened and undermined, or

underfunded, so that they are no longer able to benefit the public and the workers, as they were so intended to do.

The rollover regulation here in this particular issue has taken its form as the Right to Know, the Toxic Catastrophe Prevention Act, and also the Pollution Prevention Act, which you, I believe, are all aware of, and you certainly know the controversies that are ensuing at this time down in Trenton to undermine those particular pieces of legislation. Simultaneously, we are also watching the administration defund the administrative agency that came before you today. Clearly, they are not able to talk about their defunding. They are being good soldiers here. They have political constraints on what they are able to say and not say.

We look at our role as actually being one of hopefully being able to provide a particular point of view and to make recommendations to you as to what the best policy for the State is in order to achieve the goals that we want to achieve.

Last week, we released a report on the Toxic Catastrophe Prevention Act, which Bill is going to speak to. I think this is an example of legislation that can work, in the future, to hopefully put into place systems that will encourage management and owners of facilities that have hazardous chemicals in them to not only monitor them, but also, hopefully, to reduce those toxics that are being used, and to implement what we call "source reduction," "toxic use reduction," or "pollution prevention," however you wish to describe it, which should be the goal that we, as a State -- and certainly the legislative body and the administrative agency should be working toward, the goal of prevention, which, in itself, should be source reduction.

Let me have Bill address for you some of the work we have done on the Toxic Catastrophe Prevention Act, and specifically show you-- We have some interesting data which I think we can share with you, and then tie that into how the

defunding of these programs, and also the departments, is affecting the implementation of these laws that monitor facilities that have hazardous chemicals.

B I L L W O L F E: I would just like to follow up a little bit on some of the Department's testimony about the effectiveness of the TCPA Program -- the Toxic Catastrophe Prevention Act Program. Director Nicholls walked very quickly through what I find to be a very effective Program in terms of accomplishing some of our objectives, which are seeing true risk reduction in communities and seeing substitutes for less toxic or hazardous chemicals happen due to the effect of a regulation. I think the TCPA really sets in place, and really illuminates that effect, and he did not go through some of the statistics of that Program. But based upon the Department's own data, which they compiled ironically to trumpet the success of the Program back on the 10th anniversary of the Bhopal incident, but never made it through the press office-- I would just like to walk through some of the statistics there.

We have seen substitutions of extraordinarily hazardous substances. The best example of that is chlorine. Throughout the State where we had chlorine in quantities that were approximate to residential communities, we have seen chlorine substitutes come on-line that are safer, less toxic, and cheaper. So it is a win/win/win across-the-board in terms of the interests of the communities and of the environment, and in terms of the taxpayers. That is very effective, and it should be talked about.

We have seen -- and again, this is based on DEP data -- a 41 percent reduction in inventories stored at facilities that handle extraordinarily hazardous substances. That directly translates into a theoretical reduction in risk in the community, because you are reducing the amount of extraordinarily hazardous substances you are storing on-site, and you are becoming below the risk threshold that the

Department establishes those regulated quantities on. Therefore, you are translating directly into a safety enhancement, again, at reduced cost to the industry. A 26 percent decrease in the release of extraordinarily hazardous substances due to accidental spills on-site. That is, again, directly attributable to-- I do not want to denigrate some of the remarks about paperwork, but paperwork and regulations require the types of analyses we heard on chemical process safety from the Oil, Chemical, and Atomic Workers. If you do not have a regulatory structure in place, and the paperwork, reporting, surveillance, compliance monitoring, and enforcement effort comprehensively across-the-board in place-- That is not paperwork, that is safety and risk reduction.

I don't want to be overtly critical of some of the remarks about reducing government paperwork, because I want, in certain cases, to see more government paperwork.

In addition to those quantitative reductions, we have seen-- The government is always accused of expanding, always expanding. This government Program has declined, because the nature of the Program-- You heard the Department testify that there were over 650 facilities that were regulated initially, at the outset, in 1986 under this Act. That universe has shrunk to a little over 120, again because folks want to get out of the TCPA requirements, because they are rigorous and comprehensive, and by getting out they do the right thing, from our standpoint. So you have a multitude of benefits here with that Program.

In terms of some of the remarks germane to the Nagy memo, I understand the sensitivity within the Department in terms of their explication of that memo. I think the memo points, first and foremost, to the need for the State of New Jersey, given our population density and the logistics of our handling, transporting, storing, and manufacturing of hazardous

chemicals, to require more stringent regulations than the Federal government requires. I think that is just transparently obvious from them.

On that basis, knowing what I know and reading between the lines of some very quick and very vague testimony on the part of the Department, I am afraid that they will wait until the 1999 -- at the earliest -- EPA Accident Release Prevention Program requirements. That is just unacceptable. Just like we need thresholds that are lower, we do not have to wait for the Federal Program to come on-line.

The proposal that the Department sat on as a result of that Nagy memo would have expanded the list of regulated chemicals and, in so doing, would have greatly broadened the universe of facilities that had to go through the TCPA risk management planning process. By sitting on that list, they are deferring the expansion of a regulatory program. If there is now a decoupling of, "Well, we will do the list, but we won't do the program requirements for those facilities," which is what I think I heard the Department saying, that is totally unacceptable, because, as Mr. Nagy's memo points out -- and the Department has quantified this and modeled this -- there are currently right now in the State of New Jersey, at over 550 facilities, based upon the Department's own risk analysis -- facilities that pose an excess risk of -- I cannot remember the language -- a significant increase in the probability of a fatal outcome.

Knowing that now, I just can't reconcile having that information in hand and not going forward with an expansion of that Program, while at the same time, having that information at hand, supporting a budget that reduces the Program by 42 percent. There is a \$550,000 cut in the Department's FY '96 budget in the TCPA Program. OLS estimates nine staff. I think that Program is staffed with 16 people now. That is an enormous cut. It will defer their ability to go forward with

this regulatory expansion; defer their ability to fold into the OSHA process, safety standards requirements and the Right to Know integration where they talk about efficiencies and streamlining. That will undermine their total staff capability of doing that. It will undermine their ability to go out and field monitor, enforce, and inspect facilities regulated under the Act. It is just totally counterproductive at this point in time.

The history of the Napp facility with respect to the TCPA sheds light on some of the resource questions, because the Napp facility was, in 1986, certified and registered under the TCPA Program. In 1988, they deregistered from the TCPA Program. The Department conducted, according to the information I requested in writing from the Department-- The Department did not field verify whether that certification was accurate or not. So, in my mind, their actual compliance status vis-a-vis the TCPA Program is unknown. It has been certified by the company. It has not been verified by the Department.

ASSEMBLYMAN ROMA: Our Vice-Chairman, Assemblyman Mikulak, has a question.

ASSEMBLYMAN MIKULAK: I have a question, not necessarily for you, but I was late in getting here. How many violations, if any, from what departments, has Napp accumulated over the years?

ASSEMBLYMAN ROMA: We are not sure, as a result of the questions this morning. Apparently, that information will be compiled and sent back to the Committee.

ASSEMBLYMAN MIKULAK: Okay, that's fair.

MS. PHILLIPS: I think what we are also trying to present, Assemblyman, is that whatever ability the Department has right now is going to be further compromised with severe budget cuts to these programs, which they are not able to talk to you about on the record.

MR. WOLFE: The field capability-- Again, the universe of TCPA facilities was initially 650. It is now 120. That is about 500 facilities that are out of the Program. To my knowledge, the Department has not gone out and done site inspections to determine whether -- to determine what the basis is for getting out of the Program, and is the basis accurate. That, to me, is a resource question. In light of the fact that there is a tremendous need to get out in the field, cutting back on resources at this point in time is just inexplicable to me.

With a fourfold expansion in the regulated universe coming down the pike also, and the fact that a fourfold-- There were originally over 650 facilities, and it is now down to 120. I mean, all of those plants did not go to South Carolina. So I think that is a resource question that needs to be looked at. It is a regulatory question; it is a resource question. In my mind, it is the Governor taking upon herself powers and taking actions in the regulatory arena and in the budget arena that conflict with statutory intent; that completely undermine the intent of the Program, and are done through a regulatory mechanism; that defy, in my mind--

I heard no clear justification for these measures. I can't see how, administratively, major policy changes in the programs can be made. But at any rate, that is the TCPA piece.

Our testimony outlines the mechanics and the Risk Management Program requirements of a risk management plan under the TCPA Program. Just to walk through them quickly, there are standard operating procedures which, from an efficiency standpoint, even though you might have one process that is regulated under TCPA, you may expand from a corporate management standpoint and a plant management standpoint. There are spillover benefits. The benefit of risk management reduction is not confined to the process unit that triggers your compliance. You can do things on a plantwide basis as a

matter of corporate philosophy or corporate policy that filter down to things like standard operating procedures, preventative maintenance, employee operator training, accident investigation requirements, and annual safety plan certifications that are regulatory requirements. The regs are here, and they are elaborate.

Emergency response planning requirements, facility safety review, risk assessment for equipment, auditing procedures, mandatory auditing procedures where vulnerability assessments are done, process change requirements, and contractor safety requirements-- Those are all the elements of a risk management plan. It is not a paperwork exercise. It is a rigorous, comprehensive chemical engineering exercise that filters down throughout the facility.

So expansion of that Program is called for, not retraction. As we say, it is working, and it is working very well.

MS. PHILLIPS: I want to add to that. We have written testimony that we are going to submit to you from our report, but what we actually found was that the T CPA, the Program itself, should actually be very proud of the work it has done, in light of the fact that the risk management plans actually resulted in a risk reduction of 41 percent in inventories of extraordinarily hazardous substances; also, a 26 percent decrease in the release of extraordinarily hazardous substances.

So here is a Program that is working. The administration has put forward a budget that is cutting the Program by 42 percent. You are going to be eliminating staff under the Program. You are not going to be able to implement this Program the way it is currently being done, and considering that it actually needs to be expanded.

So this is essentially one of the recommendations we have to this Committee: We would ask for your intervention, you know, in the budgetary process, to have these moneys

restored to both TCPA and also Right to Know, and to the Department in general, because we are watching a Department that is being-- We are having \$9.5 million worth of cuts in areas now that have been mandated by the Treasury, in areas that are going to greatly adversely affect the ability of the Department to do its job. These are not streamlining or paperwork cuts. This reflects their ability to actually do their job today. This is one of the strong recommendations that we have. Those of you who are able to vote on the budget clearly have a role in this.

MR. WOLFE: The other thing, from the money side, we heard strong testimony in terms of the Department saying a primary purpose of the Right to Know Program was to allow emergency response officials to do preplanning, and we heard some very strong testimony from Hackensack fire people about the on-scene effectiveness of preplanning and the lack of information. We would urge, strongly again, the Right to Know list provisions, the threshold taken back down, but also you have a big money question in the Right to Know Program, where the budget proposes, between the Department of Health and DEP, about \$1.28 million in cuts. That is a \$585,000, 39 percent reduction at DEP, and a \$700,000, 36 percent reduction at DOH. That clearly compromises their capability to do the Program. It clearly undermines the ability and the primary purpose of the Program to inform workers of the chemicals in the workplace, and to prepare local firefighters for the types of response.

So all the information in the world, in a theoretical sense, does not do anything if you don't have the field resources. We didn't hear anything specific when the Department was posed the resource questions. We did not hear anything specific coming back on the effect of these cuts on their resource capability to do the training, to do the joint

response training that they talked about. It sounds nice, but it only becomes real when it is funded at an adequate level.

On top of that, the emergency response person from the Department did not speak about the fact that their Program is also hit by the mandatory workweek reduction. So there is a 12 percent reduction off the top. They are supposedly staffed 7 days a week, 24 hours a day, and yet their overtime costs are getting whacked and they are subject to this mandatory workweek reduction, as are all these other cuts. These other cuts, in terms of staff cuts, are overlaying with a mandatory workweek reduction.

We try to bring a little bit of illumination on some of these things in terms of advocating for the programs.

ASSEMBLYMAN ROMA: Are there any questions from the Committee? Assemblyman Smith?

ASSEMBLYMAN SMITH: Bill, the nagging question left for me is the question concerning the decrease in the Right to Know list, the fact that two of the chemicals involved in the Lodi fire explosion would have been on that list had the old list been in effect. There was testimony earlier, I think from Mr. Nicholls, that even if they were on the list, chances are it wouldn't have been--

You formerly worked for DEP, correct?

MR. WOLFE: Yes.

ASSEMBLYMAN SMITH: In areas related to this?

MR. WOLFE: Not directly, no.

ASSEMBLYMAN SMITH: Just to make sure that we have gotten an opinion on the issue, do you have an opinion on that issue?

MR. WOLFE: Again, this is not a connect-the-dots type of argument. But seeing that the Department testified that the primary purpose of the Right to Know reporting and inventory was to prepare local fire and emergency response people to do preplanning, and given the fact that the list reduces the

information base upon which they do preplanning, and then hearing the Hackensack folks talking about their lack of knowledge and what that translated to on the ground, I do not think you have to establish a cause and effect relationship between the Right to Know cuts, the list cuts, which cut information from emergency response people and workers in the workplace-- I do not think it is our burden to say that there is a direct cause and effect relationship between the two.

ASSEMBLYMAN SMITH: Isn't the argument advanced still somewhat specious? I thought the argument advanced for the cuts, the cut in the list, was that they had too much -- that we were somehow overburdening the system when we had 3000 chemicals instead of 850. That seems, to me, to be a contradiction.

MS. PHILLIPS: It depends on who was making the argument.

MR. WOLFE: I found a bigger problem with the assertion that those list reductions were self-generated within the Program to improve the performance of the Program. I find that incredible in light of the fact that it has been an industry objective in the legislative domain, and the current Commissioner was a sponsor of the bill to do that, and now he is in an administrative forum where he can do that unilaterally. I find those types of comments to be counterproductive, and not totally--

MS. PHILLIPS: Assemblyman Smith, if I may just comment on that, again, in your words the Right to Know has a preventative purpose to it. The only connection we can make is that, yes, it was there to serve as a preventive measure, to help to provide information. I don't think anyone can really make a direct correlation at this point. All we can really and responsibly say is, "Well, it was out there. It was a preventive measure, one that is being dramatically cut back." It does not help us to be able to prevent situations like this,

nor does cutting TCPA, nor does eliminating -- or severely undermining the Pollution Prevention Act, and to move away from toxics and to substitute less toxic--

ASSEMBLYMAN SMITH: In terms of trying to prevent something like this from happening in the future, would it be helpful if TCPA were expanded, such that more facilities in New Jersey had to have more preplanning, emergency management plans, etc.?

MR. WOLFE: I want to make it clear that the statute gives the Commissioner administrative authority to do that. There is no need for legislation to the TCPA Program as it is currently crafted to do the enhanced program that we are talking about.

Some of the other ideas about worker and community involvement would need legislative authorization. But the current TCPA Program, and applying the current TCPA requirements to the expanded universe of facilities as that which would result from that list--

ASSEMBLYMAN SMITH: Right.

MR. WOLFE: --would not require any legislation.

ASSEMBLYMAN SMITH: Does the Environmental Federation have any recommendation in terms of how large that area should be expanded and what should be the criteria for the expansion?

MR. WOLFE: Well, the criteria of the current Program are toxicity and volatility. That was expanded by the Federal law to include flammability, explosives, and-- There was a third one.

ASSEMBLYMAN SMITH: Correct.

MR. WOLFE: But the criteria were expanded. I do not have the expertise to--

ASSEMBLYMAN SMITH: Did we do that? Did we expand it here in New Jersey to meet the Federal criteria?

MR. WOLFE: No. The Department has the discretion administratively to add elements to the list, and by doing list

additions you therefore capture program requirements, based on the list expansion.

ASSEMBLYMAN SMITH: But there is no question in your mind that if that were a larger list in terms of Toxic Catastrophe Prevention, if we had more facilities in New Jersey doing this disaster planning, we would have a safer State?

MR. WOLFE: Absolutely. The concern with what happens at the facility boundary translates not only into environment and community safety, and enhancement and risk reduction, but it translates directly into the front line of the workers, and directly into, you know, emergency response reduction, because if you don't have a disaster, you don't have the firefighters at the scene in the first place. So, yes, I would concur with that.

ASSEMBLYMAN SMITH: Mr. Chairman, I have been listening to testimony since 11:00 this morning. That perhaps is some of the most constructive. We have the ability, as a Committee, to make recommendations to whomever, and I would strongly suggest that we write to Commissioner Shinn and suggest that Federal criteria be adopted. You know, we are only saying what comes back to the Federal criteria. It sounds like here is a place in New Jersey law where we are less stringent than the Federal criteria, but yet by adopting the Federal criteria we would have more chemical facilities in this State, while putting together an emergency response plans, catastrophe prevention plans, or whatever. It does not require us to pass a bill. It does not require the Governor to sign anything. It just requires the Commissioner to step up to the plate and require more chemical facilities to act responsibly. That is something--

ASSEMBLYMAN ROMA: I think one of the first things we will do, with all due respect, is probably to expedite a copy of the transcript and send it on to the Commissioner. We will take it in those steps. But I thank you--

ASSEMBLYMAN SMITH: He may be (indiscernible) if he reads every page and every word.

ASSEMBLYMAN ROMA: Well, I am suggesting that the best information is the information that we acquired here today.

MR. WOLFE: This, historically, was a 100 percent fee-funded Program also. It was a \$2 million Program that operated with zero appropriations. That has changed also under the Governor's budget.

ASSEMBLYMAN SMITH: If I may, Assemblyman, not to be flip, but I don't know if you should rely on the transcript. There is a rumor around that Hal Bozarth is in charge of the mail at DEP, and he might-- (laughter) A recommendation from this Committee-- (indiscernible; Assemblyman speaking off mike)

ASSEMBLYMAN ROMA: Thank you, Assemblyman Smith.

Ms. Phillips and Mr. Wolfe, thank you for your testimony

MS. PHILLIPS: We will submit our written testimony, which has our recommendations in it.

Thank you for your time.

ASSEMBLYMAN ROMA: Thank you for being with us.

According to the sign-in sheets, I have Jane Nagoki, from the Right to Know and Act Coalition, and Jeff Stoller. Is there anyone else left who has not signed up who wishes to testify? (no response)

Why don't you come forward, Jane and Jeff?

ASSEMBLYMAN SMITH: They are kind of like point and counterpoint.

ASSEMBLYMAN ROMA: If the two of you feel comfortable sitting next to each other--

J E F F R E Y S T O L L E R: (speaking from audience) I will come up with Jim. (referring to Jim Sinclair)

ASSEMBLYMAN ROMA: Okay. Thank you.

J A N E N O G A K I: I am kind of running low on my testimony here. I will have to parcel it out.

I will be picking up right where Dolores Phillips and Bill Wolfe left off. My name is Jane Nogaki. I am Cochair of the New Jersey Right to Know and Act Coalition. Thank you for having this hearing today on this very critical issue -- occupational safety and health and employment retention.

The Right to Know Coalition is comprised of 150 citizen, environmental, labor, and religious groups. We have been in existence since 1982-1983 at the inception of the law, and we have remained active in promoting the use of Right to Know information to advance community and worker safety. The ready availability of that information is in jeopardy now because of actions taken in a regulatory and budgetary way by the Whitman administration to disinform the public. This direction in policy is directly contradictory to safe and healthy workplaces and safe and healthy communities.

Other people here today will talk, and have talked about the policy and budget deficits. My purpose is to talk about community perspective on business retention and plant safety. The chemical industry, in all its trade publications, has recognized that their existence in the community rests on community acceptance. They dwell in the community and reside in the community at the pleasure of that community. If the community rises up against a plant, they can literally drive that plant out. So the chemical industry depends on the goodwill of the public for its existence.

That goodwill is based on trust that the industrial facility is not going to endanger the community or pollute the environment. Generally, a community accepts a plant until something tragic happens -- visible signs of pollution, explosions, fires like the one at Napp Technologies -- and that forces a confrontation. Then there is anger, mistrust, and a highly charged situation that is almost impossible to resolve. That is evident here where it is highly indicative that probably Napp Technologies will not be resited in Lodi. The

possibility of future Napp Technologies being sited in Lodi is very small. And, who can blame them? What planning board or zoning board would accept a facility like that?

In this failed process, everyone losses: the workers who died; their families; the workers who survived but no longer have jobs or a place to go to work in the community; the business owners, who have lost millions, maybe a billion dollars in their entire facility; and there is a loss of public trust. The community of neighbors and emergency responders suffer continuing trauma and the effects of the toxic runoff and the smoke.

Under what circumstances could a plant rebuild in a community? What assurances would a community need to abide a chemical facility operating safely in their town?

There is a model, and community groups are using it across the country. It is not written in any law. It is not written in any regulation. Community groups are seizing this rate because of the effects of these toxics and the potential effects on the community. They are dealing with this issue by demanding participation and exacting a higher level of safety of plants and facilities than is required by law. It is called a higher measure of safety; a safety mentality, rather than a compliance mentality.

There has been a lot of debate here about, they did not follow the law, or comply with every law. In truth, they may have complied with every law and still have had this accident happen, because they have not done a complete hazard assessment, a preventative hazard assessment to figure out what their alternatives were to the technologies they were using that would be inherently more safe. That is called "primary prevention." No law right now requires that, although the Pollution Prevention law would require it of certain facilities and in a certain subset of chemicals. No law requires this right now, for an entire facility to look at everything it

manufactures, every chemical it uses, and then say, "What are the hazards? What are the worst-case scenarios for all this stuff? What could we be using instead?"

That needs to happen up-front. That is the only way a community could accept that a company was operating in good faith and could operate knowing that they had looked at all the risks, not only looked at them all, but conveyed them to the public. What company now willingly shares its hazard assessment with the local planning board? What sewage treatment plant has willingly shared the chlorine dispersion model and the number of fatalities that would occur within 100 feet of the sewage treatment plant? Have you known any to convey that information to you? That is the kind of information that the public must demand, that the planning board must demand of a facility, in order to accept that they can trust that this facility can operate safely.

I am not saying that as a community member I don't think they can operate safely, because I think they can. I think that if a facility does this kind of an analysis, conveys it to the community, if the community has its own technical expert to review it and verify it -- because I am not going to take the company's word alone, I am going to need my own technical expert who will be able to tell me, representing my interests, that, yes, this is a true process, or, no, there is a safer alternative.

Under those kinds of conditions, those are the kinds of questions that need to be asked. That is the higher level of safety that needs to be assured for a community to accept a facility like this. There has to be total disclosure. There has to be total up-frontness, and a willingness to consider these alternatives, even if initially they may be more expensive. If they can prevent a million-dollar accident, you know, those five fatalities, in the long run it will be worth it.

Right now, companies are not costed out that way; insurance is not costed out that way; and the regulations are not costed out that way. There needs to be a significant change in thinking. We had it in the Pollution Prevention Act, primary prevention, like looking at the safest alternative first, not looking at these mitigation measures after the fact. It is the emphasis on primary prevention and the public participation that are going to assure people that plants like this can operate safely.

That process is called a "good agreement," a community agreement. It has happened in a couple of communities across the country. There is an example of it attached to my testimony. There are also some examples of Right to Know success stories in my testimony, because I don't want to give the impression that I think the laws we have are worthless. I think they are first steps, but the next step needs to happen, and that is the primary prevention rule. The Toxic Catastrophe Prevention Act is an example of that also. Again, it is kind of a risk management and look at substitutions kind of law, but, again, it only covers the subsetted chemicals.

It really needs to cover the full range of hazardous chemicals, because you need the full disclosure. It is not going to help if benzaldehyde, sodium hydrosulfite, or the chemicals involved in that explosion -- if those do not come out to be on that TPCA, even the expanded list. If those two chemicals are on that list and the industry is not required to look at every chemical, every hazard, and risk assess that out and substitute safer alternatives, it is not going to matter that it was on the TPCA list. The TPCA list needs to be expanded. Really, this technology option alternative needs to be covering every single hazardous chemical in a facility. I do not mean to say that all chemicals are hazardous. We know that there is a subset and that most chemicals are not hazardous. But out of the 100,000 or so, the ones that have

been identified, you know, about 3000 of them are, and they need to be dealt with for whatever their hazard is.

So I am saying that we need to support the laws we have, fully fund these programs, because it scares me when middle managers say they are shortening the list to address the true nature of the hazard, when they cut hazardous substances off that list. That is management's approach, saying, "How can we do a credible job with limited resources?" The way they are going to do it is to cut down their workload by cutting chemicals off the list so that they do not have to deal with so much paperwork. It is not a logical way to handle a toxics problem.

If there is a resource problem and people cannot deal with the amount of work needed, it is not a good measure of that to just say, "Well, we will just ignore some of these hazards, cut down our workload, and fire half of our people." That is not going to do the job .

So I urge you to support the budget -- restore the millions of dollars back to the DEP budget that are needed to do the job, because cutting corners on this is not going to help to prevent accidents.

That concludes my statement.

ASSEMBLYMAN ROMA: Thank you, Jane.

Are there any questions from the Committee? (no response)

Thank you for your patience.

Jeff Stoller and Jim Sinclair, New Jersey Business and Industry Association. Good afternoon.

MR. STOLLER: Thank you, Mr. Chairman.

I will be very brief, because Jim Sinclair is really our expert at the BIA who has been involved in all of the issues that have been raised this afternoon.

I just want to get on record, though, that we would like to offer to the Committee-- This is obviously an ongoing

series of investigations and discussions of how you respond in the wake of these incidents, but I did want to offer, first of all, that the committees of the BIA, which include representatives of many of our top companies in both the human resources area, which you just met with last week, and also Jim's environmental quality group, have a lot of expertise that I think could be tapped in terms of getting feedback and shaping response.

We have just come, this morning, from a conference that was scheduled long before some of the recent episodes -- in fact, I think we scheduled it back late last year -- where 150 of our companies came out and met with the Area Director of OSHA for Central Jersey, met Shirley Schiffman, the head of the Right to Know Program, and also spent another part of the morning talking about the kind of resources that are available to these companies from insurance carriers, from the State Department of Labor's OSHA Consulting Service, all the resources that are available to the private sector, to do a better job with workplace safety, and there is obviously a lot of concern.

People understand that these kinds of incidents are devastating and injuries and illnesses are bad for business under any circumstances. So it is not that you have a hard time convincing people of the severity of the problem. We are just trying to find ways that we can get companies educated about the issues, how they can be doing a more effective job, and, to the extent that we can be part of your Committee's deliberations on these issues, we would like to just make sure that you know we are there. We are interested. It is not something you need to twist our arms about. It is something that we have a great concern about already. I think that was demonstrated this morning with the interest we have.

Incidentally, most of those companies that were participating were the small and medium-sized companies, not

the large companies. They are people who know they need more information, need more resources, and they are actively engaged in reaching out.

With that, maybe I should turn it over to Jim, who can comment in more detail on some of the specific issues that have come up.

J I M S I N C L A I R: I really did not intend to say a lot, but I listened. What we will do is, we will provide you testimony. I think this really deserves some good testimony that is well-thought-out.

Unfortunately, it seems that people see things in different ways in terms of this particular incident. Clearly, an issue like this is something we learn from; this process is learning. What happens in terms of safety incidents in industry, is that industry learns what went wrong, takes a look at it and sees how that applies to their own operations. That is an ongoing process, with or without government, although government serves a purpose here to bring the facts to the forefront.

I don't have the facts on the Napp incident. I would like to see them, so I will be very general in my remarks.

A number of issues, I think, have been raised. The Right to Know Program: Basically, it seems to me that you are being asked to take a look at the Right to Know Program and figure out, does this work? What happens there? Where did all that money go at \$2 an employee for the last 12 years? -- which must be tens of millions of dollars. What happened to that money? What was the end result? What did we get from that? Why do we have this Program now, when we have a Federal program? We have the Federal OSHA Hazardous Communication Program. We have SARA, Title III. What is the function of the State's Right to Know Program?

The question of universal labeling was introduced into the record here. Clearly, this is something that has not

helped anybody in the process. This has been a fantastic waste of effort and energy on the part of everybody involved with it. It does not help people in the workplace. It does not help emergency responders. It is something that needs to be changed. There is an OSHA labeling system. If we took that expenditure that is wasted out there and used it productively, then perhaps we would not have lost 200,000 manufacturing jobs. Perhaps we would not have to wait and take a look at the people who are on Unemployment, who go through the entire time frame without-- Half of them go without finding another job.

I am as anxious as anyone to sit down and work cooperatively and have a system that makes sense, top to bottom, from worker to the Federal government, in all the different layers and different aspects. We have been, all along, at the Business and Industry Association, but, unfortunately, there have been people who locked into the status quo, locked into programs that have not been functioning. The Right to Know Program, early on, we knew that it wasn't doing anything really worthwhile in the process.

ASSEMBLYMAN ROMA: May I ask you a couple of questions?

MR. SINCLAIR: Yes.

ASSEMBLYMAN ROMA: I guess one of the concerns I have -- and I do not profess to be an expert in these areas, although I have learned a lot since I came to the Legislature -- but I heard from the firefighters, I heard from environmental groups, I heard from a number of people. There are people who were on the frontlines, people who are actively involved, such as the firefighters. When I hear testimony from the firefighters and someone says, "It would be helpful to know what's there before I get there," it makes a lot of sense.

MR. SINCLAIR: Yes, sir.

ASSEMBLYMAN ROMA: Just like we did with the truss roofs. If I were a firefighter responding to a fire, I sure as hell would want to know what was in that building.

MR. SINCLAIR: Absolutely. That is something we supported. That is why we supported Assemblyman Rooney's Firefighters Right to Know Act. We have supported preplanning through the process. We have supported having the right information available, of having the emergency responders meeting with the facilities, actually going in and taking a look, talking to them. There is a lot of good information floating around. Senator Baer's bill on the warehouses-- If warehouses present a hazard to the emergency responders, we ought to have a mechanism for putting them in there. People ought to know what is there. We ought to have a placarding system. You shouldn't be wandering around responding to a fire without knowing what's there.

But let's get the information there in a way that it can be used. I mean, let's have a system that makes sense. That is what we have been arguing for. I think we need to take a look at: What are the Federal requirements, from the workplace, in terms of OSHA, from the reporting that goes to the local emergency people. And what is it that we should be doing separately, differently, in New Jersey as an add-on to be better?

The TCPA: A wonderful Program. It really works. It is a Program that the Federal government looked at as a model for what to do with the 112-R Program. They said, "Yes, this makes sense." But it looked at the Program in the context of what has been learned. It learned that it makes a lot more sense to, in addition to toxicity and volatility, add explosive things to it, to identify those chemicals based on some rational way. We didn't do it in a very rational way. We rationalized the process afterward based on the chemicals that were put into the original TCPA. There were eight original chemicals. The Department wrestled with it in a very scientific and rational way, took a look at the toxicity and the volatility, had an index factor, and picked every other

chemical that fit that range, at the outside range of chemicals, to put it in. That is how we identified the 100 or so TPCA chemicals.

The Federal government has looked at this process. They looked, and added chemicals. I agree with Assemblyman Smith. We ought to use the Federal system. We ought to have the Federal list, and we ought to use the Federal procedures, because they have looked at our system, and they have a better way of doing it, a more flexible way of doing it, a more cost-effective way of doing it.

That has been our argument at the Business and Industry Association in the work groups. Yes, let's adopt the Federal procedures. Let's use it. Let's run the program the way the other states are running the program, including the chemicals in. That makes sense. That makes sense for the responders; it makes sense for the community; it makes sense for the industry.

So, yes, I believe the emergency responders should have the right information and that our system should look like everybody else's system, and that it should work. We should not be burdening ourselves with unnecessary reporting, unnecessary information. It has to make sense to the people, both the responders and the people who run the facilities. That is what we are asking for.

Now that you have taken on this assignment here, we are more than willing to commit the time and energy from the Business and Industry Association and our members to assist you in this process; to bring that in, to show you what other states do and how we do this.

Thank you.

ASSEMBLYMAN ROMA: Again, as we go through these hearings-- This is the first time that we have had an oversight hearing concerning a matter like this. It covers a

number of issues. While the Right to Know was an issue that was in Policy and Rules, there are a variety of issues that we are trying to address.

As we talk about costs, lawsuits, and things of that nature, it is good business to have a safe workplace, not only from the standpoint of the employee who goes there every day, with the expectation that he will not be injured or killed, but from the standpoint of a business. All of these programs we are trying to put together have the common goal, I hope, of making sure that it is a safe place, and therefore a successful business.

Napp Chemical blowing up or being in flames does not help anyone. It seems to me that we sometimes disagree on how we get there, but we all want a safe workplace. I do not know what the final answer is going to be, but it seems to me that in some of these areas, the funding of those programs would be helpful. To cut back and not have the funding in a program means that you cannot do the job. So why would you have the program to begin with, if that were the case? I mean, that makes a lot of sense, if you pose the question that way.

So, from this standpoint, we have seen some problems. It does not have to be in my district or someone else's district to have eyes opened as to what has happened. There is a whole variety of problems that have erupted. Unfortunately, sometimes we tend to be reactive. There has to be a disaster before someone opens his eyes. It should not be that way. We could take the opposite viewpoint and say, "If we didn't have some of these programs in place, we would have had other disasters."

I am not quite sure what the answer is. I do not want to wake up one day and not be in a position, or not have addressed those particular issues. I don't think it is right. Somehow we will work together and try to come up with some sort

of a proposal. It is not easy. I do not profess that it will be, but at the same time, it is completely necessary that we work together.

Will you please submit your written testimony?

MR. SINCLAIR: Yes, we will send you written testimony. What time frame do you have for needing it?

ASSEMBLYMAN ROMA: Yesterday.

Thank you for your help.

MR. SINCLAIR: Thank you, sir.

ASSEMBLYMAN ROMA: Wallace Burdick? Wallace Burdick is one of the Napp workers.

W A L L A C E B U R D I C K: Yes, sir. My original purpose in coming up was just to make one brief point. Certainly, they said that all of the survivors were outside the building. That is not true. There were several inside the building who had immediate injuries, but also they are more subject to possible long-term injuries than the rest of us. The rest of us may have taken some fumes on the outside.

ASSEMBLYMAN ROMA: Have you received treatment as a result of the explosion?

MR. BURDICK: I had a very minor injury, but I went to St. Mary's Emergency Room. They were more interested in the effect it would have on my heart than the injury. The actual injury itself was very minor.

While I am up here, I have to say that I strongly disagree with the opinions with the two gentlemen who preceded me. I don't think we need any rereading of the regulations. I think we need strengthening of them.

I just wanted that to go on record.

ASSEMBLYMAN ROMA: Thank you, Mr. Burdick, for being with us.

MR. BURDICK: Thank you.

ASSEMBLYMAN ROMA: I don't believe there are any other speakers who wish to testify.

This is an oversight hearing, as I indicated at the outset. A number of issues have been discussed. Hopefully, when we receive the OSHA report, we will have more information.

I would ask the different agencies that are present -- that had been present, or are still present here this afternoon -- to make those questions we asked about available to us, so that we can get a better idea of what happened and what we can do to prevent a similar tragedy in the future.

Thank you.

(HEARING CONCLUDE)

APPENDIX



NEW JERSEY GENERAL ASSEMBLY

PATRICK J. ROMA
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STATE EMPLOYMENT &
TRAINING COMMISSION

May 15, 1995

Commissioner Robert C. Shinn, Jr.
NJ Department of Environmental Protection
401 E. State St.
7th Floor, E. Wing
CN-402
Trenton, N.J. 08625-0402

Dear Commissioner Shinn:

This is to inform you of the public hearing which the Assembly Labor, Business and Industry Committee will hold at 11 A.M. on Tuesday, May 23, 1995 to review State programs to maintain safe and healthy workplaces, with special attention to recent industrial accidents in Lodi and Hackensack. The hearing will also review State efforts to retain employment ideas from all interested parties on how to improve New Jersey's efforts to promote workplace safety and health.

The hearing will held in the Bergen County Freeholder Chambers, Administration Building, Court Plaza South, Room 301 E. 21 Main Street Hackensack, New Jersey.

I would appreciate it if you or representatives from Department of Environmental Protection would make a presentation and be prepared to discuss the following topics:

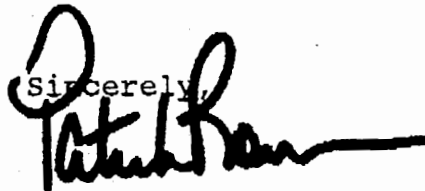
1. Please describe whatever jurisdiction your department had over the Lodi and Hackensack situations with respect to: safety and health of the employees of the facilities, emergency personnel such as firefighters, and the surrounding community; chemical emergency planning; and chemical catastrophe prevention.

2. Please describe the programs in your department directed at workplace and community safety and health that may be of use in preventing tragedies like those in Hackensack and Lodi, including the Right to Know program, the Toxic Catastrophe Prevention Program and the Bureau of Emergency Response. We are interested in knowing whether the resources for these programs are sufficient to meet the need. Please describe and comment on: any changes in the manpower and funding for any of the programs over the last five years: the impact of the proposed Fiscal Year 1996 budget: and any other legislative proposal which may have a positive or negative impact on the programs. Any suggestions you have regarding how the legislature may play a constructive role are welcome.

3. How are your department's efforts regarding workplace safety and health being coordinated with the efforts of other State departments and the affected businesses, workers, unions, local governmental agencies and community members?

4. What is your assessment of the short term and long term impacts of the Lodi and Hackensack incidents on the environment, public health, and worker displacement?

I welcome any effort you may make to coordinate your response with other agencies or departments and I look forward to your participation in the hearing.

Sincerely,


Patrick J. Roma
Assemblyman-District 38



NEW JERSEY GENERAL ASSEMBLY

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STATE EMPLOYMENT &
TRAINING COMMISSION

May 15, 1995

Commissioner Leonard Fishman
NJ Department of Health
CN 036
Trenton, N.J. 08625

Dear Commissioner Fishman:

This is to inform you of the public hearing which the Assembly Labor, Business and Industry Committee will hold at 11:A.M. on Tuesday, May 23, 1995 to review State programs to maintain safe and healthy workplaces, with special attention to recent industrial accidents in Lodi and Hackensack. The hearing will also review State efforts to retain employment from the affected facilities. The committee is seeking constructive ideas from all interested parties on how to improve New Jersey's efforts to promote workplace safety and health.

The hearing will be held in the Bergen County Freeholder Chambers, Administration Building, Court Plaza South, Room 301E, 21 Main Street, Hackensack, New Jersey.

I would appreciate it if you or representatives of the Department of Health would make a presentation and be prepared to discuss the following topics:

1. Please describe whatever jurisdiction your department had over the Lodi and Hackensack situations with respect to safety and health of the employees of the facilities, emergency personnel such as firefighters, and the surrounding community.
2. Please describe workplace and community safety and health programs in your department which may be of use in preventing tragedies like those in Hackensack and Lodi. Include: the Environmental Health program; the Right to Know program; and the PEOSH program (which applies to fire, police and other public sector emergency workers). We are interested

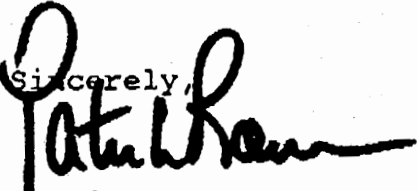
page 2

in knowing whether the resources for these and other relevant programs are sufficient to meet the need. Please describe and comment on: any changes in the manpower and funding for any of the programs over the last five years; the impact of the proposed Fiscal Year 1996 budget; and any other legislative proposal which may have a positive or negative impact on the programs. Any suggestions you have regarding how the legislature may play a constructive role are welcome.

3. How are your department's efforts regarding workplace safety and health being coordinated with the efforts of other State departments and the affected businesses, workers, unions, local governmental agencies and community members?

4. What is your assessment of the short term and long term impacts of the Lodi and Hackensack incidents on the environment, public health, and worker displacement?

I welcome any effort you may make to coordinate your response with other agencies or departments and I look forward to your participation in the hearing.

Sincerely,


Patrick J. Roma
Assemblyman-District 38



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May 15, 1995

Commissioner Peter J. Calderone
NJ Department of Labor
CN 110
Trenton, New Jersey 08625

Dear Commissioner Calderone:

This is to inform you of the public hearing which the Assembly Labor, Business and Industry Committee will hold at 11 A.M. on Tuesday, May 23, 1995 to review State programs to maintain safe and healthy workplaces, with special attention to recent industrial accidents in Lodi and Hackensack. The hearing will also review State efforts to retain employment from the affected facilities. The committee is seeking constructive ideas from all interested parties on how to improve New Jersey's efforts to promote workplace safety and health.

The hearing will be held in the Bergen County Freeholder Chambers, Administration building, Court Plaza South, Room 301 E. 21 Main Street, Hackensack, New Jersey.

I would appreciate it if you or representatives of the Department of Labor would make a presentation and be prepared to discuss the following topics:

1. Please describe any services that the department is providing, such as WDP customized training, to save the jobs which may be permanently lost because of the Lodi and Hackensack disasters. We are interested in knowing whether the resources for these programs are sufficient to meet the need. Please describe and comment on: any changes in the manpower and funding for any of the programs over the last five years; the impact of the proposed Fiscal Year 1996 budget; and any other legislative proposal which may have a positive or negative impact on the programs. Any suggestions you have regarding how the legislature may play a constructive role are welcome.

2. Please describe any services that the department is providing, such as assistance with unemployment insurance and similar benefits, and Workforce Development Partnership (WDP) job training grants to individual workers displaced because of the Lodi and Hackensack disasters. Please describe and comment on any changes in the resources committed to those services and possible impacts of legislative proposals.

3. Please describe whatever jurisdiction, if any, your department had over the Lodi and Hackensack facilities with respect to safety and health.

4. Please describe workplace safety and health programs in your department that may be of use in preventing tragedies like those in Hackensack and Lodi. Include: the OSHA consultation program; your role in the Right to Know program; the PEOSH program, which applies to fire, police and other public sector emergency workers; and Occupational Safety and Health training grants under the WDP. We are interested in knowing whether the resources for these programs are sufficient to meet the need. Please describe and comment on any changes in the resources committed to each service and possible impacts of legislative proposals.

5. How are your department's efforts regarding workplace safety and health and retaining the affected Hackensack and Lodi jobs being coordinated with the efforts of other State departments and the affected businesses, workers, unions, local governmental agencies and community members?

6. What is your assessment of the short term and long term impacts of the Lodi and Hackensack incidents on the local economy, the environment, public health, and worker displacement?

I welcome any effort you may make to coordinate your response with other agencies or departments and I look forward to your participation in the hearing.

Sincerely



Patrick J. Roma
Assemblyman-District 38



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May 15, 1995

Commissioner Gualberto Medina
NJ Department of Commerce and Economic Development
CN
Trenton, New Jersey 08625

Dear Commissioner Medina:

This is to inform you of the public hearing which the assembly Labor, Business and Industry Committee will hold at 11:A.M. on Tuesday, May 23, 1995 to review State programs to maintain safe and healthy workplaces, with special attention to recent industrial accidents in Lodi and Hackensack. The hearing will also review State efforts to retain employment from the affected facilities. The committee is seeking constructive ideas from all interested parties on how to improve New Jersey's efforts to promote workplace safety and health.

The hearing will be held in the Bergen County Freeholder Chambers, Administration Building, Court Plaza South, Room 301 E. 21 Main Street, Hackensack.

I would appreciate it if you or representatives of the Department of Commerce and Economic Development would make a presentation and be prepared to discuss the following topics:

1. Please describe any services, such as subsidized financing, that the department, and affiliated agencies like the Economic Development Authority, are providing to save the jobs which may be permanently lost because of the Lodi and Hackensack disasters. We are interested in knowing whether the resources for these programs are sufficient to meet the need. Any suggestions you have regarding how the legislature may play a constructive role are welcome.

page 2

2. How are your department's efforts to retain the affected Hackensack and Lodi jobs being coordinated with the efforts of other State departments and the affected businesses, workers, unions, local governmental agencies and community members?

3. What is your assessment of the short term and long term impacts of the Lodi and Hackensack incidents on the local economy, the environment, public health, and worker displacement?

I welcome any effort you may make to coordinate your response with other agencies or departments and I look forward to your participation in the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Roma", written over the word "Sincerely,".

Patrick J. Roma
Assemblyman-District 38

Good morning, my name is Gerald Nicholls and I am the Director of the Division of Environmental Safety, Health and Analytical Programs for the Department of Environmental Protection. I would like to thank the Committee for the opportunity to discuss the DEP's role in workplace and community safety.

There are several federal and state statutes that address workplace and community safety. At the federal level, the Occupational Safety & Health Act is directed specifically at workplace safety, the Emergency Planning and Community Right to Know Act requires emergency response planning and the dissemination of information concerning chemical inventories and the releases of toxic chemicals and, finally, under the Clean Air Act, EPA is mandated to create an accidental release prevention program that will protect the environment and the public from accidental releases of harmful chemicals.

At the state level, we have the Worker and Community Right to Know Act (RTK) implemented by the Departments of Labor, Health and Environmental Protection and the Toxic Catastrophe Prevention Act (TCPA) implemented by the DEP. The DEP's implementation of the Community Right to Know portion of Worker and Community Right to Know Act also implements and enhances the federal Right to Know program. Also, we anticipate that our TCPA program will receive delegation of authority from EPA to implement EPA's Accidental Release Prevention Program. The TCPA program, while designed for community safety, closely parallels the OSHA process safety management rules adopted by OSHA to protect the worker.

I would now like to describe the DEP programs and examine their relationship to the tragic incidents that happened in Hackensack and Lodi.

The DEP's Community Right to Know program collects and disseminates chemical inventory and release information reported by private-sector businesses. The Community Right to Know survey is mailed to those 32,000 businesses that have Standard Industrial Classification (SIC) codes identified in the statute. The survey information is collected and sent by the regulated facility directly to local emergency response agencies: the police department, fire department and local emergency planning committee. This information is transmitted to these agencies for local emergency planning purposes. It is also transmitted to DEP where it is computerized and disseminated to any interested party requesting the information. Anyone may request the information from us or dial in to our computerized database and obtain the information directly. The reporting of chemical inventories present at a facility cannot prevent all accidents; rather the primary purpose of such reporting is to alert the local emergency response agencies about specific hazardous materials in their community for which they should pre-plan their response to incidents at such facilities.

As stipulated in the RTK Act, the Standard Industrial Classification (SIC) code of a facility determines whether or not a facility is regulated under RTK. In the case of the warehouse in Hackensack, it was not regulated, as the SIC codes for warehouses are not included in the statute. With regard to the incident in Lodi, that facility is regulated by RTK and had submitted its 1994 survey. The Department's RTK program surveys chemical inventories for approximately 850 chemicals with a threshold for reporting of 500 pounds. The

Department also collects the chemical inventory data required by the federal RTK program. The federal program requires reporting of some 360 chemicals at a 500 pound or less threshold and the reporting of all OSHA designated hazardous substances at 10,000 pounds. It is estimated that some 500,000 substances are reportable under the federal program. As you are probably aware, Governor Whitman has asked the Commissioners of Health, Labor and Environmental Protection to review the issue of how many substances should be reported pursuant to the State program and at what threshold they should be reported. Should this review determine that there is a need for legislative changes, we will certainly seek your assistance.

The New Jersey TCPA program was the first program of its type in the country. It was created following the tragedy at Bhopal, India. It is designed to regulate facilities that handle or store substances which, if released, could cause immediate death or permanent disabling injury at the fenceline of the facility. The program requires facilities to identify the hazards and risks associated with the use of extraordinarily hazardous substances (EHS) and then requires the facility to prepare a risk management program that details how those risks can be effectively managed and reduced. The Risk Management Program includes standard operating procedures, preventive maintenance procedures, operator training, accident investigation procedures, emergency response training, safety reviews of the facility, hazard analysis and risk assessment for EHS equipment and procedures and self audit procedures.

The TCPA program currently regulates some 115 facilities in New Jersey - chemical plants, potable and waste water treatment plants, and cold storage warehouses that store or use any of the 104 extraordinarily hazardous substances in quantities and concentrations established pursuant to the Act.

Initially, some 650 New Jersey facilities were regulated, however, most of them decided to reduce their inventory of hazardous substances to below the threshold quantity, or reduce the concentration of the hazardous substance or switch to a less hazardous substance or process. This resulted in New Jersey being a safer place in which to work and live.

Consistent with the implementation of the federal Clean Air Act, the Department will propose to expand the list of regulated substances to include all of the chemicals listed in EPA's Accident Release Prevention program rules. Additional toxics will be added, along with flammables and explosives. Thus, the most highly toxic, flammable and explosive chemicals that could pose a threat to a community will be included. The current program did not regulate either the Hackensack warehouse or the Lodi chemical plant because neither facility stored extraordinarily hazardous substances in the quantities and concentrations covered by the rules. The future list may add as many as 600 facilities to the program. However, as we have seen previously, we believe that many facilities will take risk reduction measures such as reducing quantities, concentrations or substituting less hazardous materials to avoid the regulatory process.

The issue of additional facilities and additional reporting requirements becomes critical when assessing the resources required to implement these programs versus the predicted result of list expansion. For the past five years the budgets of these two programs have remained fairly constant. Increased costs due to higher salaries have been offset by reduction of operating costs through extensive computerization in RTK, and through staff reductions in TCPA as the number of regulated facilities declined. Beginning

in FY-96, the two bureaus that separately implement the RTK and TCPA programs will be consolidated to further achieve efficiency. Any additional requirements placed on the RTK program will require a reallocation of existing resources. The RTK programs in DEP, Labor and DOH are funded via the RTK trust fund, payments to which are made by New Jersey industries. Additional requirements imposed on the RTK programs cannot be funded through existing Trust Fund revenues.

While, the RTK and TCPA programs are directly concerned with protecting the community, much of that protection only occurs if the worker himself or herself has been protected. OSHA pre-empts the State with regard to worker health and safety in the private sector. A ruling by the U.S. 3rd District Court of Appeals clearly reinforced that in its response to a RTK workplace issue law suit. However, the Department will continue to work with OSHA and EPA to foster community safety through workplace safety.

For example, OSHA and EPA are investigating the tragic accident in Lodi. A member of our TCPA staff is working in support of this investigation. When the results of that investigation are in hand, we will review all of the federal and state reporting requirements in cooperation with the departments of Health and Labor; and, take whatever actions are shown to be necessary to protect public health and the environment.

Again, we appreciate the interest of the committee in our programs and the opportunity to provide this testimony.

The Lodi Fire Status Report

— from the N.J. Department of Environmental Protection

The New Jersey Department of Environmental Protection (DEP) understands the concerns of the residents of Lodi regarding the potential health impacts of the NAPP chemical fire and explosion. In response to several recent news reports regarding off-site impacts to the air, water and soil, the DEP is providing the following information on its monitoring activities and results.

Air monitoring teams from two counties and three DEP divisions, together with EPA teams, were dispatched throughout the surrounding community. Monitoring was performed using state-of-the-art equipment and continues to date. In addition to this constant monitoring, some 300 air samples were obtained and analyzed for the known products of combustion involved in the fire.

The EPA took multiple air samples in the fire's main plume. All analyses indicated that the majority of materials involved in the fire were consumed by the intense heat. This intense heat also helped keep the smoke and particulate matter aloft for many miles, reducing the chance of large concentrations of contaminants. At one point, a reading of 25 ppm of sulfur dioxide was obtained, but was not found in samples taken minutes later. Such elevated, short-term levels of products of combustion are common in such fires and are considered to pose no long-term health effects.

In addition to the many air samples taken, samples from the Saddle River were taken and showed elevated levels of phenol, which accounted for the fish kill and have dissipated. Continued monitoring of the river will be maintained, and analyses are expected to show that the river will return to its state prior to the fire. Local health officials will continue the ban on fishing until the river recovers.

Shortly after the fire, a meteorological station was installed and samples were taken, and continue to be taken at strategic points throughout the fire site to identify any off-site impact associated with the clean-up. To date, all analyses show no detectable levels of contaminants. The majority of the fire debris from the main building and most of the unaffected raw material have been transported offsite. Day-long monitoring will continue for the duration of the clean-up.

The DEP is awaiting additional air monitoring data as well as lab analyses from the Saddle River and various soil samples from around the fire site. Once received, the information will be shared and discussed with Bergen County Health Department and Hackensack Medical Center, as well as with state and federal health officials. They are expected to interpret the monitoring results and present them to the general public by late May. In the meantime, while the possibility of indoor contamination is remote, area residents with concerns may wish to wipe surfaces with normal household cleaning products to remove dust and particulates.

Individuals with health concerns believed to be related to the fire should call Jeanne Aversa for a physician referral at Hackensack Medical Center, 201-996-2020.

5/95



State of New Jersey
Department of Environmental Protection
CN 402
Trenton, NJ 08625-0402

Christine Todd Whitman, Governor
Robert C. Shinn, Jr., Commissioner

printed on recycled paper

14 X

Assembly Labor, Business and Industry Committee

Public Hearing

May 23, 1995

I am Dr. Elin Gursky, Senior Assistant Commissioner in the Department of Health. The Service units, including the Occupational Health Service, in the Division of Epidemiology, Environmental and Occupational Health Services, report directly to me.

The Department of Health (DOH) would like to thank you and members of this Committee for your continuing interest in occupational safety and health issues. In particular, we would again like to express our appreciation to you, Assemblyman Roma, for your sponsorship and support for the amended Public Employees Occupational Safety and Health (PEOSH) Act. This amended Act, when passed by the Senate and signed by the Governor, will enhance the potential for the State to obtain approval from the federal Occupational Safety and Health Administration (OSHA) for a State Plan for PEOSH and federal funding for the PEOSH programs in the Departments of Labor and Health.

As you know, there are ongoing investigations of the fires at Napp Technologies in Lodi and at Causeway Warehouse and Distribution Transport Company in Hackensack. These investigations are being conducted by federal OSHA and the EPA. When the reports of these investigations are available, the DOH, in conjunction with other involved departments of government, will review these reports and consider the the recommendations which are applicable to the public workplaces and emergency responders.

Regarding the short term and long term health impacts associated with the Lodi fire, the DOH will be participating on a scientific panel that will be thoroughly reviewing the air, water, and soil environmental monitoring data and the medical reports of the fire, police, and EMTs that responded to the incident in order to properly address that very question. It is my understanding that this group will be convening this week and will be made up of experts from DEP, the DOH, USEPA, the Bergen County Health Department and the Pulmonary Services, Department of the Hackensack Medical Center.

At this time, I would like to describe some of our occupational health activities in the DOH.

The Occupational Health Service (OHS) is involved in regulatory activities through the enforcement of the health provisions of the PEOSH Act and the workplace and community provisions of the New Jersey Worker and Community Right to Know (RTK) Act.

In addition to the regulatory responsibilities, the OHS has established an extensive surveillance system to identify cases of occupational diseases. Through hospital, physician and laboratory reports, death certificates and hospital discharge records, a system to record and document the number of new cases of occupational disease was initiated in 1985. In addition to identifying individuals with an occupational disease, the Service is involved in intervention action by conducting consultative

industrial hygiene investigations at the workplaces where the individual, with an occupational illness, worked and was exposed to the causative agent (e.g., silica, lead, cadmium, mercury).

The DOH has no jurisdiction regarding the occupational health and safety of the employees in the private sector. The federal OSHA has jurisdiction and enforces the OSHA safety and health standards in private workplaces in New Jersey. In the mid-1970's, the State of New Jersey elected to have federal jurisdiction over occupational safety and health in the private sector. As a result, the State of New Jersey is specifically pre-empted by the federal OSH Act from enforcing occupational safety and health standards in the private sector workplaces.

Public Employees Occupational Safety and Health (PEOSH) Program

The Public Employees Occupational Safety and Health (PEOSH) Program has the responsibility to implement the DOH's mandate under the 1984 New Jersey PEOSH Act, (N.J.S.A. 34:6A-25 et seq.). This mandate is to develop and enforce occupational health standards for public employees throughout the State and to encourage employers and employees in their efforts to improve the working environment. The DOL is the lead agency for this legislation and is responsible for enforcing the safety provisions of the law.

Under the PEOSH Act, the Departments of Labor and Health share responsibility for the enforcement of occupational safety and health standards in the public sector. The PEOSH Act covers both paid and volunteer firefighters and first-aid squads. The Departments of Labor and Health enforce safety and health standards which directly affect emergency responders. For example, the Firefighter Standard contains provisions for protective clothing; respiratory protection requirements; personal alert safety systems; hearing protection, life-safety rope, harnesses and hardware; and fire apparatus operation.

The OHS has published Guidelines for the Emergency Management of Firefighters. The Guidelines were developed to assist health-care providers in hospital emergency departments in the diagnosis and treatment of firefighters injured while performing lifesaving work.

The Bloodborne Pathogens Standard protects all public emergency responders who may have contact with blood or other potentially infectious material. The Hazardous Waste Operations and Emergency Response Standard helps to reduce the injuries and illnesses which can occur among emergency responders from exposure to hazardous materials.

The PEOSH Program in the New Jersey DOH, conducts industrial hygiene inspections in response to public employee complaints, referrals from other agencies, high hazard workplaces, and emergencies. Educational seminars and training programs are conducted for public employees. In addition, educational materials are developed and distributed across the State. The seminars and materials discuss methods for reducing occupational health hazards and review the requirements of health standards. Technical consultations are provided to employers and employees who are engaged in resolving health concerns at their workplace.

Right to Know Program

The New Jersey Worker and Community RTK (N.J.S.A. 34:5A-1 et seq.) was designed to protect workers, community residents, and emergency response personnel from exposure to hazardous substances produced, used, and stored in private and public facilities.

Responsibilities for the implementation of the Act are divided among the DOH (workplace and emergency services provisions of the Act), the DEP (community and emergency services provisions of the Act), and the DOL (worker discrimination and collection of RTK assessments).

The federal Hazard Communication Standard has modified the scope and implementation of the New Jersey Worker and Community RTK Act. The Hazard Communication Standard provides for the training of private workers about hazardous chemicals and for the labeling of containers with hazard warnings. The implementation of the Hazard Communication Standard in private workplaces preempted New Jersey's requirement for private employers to file a survey with the State DOH and provide their workers with training. However, the labeling of containers pursuant to the New Jersey RTK law, for the benefit of emergency responders, must be completed in the private sector workplaces covered by the law.

Under the RTK Act, all public employees, including emergency responders, who are exposed or potentially exposed to hazardous chemical substances, must receive initial and annual training, which covers a variety of topics.

Interactions with Other Agencies

The DOH coordinates its efforts regarding workplace safety and health with other state departments, affected businesses, workers' unions, local government agencies, and community residents.

Public Employees Occupational Safety and Health (PEOSH) Program

The DOH, PEOSH Program, coordinates their inspection activities with the DOL and DCA. All relevant information is exchanged between the departments, and the necessary information is then conveyed to the employer and employees. The DOH, PEOSH Program, informs all public employees and public employee unions when changes are made to existing standards or new requirements are issued.

The PEOSH Advisory Board was created to assist the DOL in establishing standards for the occupational safety and health of public employees. The PEOSH Advisory Board meets quarterly and is available to receive information regarding matters of concern to public employees in the area of occupational health and safety.

Right to Know Interagency Task Force

To coordinate the activities of the Departments of Health, Environmental Protection, and Labor, a RIK Interagency Task Force was formed. Representatives from each department meet regularly. They discuss and plan for coordinated efforts among the departments to implement the law, minimize inconsistent policies, eliminate duplication of effort, share resources and reduce the burden on employers/employees who must relate to three departments with respect to their legal obligations and rights under this law.

Right to Know Advisory Council

Members of the RTK Advisory Council are appointed by the Governor to represent various interest groups to oversee the activities of agencies implementing the RTK law. The council meets once a month and is made up of representatives from labor unions, environmental organizations, public interest groups, chemical industries, petroleum industries, fire departments, trade organizations, small business organizations, colleges and universities, and municipalities.

County Lead Agencies

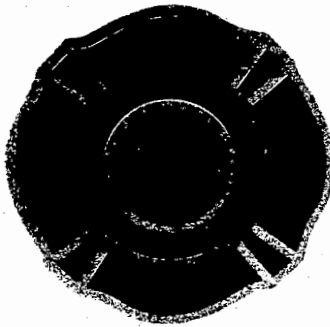
A major emphasis of the law is to make the information generated by the RTK law available to the public. The RTK County Lead Agencies are responsible for increasing public awareness, educating employers and employees, and educating emergency responders in their own county about the New Jersey RTK law. Their duties include maintaining and providing copies of the Hazardous Substance Fact Sheets and the RTK and Community RTK Surveys, offering employer assistance, speaking at public engagements, and facilitating other forms of outreach.

Federal OSHA

The OHS has a cooperative working relationship with the federal OSHA Regional Office in New York City and the Area Offices in New Jersey. The two agencies have cooperated on a number of different efforts including 1) investigations of fatal injuries; 2) referrals from OHS to OSHA regarding workplaces where employers are exposed to lead and cadmium; 3) surveillance data of occupational diseases generated by the OHS has been shared with OSHA; and 4) technical consultation has been provided by OSHA to the PEOSH Program.

In conclusion, the DOH will work with the Departments of Environmental Protection and Labor to carefully review the reports of the investigations conducted by EPA and OSHA. We will also continue to cooperate with this Committee as you consider issues related to these incidents.

ESTABLISHED



DEC. 14, 1914

Richard Johnson
FIRE CHIEF

CITY OF HACKENSACK FIRE DEPARTMENT
205 STATE STREET, HACKENSACK, NEW JERSEY 07601

(201) 646-7800

May 23, 1995

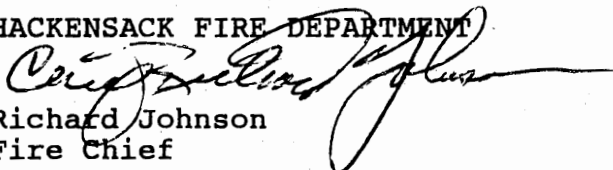
Mr. Gregory L. Williams
Senior Research Associate
Central Staff
State House Annex
CN-068
Trenton, New Jersey 08625-0068

Dear Mr. Williams:

Enclosed is a copy of testimony given on May 23 at Assemblyman
Roma's hearing.

Sincerely,

HACKENSACK FIRE DEPARTMENT


Richard Johnson
Fire Chief

RJ:daj
Attachment

SMOKE DETECTORS SAVE LIVES!

24X

TESTIMONY GIVEN AT ASSEMBLYMAN ROMA'S HEARING

On March 25 we had what appeared to be a small routine fire. However, it escalated into a rather dangerous and stubborn fire to extinguish. An hour or so into this fire we realized that we had a more serious incident than initially anticipated. This building was a warehouse and unknowingly to us, contained hazardous chemicals. These chemicals (oxidizers) made the fire worse and complicated our operations. Emergency response personnel began to develop skin rashes and throat irritations. We sent approximately 30 of our personnel to the hospital for these injuries. As a Fire Chief, I am deeply concerned about fire fighter safety.

This fire was scary. It reminded us of the Ford fire in 1988 where we lost five of our fire fighters in a building fire.

We do not want this to happen again.

We need a way of knowing when these chemicals are stored in warehouses. We need strong Right-to-Know laws. Rather than weakening Right-to-Know, we need to encourage private industry with incentives to install better fire protection measures and programs to train workers in fire safety. We need to support legislation recently proposed by Assemblyman Zisa and Assemblywoman Weinberg which would alert us to the storage of chemicals in buildings and require warehouse facilities to report the use or storage of hazardous substances.

We need a State Mechanism to reimburse communities that suffer these types of large-scale fires and disasters that struck Lodi and will happen in other communities.

Finally, we need support from our State Division of Fire Safety to provide more training to the states' fire services, and an increased emphasis on strong and responsive emergency management programs from our State police who are the lead

agency for emergency management in New Jersey.

What are the short-term and long-term affects on our City?

Injuries suffered to emergency response personnel, loss and damage of equipment, sheltering and evacuation requirements for affected residents and, finally, the lose of a tax generating revenue source.

Tragedies and large-scale incidents will always be a potential for concern. The average community will suffer a disaster once in twelve years. In today's world, that's a short time.

In conclusion, I think we need to develop local/state cooperation and form a coalition of government and private industry to generate new policy and procedures to alleviate the consequences caused by disasters and to develop strategies to mitigate against hazards to communities.

We Demand Safe, Secure Jobs & A Healthy Environment

On April 21, 1995 the NAPP Technologies plant in Lodi, New Jersey exploded killing five workers, injuring over fifty people, and endangering emergency responders and the community. NAPP is yet another tragic example of workplace hazards in New Jersey. Over 2,500 workers die and 15,000 get sick from job-related disease each year in our state. Reported occupational cancer and lung and nervous system disease *are increasing* in New Jersey. And chemical exposures at work often endanger emergency responders and the public. 22,611 chemical releases were called in to a state hotline in 1994 alone!

The NAPP explosion also has caused the permanent shut down of the Lodi facility, thus jeopardizing the livelihood of 140 NAPP workers and their families. Governor Whitman claims that her cutting of government regulations will create jobs. *She is dead wrong.* The NAPP explosion shows that strong worker safety rights and government regulation are necessary to protect people's lives **and** their jobs.

Justice for NAPP Workers

■ Some politicians, including the Governor, have already blamed NAPP workers for the explosion. Yet chemical accidents are much more often caused by factors like poor plant design, mechanical failure, lack of maintenance, or inadequate training. OSHA is doing an extensive investigation of the NAPP explosion. Governor Whitman should not blame the victims. We should all wait for the OSHA report on the causes of this tragedy.

■ We believe that the NAPP facility should be rebuilt at an *appropriate* site in northern New Jersey and that the long term union workforce should operate that plant with no reduction of their prior pay and benefits.

■ Workers, their union, and the community must have meaningful involvement in resiting and design of any new NAPP plant. Workers, their union, and the community, with NAPP management, must work together to insure that there are state of the art worker and community health and safety protections. This includes extensive training on all operations and the right of trained union members to temporarily shut down plant operations in imminent danger

situations. All parties should develop a "Good Neighbor Agreement" so that decent paying jobs, safety, and the environment can all be protected.

■ NAPP workers should suffer no loss what-so-ever in their wages, health insurance, and other benefits during the period in which they are unemployed. *If* the NAPP plant is not resited, NAPP workers should suffer no loss in their standard of living.

■ Lodi residents, firefighters, and others who responded to the NAPP explosion are entitled to ongoing medical monitoring at no cost.

Stop Attacks on Worker & Public Health

Suffering continues from workplace disease, injury, and death. Yet corporations and their political allies, like Governor Whitman, want to take away the rights we now have to safe and healthy jobs. Here is what they want to do:

In the New Jersey Legislature

- ✂ Take away your right-to-know about toxic chemicals at work, in public schools, in neighborhoods, and during fires and explosions.
- ✂ Stop workers and consumers from effectively suing corporations that make unsafe products -- so-called "tort reform."
- ✂ Gut our new Pollution Prevention Act that asks corporations to voluntarily reduce use of toxic hazards.
- ✂ Cripple the Toxic Catastrophe Prevention and Right to Know Acts and other vital public health laws through draconian budget cuts.

By the Majority in the United States Congress

- ✂ Prevent OSHA from enforcing the law by slashing its funding and by changing it to an employer consultation agency.

- ✖ Stop OSHA's attempt to issue legal standards on prevention of repetitive motion injuries, the nation's fastest growing job injury.
- ✖ Eliminate the National Institute on Occupational Safety & Health (NIOSH) which does research on preventing workplace hazards.
- ✖ Eliminate your right to sue companies that make unsafe products.

And by President Clinton

- ✖ Eliminate the Chemical Safety & Accident Investigation Board created by Congress in 1990 by refusing to fund it.

 A Program for Prevention

The New Jersey Industrial Union Council, AFL-CIO, representing 235,000 workers, supports the following program to protect worker health and jobs:

- **First, stop all attacks on current laws**, including Right to Know, Pollution Prevention, the Toxic Catastrophe Prevention Act, and product liability rights. Whitman must restore funds to allow the state Environmental Protection and Health Departments to do their jobs. President Clinton and Congress must restore funds for the Chemical Safety and Hazard Investigation Board.
- Support legislation to increase fees on employers to **adequately fund the New Jersey Right to Know Program**. The Right to Know fee system has not been changed since 1983. Just to keep up with inflation, employer fees should be increased from the minimum \$50 to \$75 and from \$2 to \$3 per employee.
- **Strengthen New Jersey's Worker & Community Right to Know law** and/or regulations by covering warehouses that store chemicals, by insuring better chemical placarding for emergency responders (*without changing current universal labeling rules*) and by restoring the chemical reporting requirements that

Governor Whitman eliminated. (Assembly Bill # 2848 by Assemblyperson Zisa would do this).

- Support worker/union involvement through a **"Right to Act" law** that includes joint health and safety committees, extensive worker training, regular committee inspections, and rights for trained committee members to temporarily shut-down imminently hazardous operations to workers or the community.

- Support state legislation to create **"Hazard Monitors"** to protect employees, neighbors, and the environment. These monitors would be trained, full time employees at potentially hazardous New Jersey facilities. This law would help prevent hazards *and would create or retain roughly 2,000 industrial jobs.*

- Support **neighborhood participation in monitoring industrial facilities** with potential hazards to the surrounding community in cooperation with local unions and management. One way this could be accomplished is to allow the community to select its own independent experts to look at potential or existing industrial facilities and to make recommendations.

- Support **job and income guarantees for all workers displaced by work or environmental hazards or regulation.** Workers often suffer severe exposures to job hazards. They should not be victimized again when their plant closes due to an explosion or in those rare plant closures related to environmental laws. Retraining for nonexistent or poverty level jobs is no solution. Corporations and government should insure that workers suffer no decline in their standard of living.

For more information on how you can help win justice for NAPP workers and prevent the destruction of our health and jobs, contact:

New Jersey Industrial Union Council, AFL-CIO
14 Commerce Drive, Cranford, N.J. 07016 (908) 272-4200
9 East Main Street, Moorestown, N.J. 08057 (609) 866-9405

**Testimony of
Eric Scherzer
OCAW District 8 Resource Center**

**Assembly, Labor, Business and Industry Committee
May 23, 1995
Hackensack, New Jersey**

Examine the Management System and Not Workers to Stop Chemical Accidents

Fund the Federal Chemical Safety and Accident Investigation Board

Five people are dead, a plant is destroyed, a community is in shock, 140 jobs are lost. How can we react to this devastation. Hopefully the company and the state will rebuild the plant and the job loss will only be temporary, but lives will never be brought back. Destroyed families will never be recreated.

Besides grieving for the victims and working to replace the jobs, the state must work to see that this type of accident does not happen again.

My testimony will focus on understanding the cause of the accident and taking some steps to prevent a similar occurrence in the future. Our Union, the OCAW representing thousands of chemical plant workers in New Jersey and many more across the country has seen too many Lodis.

Clearly, the first step in understanding any accident is a proper investigation. President Clinton's refusal to fund the Chemical Safety and Accident Investigation Board is a mistake which puts us at a real disadvantage here. If a serious airplane crash occurred in Lodi, the National Transportation Safety Board would be on the scene. But the Chemical Safety and Accident Investigation Board was not even given a chance to function. One small thing that this committee should recommend is that the entire NJ Congressional delegation should meet with the President and call on him to fund this vital Board. (a fact sheet on this board is attached)

But what is clear, as the investigation continues is that some people have already started to blame the workers. One of those people is Governor Whitman who is quoted in the Bergen Record as saying "What happened there, unfortunately, is workers in the plant mixed chemicals incorrectly".

While there is no evidence that there was any incorrect mixing, this blame the victim attitude is a real problem.

The substances used in the process at Napp were extremely hazardous. Just to give you an idea let me quote what the National Fire Protection Agency said about one of them. Sodium hydrosulfite (sodium dithionite) "heats spontaneously on contact with air and moisture.... and may ignite surrounding combustible material. Closed containers may rupture violently when heated. Exposure to moisture either from humid air or small amounts of water can result in spontaneous chemical reactions which may generate sufficient heat to initiate thermal decomposition." The NFPA also mentions that combustion by-products include toxic sulfur dioxide.

The NJ DOH Hazardous Substance Fact Sheet includes the following statement: "Sodium Dithionite must be stored to avoid contact with SODIUM CHLORITE, WATER AND MOISTURE since violent reactions occur." (emphasis in the original).

It should not be a surprise to anyone that a chemical such as this one would be involved in a destructive and fatal explosion.

However, this chemical is not specifically covered by either NJ's Toxic Catastrophe Protection Act (TCPA) or by the OSHA Process Safety Management Standard. Both acts are too limited both in scope and in application and we have witnessed the destructive results.

If it had been covered the company would have been required in the words of TCPA to anticipate the circumstances that could result in chemical releases and would have been required to take precautionary and preemptive action to prevent such a release.

If this process were properly covered, the process would have undergone a prior investigation specifically to determine what could have gone wrong. Every possible reaction, every equipment defect, every mechanical failure and even every human error would have been thought about. Preventive measures for each of these situations would have been devised and implemented.

Training of operators and supervisors who handle these chemicals would have been conducted. Training would especially cover emergency situations.

There would have been a requirement in place to investigate near-misses. Equipment inspections would have been conducted with sufficient frequency. Operating procedures would not have been changed without the implementation of a management of change procedure.

All of these elements are required to prevent future accidents like the one in Lodi. It's far too easy to blame the victims when the management systems must be in place to control hazardous operations. Since people are human, errors sometimes occur. But even when errors are made proper management systems are designed to catch errors. Proper management systems have controls to prevent errors from causing explosions. Proper management systems prevent death and destruction.

In this case, the investigation is still not complete. In this case, initial evidence does not suggest human error. In this case, it is irresponsible to blame human error when the management system is most probably at fault. In this case, the lack of coverage by both state and federal standards was a tragedy. In this case, the lack of enforcement of state and federal laws was a disaster.

If we want to prevent future Lodis, we must not shy away from proper regulation.

Others will speak about the various laws which should be strengthened, but because of my experience as a chemical worker, I must mention one: the NJ Right to Know Law. This law covers small quantities of hazardous materials which are not covered by TCPA and Process Safety Management as was the situation in Lodi. While the other standards should be strengthened, Right to know is on the books now.

Just one experience has shown me how important the RTK law is. When the universal labeling provision of the law went into effect, chemical plants all over the state were required to label each and every drum of chemicals. This is still the only law requiring this universal labeling. You cannot imagine just how many drums of chemicals were labeled for the first time under this provision. Drums of defective product, drums of chemicals in process, drums whose labels had worn off because of water or weather, drums whose labels were ripped or torn, drums of unknowns.

For the first time, universal labeling, turned every worker into an enforcement agent for the public health - it turned every worker into an accident prevention officer. It was simple: if a drum did not have a label - it was in violation of the RTK law. Believe me, with tens of thousands of enforcement agents on the job, drums were labeled, accidents were prevented, communities were not devastated, lives were saved.

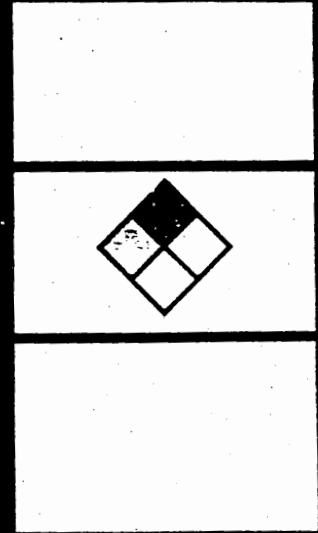
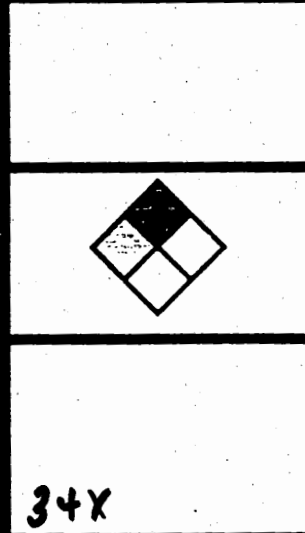
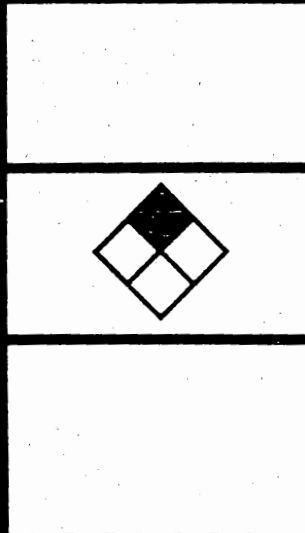
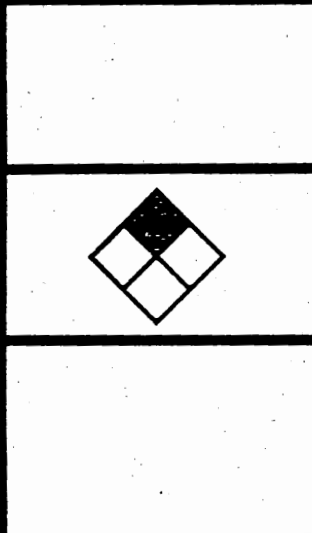
The blame the victim rhetoric will never prevent accidents. Proper and yes, even expanded regulation, and on-site enforcement will and has in many cases - saved lives.

It is too late for the 5 killed at Lodi, but let's make sure that the programs which come out of this committee prevent future Lodis.

FIRE
PROTECTION
GUIDE TO

HAZARDOUS MATERIALS

CONTAINS THE COMPLETE TEXT OF NFPA 49, 325M, 491M, AND 704



34X

10th
EDITION



National Fire Protection
Association

NFPA

USUAL SHIPPING CONTAINERS: Metal can inside wooden box or other container. Packaged under argon or nitrogen gas.

PHYSICAL PROPERTIES: Silvery needles or gray-white powder with odor of kerosene.

MELTING POINT: 1472°F (800°C) (decomposes)

BOILING POINT: decomposes

SPECIFIC GRAVITY: 0.92

SOLUBILITY IN WATER: decomposes

NAME: **SODIUM HYDROSULFITE**

SYNONYMS: sodium dithionite, sodium sulfoxylate, sodium hyposulfite

FORMULA: $\text{Na}_2\text{S}_2\text{O}_4$

DOT CLASS: FLAMMABLE SOLID

ID NO.: UN 1384

CAS NO.: 7775-14-6

MOL. WT.: 174.1

STATEMENT OF HAZARDS: Combustible solid. Eye, skin, and respiratory tract irritant. Strong sensitizer. May cause severe allergic respiratory reaction.

EMERGENCY RESPONSE PERSONAL PROTECTIVE EQUIPMENT: Wear special protective clothing and positive pressure self-contained breathing apparatus.

SPILL OR LEAK PROCEDURES: Keep water away from release. Prompt cleanup and removal are necessary. Do not create dust. Eliminate all ignition sources. Control runoff and isolate discharged material for proper disposal.

FIRE FIGHTING PROCEDURES: Use only flooding quantities of water. If sodium hydrosulfite is not directly involved in fire, extinguish fire with agents suitable for surrounding fire. Then monitor temperature of containers exposed to fire for at least 48 hours to verify decomposition has not begun in the sealed container. Fight fire from protection location or maximum possible distance.

HEALTH HAZARDS: Eye, skin, and respiratory tract irritant. Products of combustion may be more hazardous than the material itself. Strong sensitizer. May cause severe allergic respiratory reaction.

FIRE AND EXPLOSION HAZARDS: Combustible solid. Easily oxidized. Heats spontaneously on contact with air and moisture. Combustion by-products include: toxic sulfur dioxide. Heats spontaneously in contact with moisture and air, and may ignite surrounding combustible materials. Closed containers may rupture violently when heated.

INSTABILITY AND REACTIVITY HAZARDS: Reacts with oxidizing agents, acidic materials, moisture. Exposure to moisture either from humid air or from small amounts of water can result in spontaneous chemical

reactions which may generate sufficient heat to initiate thermal decomposition. Heat above 50°C can also initiate thermal decomposition.

STORAGE RECOMMENDATIONS: Store in a cool, dry, well-ventilated location. Outside or detached storage is preferred. Separate from combustibles and oxidizing materials. Immediately remove and properly dispose of any spilled material.

USUAL SHIPPING CONTAINERS: Glass bottle inside wooden box. Specially constructed drums.

PHYSICAL PROPERTIES: White or grayish-white crystalline powder possibly with faint sulfurous odor.

MELTING POINT: 158° - 266°F (70° - 130°C) decomposes

SPECIFIC GRAVITY: 1.4

SOLUBILITY IN WATER: soluble

NAME: **SODIUM HYDROXIDE**

SYNONYMS: caustic soda, lye

FORMULA: NaOH

DOT CLASS: CORROSIVE MATERIAL

ID NO.: UN 1823 dry solid

UN 1824 liquid, solution

CAS NO.: 1310-73-2

MOL. WT.: 40.0

STATEMENT OF HAZARDS: Corrosive. Causes severe eye and skin burns. Reacts with moisture to release heat and reacts with metals to release hydrogen.

EMERGENCY RESPONSE PERSONAL PROTECTIVE EQUIPMENT: Wear special protective clothing and positive pressure self-contained breathing apparatus.

SPILL OR LEAK PROCEDURES: Keep water away from release. Stop or control the leak, if this can be done without undue risk. Do not create dust. Prompt cleanup and removal are necessary. Shovel into suitable dry container. Control runoff and isolate discharged material for proper disposal. Report any release in excess of 1000 lb.

FIRE FIGHTING PROCEDURES: Extinguish fire using agent suitable for surrounding fire. Use water spray to keep fire-exposed containers cool.

HEALTH HAZARDS: Corrosive. Causes severe eye and skin burns. Eye, skin, and respiratory tract irritant.

FIRE AND EXPLOSION HAZARDS: Not combustible. Flammable gas may be produced on contact with some metals when moist.

INSTABILITY AND REACTIVITY HAZARDS: Strong alkali. Dissolves in water releasing heat. Reacts with some metals producing hydrogen when moist.

STORAGE RECOMMENDATIONS: Store in a cool, dry, well-ventilated location. Separate from acids, water, met-



FIRE FIGHTERS ASSOCIATION OF NEW JERSEY

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AFL-CIO-CLC
24 WEST LAFAYETTE STREET, TRENTON, NEW JERSEY 08608

PATRICK TANSEY
PRESIDENT

(O) 609-396-9766 • (F) 609-396-0891



**TESTIMONY OF THOMAS P. CANZANELLA ON BEHALF OF THE
PROFESSIONAL FIRE FIGHTERS ASSOCIATION OF NEW JERSEY
BEFORE THE ASSEMBLY LABOR, BUSINESS AND INDUSTRY COMMITTEE
MAY, 23, 1995**

My name is Thomas P. Canzanella, and I serve as Vice President of the Professional Fire Fighters Association of New Jersey, the state-wide affiliate of the 190,000 member International Association of Fire Fighters, AFL-CIO, CLC, representing professional firefighters, emergency medical personnel and associated support services of the Fire Service. In that capacity, it is my responsibility to assist in the development of, and comment on legislation and regulations which effect the welfare of our members.

On behalf of the PFFANJ/IAFF, I offer the Committee Chairman and the honorable Members of the Committee our sincere appreciation for the opportunity to appear today to offer our comments with respect to preserving and improving occupational safety and health in the workplace as it relates to professional fire fighters and emergency medical personnel.

It is imperative that responsible members of the New Jersey State Legislature such as those conducting this forum today, step forward on behalf citizens and working men and women, and in particular, the firefighters sworn to protect their lives and property, to stop the Administration's systematic dismantling of occupational safety and health protections such as the Right To Know regulations. I use the terminology systematic in the sense that not only have key elements of the regulations been eliminated or relaxed, but drastic cuts in the regulatory agencies budgets will all but prohibit any type of employee training or compliance enforcement. And it is our assertion that while the budgets may in fact save some money at the expense of worker safety, they are more aimed at crippling the agency, creating in effect, paper tigers in Trenton.

The Administration would also like to role back or at least prohibit regulations such as those governing the occupational safety and health of firefighters embodied on the PEOSH standards that are greater or more stringent than those issued by the Federal government. In New Jersey, the State which has lost some 15 professional firefighters in as many years, well above the nations average, we have been able to reform the OSHA Fire Brigade Standard, adopting National Fire Protection Standards on protective clothing, equipment and training. These types of responsible legislation and regulation begin to put New Jersey in the forefront of firefighter protections.

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One of these protections is the Worker and Community Right To Know laws which see to it that in accordance with CFR 1910.120, the Federal Hazardous Materials Waste and Emergency Response Standards, that emergency responders to incidents involving the spill or release of hazardous materials, receive initial and on-going training, and that they operate in a safe fashion. Part of this safety is predicated on knowing the types and amounts of chemicals in the workplace, which in the firefighters case is the entire community, in order to be better prepared to employ tactics in recognition of the characteristics of those hazards.

For instance, in the case of the Hackensack Chemical Warehouse Fire, first responding units had no prior knowledge that the trucking terminal they responded to on a March evening contained anything more than ordinary contents. The occupancy itself belied no particular marking or anything in its trade name to indicate the presence of chemicals and quite conveniently, the trailers sitting at the loading docks had the required Department of Transportation Hazardous Materials Warning Placards removed. To that, firefighters opened the building, located the seat of the fire and advanced attack hoses into the occupancy. Upon locating the fire, they applied water to it, only to be instantaneously driven from the building as the fire mushroomed across the ceiling over their heads and back down on top of them. In their hasty retreat, one members mask was dislodged, allowing him to ingest a tremendous amount of the toxic, chemical laden smoke. Another was momentarily separated from his company, which is the firefighters nightmare of not only being lost, but as well alone. This fire, which should have been wrapped up in several hours, instead took several days, causing 26 firefighters to be hospitalized, tremendous property and environmental damage, and catastrophic costs to taxpayers. The question begs to be asked concerning the trade off between saving a few dollars through deregulation and non-enforcement versus property and environmental damage and the fact that sometime in the future, one of my firefighters may well develop some type of cardio-pulmonary abnormality which may well cripple, debilitate and ultimately kill him. I can relate to you chapter and verse those types of stories starting with the infamous Elizabeth Chemical Control Fire, which served as the impetus for quite a bit of the occupational safety and health regulations we have today. I can effectively represent to you that my firefighters are alive today because of Federal and State laws requiring the proper training and equipment to deal with these types of situations. To that, we as a Department had just completed our refresher Operational Level training and the Chief had elected to have the entire 24 hour training course administered rather than the 8 hours annual as required by law.

As an example of what deregulation and lack of enforcement will do for or better yet, to the firefighter, the warehouse in which we had the chemical fire, turned out to be a processing and storing facility, operating under the guise of a terminal in order to skirt the laws with respect to handling and reporting. The principal chemicals, which turned out to be water reactives and corrosives, were effectively removed from the Federal Hazardous Material Reporting Schedule when the Administration bowed to the chemical industry by reducing the list to some 800 products, rather than the Feds 2500 product reporting list. These types of chemicals are the most hazardous when involved with fire because the very nature of extinguishment causes us to actually extend the fire, run the risk of explosion, and make more product through dilution of the acids, which by nature are concentrated. Firefighters wind up slopping around and ingesting the product during the firefight, and the runoff and associated products of combustion harm the environment for years to come.

I would also like to take this opportunity to touch on your budget making process as it relates to the safety and health of firefighters. In addition to the drastic cuts proposed for and aimed at Public Employee Occupational Safety and Health programs, the Administration has proposed cutting nearly \$200,000. from the Division of Fire Safety's budget, earmarked specifically for the basic and on-going training of firefighters. The immediate effect on this proposal has been the Divisions inability to accept the offer of the International Association of Fire Fighters to come into the State with Train the Trainer instructors and ready made programs from it's nationally recognized programs developed under grants from the National Institute of Occupational Safety and Health concerning Hazardous Materials emergency response, command, pesticides, radiologicals, chemical processes and clandestine drug laboratories. The IAFF has offered to provide the already developed and nationally recognized programs to the division at little or no cost, and to provide the instructor training to State, County and Fire Department training officers so they in-turn can provide same to recruit and active firefighters and EMS personnel.

We know the Administration likes to say that New Jersey is "Open for Business", we hope and pray that open for business doesn't mean "Open Season on Firefighters".

The Professional Fire Fighters Association of New Jersey is absolutely committed to preserving and improving the standards and regulations that protect our members who perform the most hazardous occupation in North America.

Thank You.

Inventory Listings of Chemicals: (updated to 3/29/95, 12:01pm)

Location: Causeway Warehouse & Distribution, Inc.

55 DeVoe Street, Hackensack, N.J.

(Incident start date: 03/25/95)

1. ammonium persulfate (MSDS available)
2. sodium persulfate (MSDS available)
3. propane
4. n-butyl alcohol (MSDS available)
5. dimethyl formamide
6. urea
7. propylene glycol
8. methyltetrahydrophthalic anhydride (MSDS available)
9. 3 drums of unknown chemical product
10. small plastic and glass bottles containing a clear, colorless liquid, corrosive
11. unknown quantity of chemical overpack drums

#1 & 2. 126,000 lbs. of product(s) reported present at facility by facility representative. An unknown quantity of this product(s) was confirmed as involved in the incident as fire-damaged or destroyed by visual observation. An unknown quantity of these products was also thermally damaged and/or water damaged.

#3. An estimated fifteen (15) propane tanks utilized for forklift operations were present in the warehouse. These appear undamaged. Two (2) 20 lbs. barbecue tanks were also present and undamaged. Two (2) additional 20 lbs. barbecue tanks were destroyed in the fire.

#4. Fourteen (14) 55-gallon capacity steel drums were present in the warehouse. These containers appear to be relatively intact with only minor denting; apparently unbreached.

#5. One (1) 55-gallon capacity steel drum was present in the warehouse. This container is missing a bung cap. Unknown if involved or damaged by fire.

#6. Unknown quantity present in warehouse. This product was definitely damaged by the fire.

#7. One (1) 55-gallon capacity steel drum present in the warehouse. The drum appears undamaged and unbreached but was found in an inverted position.

#8. Three (3) 55-gallon capacity galvanized steel drums were present in the warehouse. These drums appear to be intact and undamaged by fire or water.

#9. Three (3) 55-gallon steel drums; destroyed in the fire. A residual quantity of product in one drum appears to be a paint or similar material.

#10. An unknown quantity of these containers was spread throughout the warehouse. Some containers were damaged or destroyed in the fire.

#11. Overpack drums are present in an unknown quantity and with unknown contents. However, these containers are present in a section of the warehouse relatively undamaged by fire and water.

Note: Additional information is expected to become available as the cleanup contractor reports on the incident.



**ENVIRONMENTAL
FEDERATION**

Winner of the NJ Governor's Award for Outstanding Achievement in Pollution Prevention

PREVENTING TOXIC CHEMICAL ACCIDENTS

THE NJ TOXIC CATASTROPHE PREVENTION ACT PROGRAM WORKS

Good afternoon. My name is Dolores Phillips. I am the Legislative Director of the New Jersey Environmental Federation. With me is Bill Wolfe, Policy Research Director of NJEF. NJEF is New Jersey's largest environmental organization, comprised of 94,000 members and an adjunct coalition of 70 member groups.

We appreciate the opportunity to appear today to talk about the Right-to-Know and Toxic Catastrophe Prevention Act programs and respond to your concerns. I am providing a brief report for the record along with these remarks.

Both programs are working to prevent pollution, to reduce risks to workers, communities and the environment, and to promote effective emergency response planning. Unfortunately, both programs face unacceptable budget cuts in the Whitman Administration's proposed FY'96 budget.

In addition to cutting resources to effectively implement the RTK and TCPA programs, the Administration is making significant regulatory and administrative policy changes to both programs. These changes undermine the effectiveness of the programs.

Given the cost-effectiveness, positive performance and public popularity of these programs, we feel that the Whitman Administration cares more about its pledge to reduce DEP fees and regulatory burdens for polluters than in protecting public health, worker and community safety and the environment from catastrophic chemical accidents.

New Jersey Chapter of Clean Water Action, Washington, DC

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TCPA

1. TCPA is the DEP program to designed to prevent serious chemical accidents and to develop emergency response programs. The TCPA Risk Management Planning Process (RMP) is designed to prevent accidents and improve chemical process safety;

2. the TCPA program is working extremely well in preventing accidents, reducing risks and promoting alternatives to toxic chemicals. TCPA drives true pollution prevention:

- * Pollution Prevention by substitution to less hazardous and toxic chemicals (chlorine)

- * Risk Reduction by a 41% Reduction of Inventories of Extraordinarily Hazardous Substances and 26% decrease in release of Extraordinarily Hazardous Substances

- * Reduction in registered sites from 600 to 120

- * Risk Management/Emergency Response Planning and Training

- * Database to measure and reduce accidental release and spills

3. TCPA requirements will be expanded as a result of the federal Clean Air Act Amendments of 1990 (CAAA) Accident Release Prevention (ARP) program. The ARP will greatly increase the TCPA list of regulated chemicals and facilities. The federal ARP program was modeled on New Jersey's award winning TCPA program. In 1989, the Council of State Governments presented an Innovations Award to the NJ TCPA Program, "in recognition of excellence and innovation".

4. The TCPA program is fee funded, historically operating at no cost to taxpayers. Expansion of the universe of TCPA regulated facilities would impose new fees on the chemical industry. NJBIA and NJCIC oppose expansion of TCPA and have argued that the program is no longer necessary.

The Whitman Administration is listening to NJBIA and the NJCIC at the expense of public health and safety. The Administration's opposition to new fees on the chemical industry has killed DEP's implementation of an expanded TCPA program required to prevent chemical accidents and assure delegation of the federal ARP program;

5. TCPA expansion would increase DEP regulatory oversight;

6. According to a July 1994 memo from DEP Assistant Commissioner Nagy to Commissioner Shinn that recommends expansion of the TCPA program, DEP is aware of situations in New Jersey where toxic chemical uses "correlate with a significant increase in the number of fatalities". Failure to act in light of this knowledge is unconscionable. A 42% cut in the TCPA program is intolerable.

We demand the following actions:

1. restoration of the RTK list and RTK and TCPA budget cuts;
2. adoption of the TCPA rule to expand the TCPA list to the federal list (40 CFR Part 68.130) within 90 days;
3. expansion of the TCPA program, to provide resources and staff to assure:;
 - * field verification by DEP of any facility certifications that result in exemption from TCPA requirements;
 - * annual inspection of all regulated TCPA facilities. Current program resources are inadequate and only allow inspection of 80% of facilities annually;
 - * fee increases to provide the TCPA program with sufficient resources to oversee the increase of over 550 facilities into the TCPA program as a result of expansion of the TCPA list of regulated chemicals (current program resources for 120 regulated facilities are insufficient);
4. stop the rollback of our environmental laws.

FROM BHOPAL TO LODI - THE HARD LESSONS OF PREVENTION

I. Background and Overview of the TCPA Program

Public awareness of the potential danger from accidental releases of hazardous chemicals has increased over the years as chemical catastrophes have occurred around the world; e.g. the 1974 explosion in Flixborough England; the 1976 dioxin release in Seveso Italy; and the 1984 Chemical Control fire in Elizabeth, New Jersey. Public concern greatly intensified following the December 1984 release of methyl isocyanate (MIC) in Bhopal, India, that killed more than 3,800 people and injured at least 150,000. A subsequent accidental release of MIC from a chemical facility in Institute, West Virginia, hospitalized more than 100 people and made Americans aware that Bhopal was not an isolated third world event, but that tragedy can happen here.

Shortly thereafter, in 1985, spearheaded by then Assemblyman Byron Baer, the New Jersey Legislature responded by passage of the Toxic Catastrophe Prevention Act (TCPA). TCPA was signed into law by Governor Kean and became effective on January 8, 1986 (P.L. 1985, c.403). The law strictly regulates Extraordinarily Hazardous Substances (EHS) by establishing comprehensive prevention, risk management planning (RMP) and emergency response requirements at facilities that handle EHS. Through the RMP, the facility identifies hazards and risk associated with the use of EHSs and demonstrates how these hazards and risks can be reduced and managed, with the clear goal of preventing a catastrophic accident. RMPs require:

- * standard operating procedures
- * preventative maintenance procedures
- * employee/operator training
- * accident investigation requirements
- * emergency response planning
- * facility safety review requirements
- * risk assessments for equipment and operating alternatives
- * self audit procedures
- * procedures to assure safe equipment and process changes
- * contractor safety procedures

II. Chronology of the TCPA Program

1. TCPA became effective on January 8, 1986. The Act specifically listed 11 EHSs. It is critical to note that the Act gave DEP authority to amend the EHS list by regulation, based on chemicals that could cause death or permanent disability if accidentally released. The DEP used toxicity and volatility criteria and dispersion modeling and mortality curves to add 93 chemicals, with associated triggering thresholds, by regulation to the statutory list of EHSs. Currently, a total of 104 chemicals are listed as EHS subject to TCPA requirements.

2. The effective date of DEP regulations to implement the TCPA program was August 1, 1988 (NJAC 7:31-1 et seq). The rules establish the EHS list, provide chemical specific triggering thresholds and define prevention, risk management and emergency response program requirements for facilities that use EHS. The triggering thresholds are called registration quantities (RQ).

3. In 1988, DEP began a process to draft regulations to expand the EHS list as necessary to prevent catastrophic chemical accidents, as required by the Act. This process was impacted by passage of the federal Clean Air Act Amendments of 1990 (CAAA). Section 112 of the CAAA regulates hazardous air pollutants. Section 112(r) creates a chemical accident release prevention program modeled after New Jersey's TCPA program. The federal CAA required that USEPA, no later than November 15, 1992, promulgate a list of at least 100 "regulated substances" that are known to cause death, injury, or serious adverse effects to human health or the environment if accidentally released. The federal ARP list was proposed by USEPA on January 19, 1993 (58 Fed. Reg. 5110) and adopted on January 31, 1994 (59 Fed. Reg. 4478).

4. The TCPA EHS list expansion regulatory development process also included regulations to revise the New Jersey TCPA program to assure delegation of the federal ARP program.

5. A proposed regulation to expand the New Jersey TCPA program (EHS list and fees) was completed by the TCPA program on March 14, 1994 (1), received legal approval by the Department of Law and Public Safety on April 6, 1994 (2), and was transmitted to DEP Commissioner Shinn on July 29, 1994 (3). The rule was scheduled for transmittal to the Office of Administrative Law by August 19, 1994 for proposal in the next available New Jersey Register (3).

6. The TCPA program currently regulates approximately 123 facilities based on the EHS list of 104 chemicals. The proposed rule would add 144 chemicals to the TCPA list and cover an additional 558 new facilities under the state TCPA program to prevent chemical accidents (4).

(page 3, TCPA)

7. Assistant Commissioner Nagy's July 29, 1994 memo reveals that DEP conducted sophisticated analyses to compare the federal ARP program list and thresholds with the TCPA list and thresholds. Nagy warned Shinn that "On adoption, EPA significantly raised the thresholds on 71 of its 77 toxic substances. Industry (e.g. CIC and NJBIA) would obviously prefer backing off to the EPA thresholds. If EPA had adopted its thresholds as proposed, that would have been the preferred option, since the (EPA's) proposed thresholds were in general agreement with TCPA criteria. However, the increases made by EPA on adoption were so large that they are not technically justifiable in an area as densely populated as New Jersey where substances are generally handled on small sites, and would correlate with a significant increase in the number of potential fatalities." (3, @ p.2)

Nagy's memo raises critical issues:

1) Who influences policy?

The chemical industry's concerns are particularly noted, in the same paragraph that warns of DEP's documentation of a significant increase in the risk of death;

2) Why the failure to act in proposing an expanded TCPA program rule?

It has been more than 10 months and DEP has not even proposed the expansion of the TCPA list and thresholds as recommended by DEP staff. DEP experts reviewed over 140 new federally listed toxic, flammable and explosive chemicals under New Jersey facility conditions, according to the TCPA criteria and methodology. For over a year, DEP has known that existing TCPA requirements are inadequate and pose risks of "a significant increase in the number of potential fatalities."

3) Why was the TCPA program cut by 42%?

Governor Whitman's FY'96 DEP budget cuts the TCPA program by 42% (\$550,000). According to OLS, the cuts are justified by anticipated reduced reporting requirements (5). Yet DEP staff were recommending expanded reporting requirements.

4) What are the impacts of Governor Whitman's rollback of New Jersey's standards to minimum federal standards?

DEP rigorously analyzed New Jersey requirements for chemical safety compared to USEPA federal requirements. DEP staff found that USEPA's minimum standards were "not technically justifiable" because they would cause "a significant increase in the number of potential fatalities" based on New Jersey conditions.

(page 4, TCPA)

5. Who/What killed the TCPA program expansion?

Blind adherence to the Whitman Administration's policy themes of fee relief for polluters, regulatory relief for polluters, and rollback to minimum federal standards killed a regulatory proposal that was designed to prevent chemical accident disasters and protect public health and safety.

References (attached):

1. Memoranda - P. Costanza, NJDEP to R. Pease, NJDOL. (3/14/94)
E.D. Barth, NJDEP to P. Costanza, NJDEP (4/6/94)
2. Memorandum - R. Pease, NJDOL to G. Nichols, NJDEP (4/6/94)
3. Memorandum - L. Nagy, NJDEP to R.C. Shinn, NJDEP (7/29/94)
4. Proposed Rule: NJAC 7:31-1 and 2 (TCPA)
5. Office Of Legislative Services (OLS) - Analysis of FY'96 DEP Budget (page 13-14).



Winner of the NJ Governor's Award for Outstanding Achievement in Pollution Prevention

May 25, 1995

Gregory L. Williams, Committee Aid
Assembly Labor, Business and Industry Committee
Office of Legislative Services
State House Annex, CN-068
Trenton, New Jersey, 08625-0068

Dear Mr. Williams:

As we discussed yesterday, I would like to supplement our May 23, 1995 testimony before the Committee and request that you incorporate the following material into the record and transcript of the Hearing:

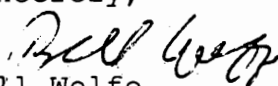
1. Memorandum dated July 29, 1994 from Lewis J. Nagy, Assistant Commissioner Policy and Planning to Robert C. Shinn, Jr., Commissioner NJDEP;
2. draft proposed rule for the Toxic Catastrophe Prevention Act Program, N.J.A.C. 7:31-1 and 2. The proposed draft received legal approval of the Department of Law and Public Safety on April 6, 1994 and was the subject matter of the Nagy memorandum;
3. NJEF briefing package on NJDEP FY'96 proposed budget.

Additionally, I understand that you will provide a copy of the Toxic Catastrophe Prevention Act statute, P.L. 1985, c. 403, for incorporation in the record.

Under separate cover, I will provide the Committee, through the Chair, with a summary of the inter-relation of the NJDEP proposed regulatory proposal provided in #2 above and the United States Environmental Protection Agency's Accident Release Prevention program requirements pursuant to section 112(r) of the federal Clean Air Act Amendments of 1990.

Thank you for your assistance.

Sincerely,


Bill Wolfe
Policy Research Director

enclosures

New Jersey Chapter of Clean Water Action, Washington, DC

48X

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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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CHRISTINE TODD WHITMAN
Governor

ROBERT C. SHINN, JR.
Commissioner

MEMORANDUM

July 29, 1994

TO: Robert C. Shinn, Jr., Commissioner

FROM: Lewis J. Nagy, Acting Assistant Commissioner
Policy and Planning

SUBJECT: TCPA—Proposed Rule Amendment to Add USEPA Regulated
Substances to its List

Section 112(r) of federal Clean Air Act requires EPA to create an Accidental Release Prevention Program (ARP) that will be a nation-wide version of the Department's Toxic Catastrophe Prevention Act (TCPA) program. EPA is developing their rules in two separate rule making processes. On January 14, 1994 they adopted the list of chemicals to be regulated and the triggering threshold quantity for each chemical. The remainder of the rule that actually defines risk management programs was proposed on October 20, 1993, and is not expected to be adopted until late 1994 (the earliest) or sometime during 1995 with compliance required three years from adoption. Recent court cases upholding the Clean Air Act implementation dates could require facilities to be in compliance by December of 1996 instead of 1997 or 1998.

As part of this Department's Air Operating Permit rule submittal to USEPA, a demonstration is required that the Department can enforce the ARP rule as part of the operating permit conditions. The attached rule proposal is the first step to meet that requirement. When EPA adopts the remainder of the ARP rule, a second TCPA rule revision will probably be necessary to reconcile technical requirements, document submittal, submittal dates, etc.

This proposal adds substances from the EPA list to the TCPA list, namely, 28 toxics, 52 flammables and 64 explosives. With three exceptions, the corresponding triggering threshold for existing TCPA substances, that are also on the EPA list, was set at the lower threshold of the two rules. In most

cases, this was the TCPA threshold. The existing TCPA list contains 11 substances mandated in the TCPA statute and their thresholds given in the statute, and ninety-four substances added to the list by using a mathematical criteria based on toxicity and volatility with thresholds set by modeling criteria. The modeling criteria were based on the definition of an extraordinarily hazardous substance (EHS) given in the Act; that is, one which if released at sufficient quantity could result in death or permanent disability beyond the property line. The model considered an average population density of the 25 cities located near New Jersey's northeast to southwest (I95-Turnpike-I295) corridor of high EHS usage. The thresholds correlate with one fatality beyond a property line that is assumed 100 meters from the potential accidental release point.

This proposal raises the threshold given in the Act for three of the original chemicals based on using the Department's criteria: chlorine from 500 to 1,000 lbs; bromine from 100 to 1,000 lbs; and toluene-diisocyanate from 100 to 10,000 lbs. EPA's adopted thresholds for these substances are 2,500, 10,000 and 10,000 lbs, respectively. On adoption, EPA significantly raised the thresholds on 71 of its 77 toxic substances. Industry (e.g., CIC and NJBIA) would obviously prefer backing off to the EPA thresholds. If EPA had adopted its thresholds as proposed, that would have been the preferred option, since the proposed thresholds were in general agreement with TCPA criteria. (The original USEPA thresholds averaged 4.7 times the TCPA values with 18 of the 60 substances common to both lists assigned from 5 to 40 times corresponding TCPA values.) However, the increases made by EPA on adoption were so large (averaging some 18 times the TCPA values with 33 of the 60 substances common to both lists assigned from 5 to 167 times corresponding TCPA values) that they are not technically justifiable in an area as densely populated as New Jersey where substances are generally handled on small sites, and would correlate with a significant increase in the number of potential fatalities.

This proposal requires an initial registration of regulated facilities within a short period time. This early registration will provide the Department with the information on the identity and number of new registrants coming into the program. It is anticipated that some 558 new registrants will be added to the existing 123 registrants that would remain (after an anticipated seven of the current 130 would be exempted from the program). The early registration will allow the Department to begin working with the new registrants in an outreach mode to help them prepare the required risk management plans, etc. The Department would offer counseling to small business. Results of its current cooperation helping USEPA develop model risk management programs would be shared with small business for whom those models would be appropriate. Some three hundred new registrants will be LPG or propane facilities that will require significant help in complying with these rules.

TCPA is a fee funded program. Early registrations will have two key impacts related to fees. By substantially increasing the size of the regulated community, but maintaining the Bureau's budget at-or-near its current level, fees for existing registrants will drop significantly. The second impact of the early registration (the new registrants added will be

charged fees during January 1996) will be a decrease in the number of registrants after the first billing. In 1988, the initial program saw several hundred facilities reduce their inventories of regulated substances to below the triggering thresholds upon receipt of their first TCEPA bill. This immediately reduced the potential risk at these facilities while at the same time exempting these facilities from the fees and rule requirements. The early registration will narrow the field of registrants quickly so that the Bureau's resources can be devoted to those facilities that will remain in the program.

It is anticipated that this proposal will be on the agenda at the August 16, 1994 legal meeting so that it can be forwarded to the Office of Administrative Law by August 19, 1994 (alternative September 2, 1994).

c: Mark Smith
Michael Hogan

STATE OF NEW JERSEY

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY (DEPE)

DIVISION OF ENVIRONMENTAL SAFETY, HEALTH, AND
ANALYTICAL PROGRAMS (ESHAP)

Toxic Catastrophe Prevention Act Program

Proposed Amendments: N.J.A.C. 7:31-1 and 2

Authorized By: Robert C. Shinn, Commissioner,
DEPE

Authority: N.J.S.A. 13:1B-3, 13:1D-9, 13:1K-19 et seq., 26:2C-1 et seq.

DEPE Docket Number: _____

Proposal Number: _____

A public hearing concerning this proposal will be held on:

_____, 1994 beginning at __:__ m.
NJDEPE Hearing Room on Floor 1
401 East State Street
Trenton NJ 08625

Submit written comments by _____, 1994, to:

_____, Esq., _____ (Title)
Office of Legal Services, TCPA File
NJDEPE, CN 402
Trenton NJ 08625

The agency proposal follows.

Summary

The Toxic Catastrophe Prevention Act (TCPA) was adopted by the Legislature and signed into law by Governor Kean as P.L. 1985, C. 403, effective January 8, 1986. In the statute the Legislature identified 11 compounds as extraordinarily hazardous substances (EHSs) which constituted the initial EHS list. The Department of Environmental Protection and Energy (Department) was mandated by the statute to propose additional substance within 18 months. Thus the Department added 93 compounds to the EHS list when the TCPA rule was adopted and became effective June 29, 1988 and August 1, 1988.

The statute gave the Department power to amend further, by regulation, the EHS list to reflect new information on other substances and the quantities required thereof to produce potentially catastrophic circumstance. The Department began work in 1988 to amend the EHS list further.

When the Clean Air Act Amendments of 1990 became federal law, the US Environmental Protection Agency (USEPA) was charged under Title III at Section 112(r) to promulgate a list of 100 substances known to cause death, injury or serious adverse effects to human health or the environment starting with 16 mandated substances. At that time the Department, anticipating the need to reconcile the EHS list with the Section 112(r) list, interrupted its work to amend the EHS list. In addition to the list, Section 112(r) mandates the USEPA to promulgate rules for an Accidental Release Prevention (ARP) program.

In response to inquiry from the USEPA under Title V of the Clean Air Act Amendments of 1990, the Department indicated that it plans to seek delegation by the USEPA as the implementing state agency of the ARP program. From its study of USEPA drafts and those rules proposed by USEPA, the Department expects the ARP program to parallel closely the TCPA program. However, the Department anticipates the need to have the TCPA rule revised to be consistent with ARP rules.

The USEPA is adopting its ARP program as 40 CFR Part 68 in two stages: adoption of the list of regulated substances as Subparts A and C; and adoption of rules on risk management programs for chemical accidental release prevention as Subparts A and B. The first stage culminated on January 14, 1994 when the list was adopted. The second stage is expected to culminate in the adoption of the risk management programs rule late 1994 or early 1995. USEPA made its rule proposal on October 20, 1993 and closed the comment period on February 16, 1994.

If USEPA affords owners or operators a three year period before registration under the ARP program rule as contained in the proposal, state implementing agencies may not have sufficient information on the census of potential registrants to prepare for implementing the ARP program until as late as early 1998. At the rule public hearing in Washington, D.C., on November 30, 1994 the Department testified that the ARP rule be adopted with the requirement that registration should begin within a year rather than three years.

USEPA List of Regulated Substances and Threshold Quantities

The list adopted at 40 CFR part 68.130 on January 14, 1994 identifies substances that USEPA has determined as most likely to cause serious adverse effects on public health and the environment in the event of accidental release into the atmosphere. The list includes 77 substances USEPA identifies as acutely toxic, 63 as flammable gases and liquids and certain explosive substances and articles.

The explosives to be covered by 40 CFR part 68.130 are classified by the US Department of Transportation (USDOT) in Division 1.1 (49 CFR part 172.102)

as explosives that have a mass explosive hazard. Division 1.1 explosives includes some 50 distinct substances plus 88 articles or mixtures of substances identified by 150 individual USDOT identification numbers.

USEPA estimates that some 118,000 establishments nationwide handle these substances in quantities above the threshold. In making its estimate from census and Community Right-to-Know (CRTK) program data USEPA categorized the establishments in seven major categories:

Manufacturing (SIC 19 thru 39);
Private utilities (SIC 49);
Public water and treatment works;
Food cold storage facilities that use ammonia as a
refrigerant (SIC 20, 4222 and 514);
Wholesalers of regulated substances (SIC 50-51);
Retailers of regulated substances; and
Service industries (SIC 70-89).

Retailers of propane and liquified petroleum gas (LPG) comprise the largest segment of retail trade establishments that will be regulated under Accidental Release Prevention program regulations.

TCPA List versus USEPA List

While the two lists share many substances, they incorporate key differences in thresholds and criterion concentrations.

Sixteen of the substances on the USEPA list originate at Section 112 (r) of the Clean Air Act Amendments of 1990, namely: "...chlorine, anhydrous ammonia, methyl chloride, ethylene oxide, vinyl chloride, methyl isocyanate, hydrogen cyanide, ammonia, hydrogen sulfide, toluene diisocyanate, phosgene, bromine, anhydrous hydrogen chloride, hydrogen fluoride,, anhydrous sulfur dioxide and sulfur trioxide." Fifteen of the 16 substances of the initial 112 (r) list are included in the TCPA list; vinyl chloride is the exception.

The TCPA list also has 52 of the substances that USEPA added to the initial list at Section 112 (r). Of those 52 substances five are solutions which in each case USEPA set the criterion concentration of the toxic component at a lower value than that of the TCPA list:

	<u>USEPA</u>	<u>TCPA</u>
Ammonia (aqueous)	20 percent	28 percent
Hydrochloric acid	30	36
Hydrofluoric acid	50	70
Nitric acid	80	94.5
Oleum	Fuming	65 percent free sulfur trioxide

In addition, of those 52 substances on the TCPA list, which includes only substances selected by the DEPE as toxics, 11 are designated by USEPA as flammables.

However, USEPA added 225 substances and articles that are not included in the TCPA list: 28 toxics; 47 flammable gases and liquids; and some 150 substances and articles with mass explosion hazard. On the other hand, there are 37 substances on the TCPA list that are not included on the USEPA list.

The Department proposes to incorporate into the TCPA list only those explosives listed by the USDOT in Division 1.1 that are substances or mixtures, and not to incorporate articles or products whose total mass would include materials other than the explosive itself. For the examples of bombs, cartridges, etc., which would have a metallic shell, the TCPA registration quantity would refer to quantities of the substances inside the shell, if such substances were included on the TCPA list by its substance name.

The thresholds of the substances on the USEPA list range between 500 and 20,000 pounds at the following standard inventory levels, in pounds: 500; 1000; 2,500; 5,000; 10,000; 15,000; and 20,000. Thresholds on the TCPA list range between 30 and 34,000 pounds, with no standard levels. Of the 52 substances on the TCPA list which USEPA included, all but two are assigned at a threshold greater than that on the TCPA list.

The thresholds, called registration quantities, of the substances on the TCPA list, except for the initial 11 substances, reflect a direct relation to the acute toxicity concentration of the respective substance. Additionally, a direct relation to volatility is reflected in the registration quantities of substances with atmospheric boiling points greater than 20 degrees Celcius, except from among the initial 11 substances. The thresholds of the TCPA list are set based on dispersion modeling and mortality curves; a "registration quantity" is the quantity whose release 100 meters within the site boundary that would produce one fatality beyond the site boundary in a location with 10,000 people per square mile.

The Department proposes to retain the present TCPA registration quantities for all but three EHSs already listed on the TCPA list, and to adopt all EPA threshold quantities as the TCPA registration quantities for all previously unlisted substances, that is, the new toxics, the new flammables and the explosives.

With the exception of ethyl mercaptan and methyl chloride where the USEPA quantity is lower, the Department proposes to retain all registration quantities as determined for its expanded list of 93 EHSs (previously known as Part II EHSs), since those are based on established criteria. The Department, however, proposes to change the registration quantity of three substances named in the TCPA statute; their registration quantities were not previously in agreement with the criteria used to expand the TCPA list reflecting volatility and acute toxicity concentration. These substances are toluene diisocyanate (and isomers thereof), chlorine and bromine.

Toluene diisocyanate, a substance of high toxicity, is also very low in volatility unlike every other EHS. Accordingly, the Department proposes to increase its registration quantity from 100 to 10,000 pounds, the same as the threshold adopted by the USEPA. The Department has increased the registration quantity of chlorine from 500 to 1,000 pounds, and that of bromine from 100 to 1,000 pounds, to better reflect their toxicity.

Finally, the Department has also adopted the registration quantity of each of the five substances in solution at the higher threshold set by USEPA. In general, each solution registration quantity reflects, in addition to the toxicity of the substance, the volatility of the substance in solution at the criterion concentration set by USEPA. The criterion concentration in each case is lower than that previously listed in the TCPA list and thus the volatility is lower, correlating with a higher threshold.

TCPA Universe with the USEPA List

Adoption of the USEPA list will result in an estimated increase of 551 in the number of TCPA registrants on October 1, 1993 to 674, not including any potential new registrants because of the explosive articles. The breakdown of the potential new registrants is as follows:

Toxics and flammables, excluding LPG, 205;
Propane and LPG 301;
Lower criterion concentration of solutions..... 52.

The 52 "new" registrants due to lower criterion concentration of solutions actually represent former TCPA registrants who earlier had been able to resign from TCPA registrant status by lowering the concentration of the toxic component in the solution they handled.

The TCPA registration impact of the explosive substances added can not be gauged from the available census and CRTK program data.

On the other hand, the higher thresholds adopted by the Department in this amendment notably of chlorine (1,000 versus 500 pounds), bromine (1,000 versus 100 pounds) and toluene diisocyanate (10,000 versus 100 pounds) are expected to permit at least 7 current registrants to de-register from the TCPA program.

Registrants with sufficient inventory of another substance will not be able to totally de-register from the TCPA program. Thus, the higher thresholds of USEPA will result in discontinuance of risk management activities at 9 sites grouped by substance as follows:

	<u>Number of Sites</u>
bromine	2
chlorine	4
hydrochloric acid	1
toluene diisocyanate	2
total	9

The Department plans to monitor the accident experience of any de-registered sites on the substances listed for which they shall no longer be registered.

New TCPA Universe

The Department is uncertain that its estimate of 674 registrants in the new TCPA universe will be realized because of earlier program experience. When the TCPA rule was adopted in July 1988, a total of 957 facilities were registered, 670 using chlorine mostly to treat water and 287 using other TCPA substances. By March 1991, 92 of the water treating facilities using chlorine had lowered the quantity on hand to less than the registration quantity of 500 pounds or had ceased use of the chlorine altogether. By 1992 the total number of registered facilities had declined to 212 because of inventory reduction, change to an unregulated substance or some technical innovation. How many of the 551 additional new registrants anticipated by the adoption of the USEPA list of regulated substances are likely to engage in activities to avoid registration is difficult to predict. However, a number of them will certainly try to avoid TCPA registration.

The DEPE is in a unique position to prepare for its future role as a state implementing agency of the ARP program even if the USEPA rule does not require site registration sooner than three years since the TCPA statute gives the Department power to amend the EHS list.

With these amendments the Department proposes to adopt the list of regulated substances adopted by USEPA with the corresponding threshold quantities set by USEPA as TCPA registration quantities. The Department proposes thus to regulate the new 558 sites having substances that are new to the TCPA list which had never before been regulated under the TCPA rule. Under this proposal owners or operators of these sites would submit completed TCPA registration forms during the summer of 1994.

During the period, as set by the USEPA ARP rule, until the sites would need to submit their risk management programs information to the Department as the delegated state implementing agency, the Department will engage in a broad effort of ARP program preparation. First, the Department upon the adoption by USEPA of the complete ARP program rule make its application to USEPA for delegation. Such application will be based on any possible further amendment of the TCPA rule by the Department during this period to reconcile it with the adopted USEPA ARP program rule.

Additionally during this period the Department will review parameters of the sites to set its order of review of individual risk management programs. To rank the sites for review, the Department will analyze the information of each site registered as to its level of prior risk management programming and comparative level of risk represented by the inventories of EHSs, activities with EHSs and site characteristics and neighborhood. Next the Department will set schedules of review based on its current staffing and its effort log database history on some 175 sites accumulated from administering the TCPA program so far.

In addition, during this period the Department will reach out to the new registrants, by preparing guidance documents and by conducting outreach sessions at several locations in the state. The Department will also offer counsel to small business registrants to establish management programs as well as to how they may reduce their inventories of EHS to levels which exempt them from regulation under TCPA.

The chapter contains subchapters governing the general provisions of the rules, prohibitions and procedures of the TCPA program, the minimum requirements for a risk management program (RMP), requirements for the work plan, confidentiality and trade secrets and civil administrative penalties and requests for adjudicatory hearing. Subchapter 1, General Provisions, and Subchapter 2, General Requirements, Prohibitions and Procedures are the only subchapters revised. Subchapters 3, 4, 5, and 6 are unchanged.

Specific amendments are as follows:

7:31-1.5 Definitions

A new definition is added, that of "USDOT identification number." The USDOT identification number complements the name of the article in shipping documents and on shipping containers to establish the identity of the article. The CAS # which complements the name of compounds or substances in Material Safety Data Sheet documents is used similarly to establish identity. However, the USEPA list of regulated substances at 40 CFR §63.130 as adopted in this amendment includes products for which no CAS #s are assigned since they are not just substances. Use of the USDOT identification number will facilitate identification of all substances and articles covered by these rules. Those preceded by "UN" are appropriate for international as well as domestic transportation. Those preceded by "NA" or not recognized for international transportation except to and from Canada.

7:31-2.3 Extraordinarily hazardous substance list

Table I, the extraordinarily hazardous substances list, is completely revised to include new substances and registration quantities adopted by USEPA on January 14, 1994 at 40 CFR 63.130 and to add the corresponding USDOT identification numbers and CAS #s when assigned. The new Table I lists toxics in Part A, flammables in Part B, and explosives in Part C.

Parts I and II of the existing list are combined to form Part A with the registration quantity given in the TCPA rule readopted with amendments on June 18, 1993. Part A of the list also consists of each toxic substance and corresponding threshold as the registration quantity, adopted by the USEPA on January 14, 1994 at 40 CFR 68.130, Table 1, that had not been included in the TCPA list readopted with amendments on June 18, 1993.

Part B of the list is added and consists of each flammable substance and corresponding registration quantity adopted by the USEPA on January 14, 1994 at 40 CFR 68.130, Table 3, that had not been included in the TCPA list readopted with amendments June 18, 1993.

Part C of the list is added and consists of each explosive substance or mixture and corresponding registration quantity adopted by the USEPA in its list of regulated substance on January 14, 1994 at 40 CFR 68.130.

7:31-2.5 Registration

At 7:31-2.5(a) the date limit for owners or operators which are not yet registered to register is added. This date, August 22, 1994, will permit the TPCA program staff time to review the registration forms and to prepare the Annual TPCA Fee Schedule for fiscal year 1995 by December 1994.

At 7:31-2.5(e)1, the paragraph is deleted since the required date of submittal is past.

At 7:31-2.5(g)1 the scope of information is expanded to include the Dun and Bradstreet number to conform with the USEPA proposal at 40 CFR 61.12 on the scope of registration information. It is also expanded to require response as to whether the registrant is a "small business."

At 7:31-2.5(g)5 the scope of information included at Section E of the registration form is expanded. The registrant will be required to state the size of EHS shipping containers stored, emptied or filled. Additionally the registrant will be required to identify those EHS procedures performed or those EHS equipment located outdoors. Procedures or equipment not completely enclosed within the walls and roof of a building shall be considered outdoors. Since the likelihood and concentration of EHS release to the atmosphere are each lower when EHS is handled, stored or used indoors, Department plans to rate risk at registrant sites will be facilitated.

7:31-2.6 Risk management program procedures

N.J.A.C. 7:31-2.6(b) and (c) are replaced. At 2.6(b) each owner or operator registering a substance added to the list of EHSs in Table I planning to construct a new EHS facility or to utilize an existing facility in a new EHS service shall submit a SRMPS within 60 days if the substance is on Part A of Table I. But if the substance is in either Part B (a flammable) or Part C (an explosive) of Table I, the SRMPS would not be required until February 15, 1994.

At 2.6(c) an owner or operator of an existing EHS facility, whether not previously registered or a current registrant, who has an existing facility with a substance added to Table I in Part A, Part B or Part C shall not be required to submit a SRMPS on that facility until February 15, 1997.

Thus a current registrant with 20 percent aqua ammonia at a existing facility not previously registered will not be required to submit the SRMPS on that facility until February 15, 1997. But another current registrant planning to construct a new EHS facility where 20 percent aqua ammonia is planned shall be required to submit a SRMPS on that facility within 60 days of submitting the registration form on that facility. Registrants or owners or operators not currently registrants who register acetylene or gunpowder, for example, would also not be required to submit SRMPS on that facility until February 15, 1997.

The date February 15, 1997 reflects the schedule that USEPA will require each owner or operator to follow in preparing its Risk Management Plan and Hazard Assessment. Should USEPA change the date upon adoption of its rules, a similar change will need to be made to these rules.

7:31-2.10 New EHS facilities

At 7:31-2.10(a), the phrase "or to utilize an existing facility for a new EHS service" has been added so that the requirements agree with those of 7:31-2.6(b) and 7:31-2.10(b).

Social Impact

The social impact of the TCPA rules has continued to be very positive to the citizens of the state and the expanded list will extend this social benefit even further. The rules currently affect 130 registrants who have approved risk management programs. The addition of 543 TCPA registrants expected as a result of the expansion of the TCPA list of substances, will lead to that many more comprehensive risk management programs, widespread over the state in urban, suburban and rural areas. The public safety and well-being will therefore be enhanced considerably by the Department's adoption of the USEPA list, and establishment of risk management programs at these sites under the existing TCPA program, whose effectiveness has already been proven.

Economic Impact

The proposed amendments are expected to have economic impact on two groups of owners or operators in the state. Adoption of the USEPA list of substances at 40 CFR part 68.130 into the TCPA list will require an estimated 558 owners or operators handling the additional substances at thresholds or greater which are not now registrants to register and to pay annual TCPA fees. The cost of doing business of these owners will increase. The TCPA fee costs of 116 existing registrants, assuming that they do not handle any of the additional substances, on the other hand, will decrease dramatically.

The structure of TCPA fees consists at present of a base fee, a facility-derived fee and an inventory-derived fee. Except for the inventory derived fee, the fees, rather than being fixed at the same values each year, are adjusted annually so that revenues will match TCPA operating cost. Details on the fee structure and annual fee adjustment procedures are described in the proposal of April 5, 1993 at 25 N.J.R. 1441ff.

The Department anticipates no increase in TCPA effort levels as a result of adopting this proposal. A portion of the present staff will be reassigned away from audit activities related to existing registrants to screening and outreach activities related to the new registrants. Consequently TCPA operating cost will remain at or close to current levels.

Determination of the annually adjusted TCPA fee elements for fiscal year (FY) 1995 on a pro-forma basis is compared with the FY 1994 determination in Exhibit 1. The lower unit fee rates for FY1995 compared for FY1994 reflect the larger base of registrants and facilities:

Base unit fee, \$900 versus \$4,400;

Facility-derived unit fee, \$1,800 versus \$3,400.

The increase in facilities at the new registrant sites is estimated by prorating at an assumed facility/site ratio of 1.5 for the 558 new registrants. Hazard units of EHS inventory are lower in FY1995 than in FY1994 because of the larger thresholds adopted from the USEPA rule to calculate units of inventory. Spending plan and Risk Assessment Section cost increase from FY1994 to FY1995 from the contracted rise in State employee pay rates.

Exhibit 1 TCPA Fee Determination

FY1994 Actual versus FY1995 Proforma

	<u>1994</u>	<u>Proforma</u> <u>1995</u>
a. Registrant and facility data		
1. Full fee equivalents	123.25	674
2. Facility census	224	1042
3. EHS inventory, hazard units	68,148	65,600
b. Staff of TCPA program	20	20
c. Budget (1,000)	\$2,065	\$2,065
d. Budget less prior year variance (\$1,000)	\$1,979	\$2,065
e. Inventory-derived fee 1,000) (a.3 multiplied by \$10)	\$ 681	\$ 656
f. Facility-derived fee aggregate needed for Risk Assessment Section (1,000)	\$ 765	\$ 803
g. Facility-derived fee, per facility f/a.2	\$3,415 (use \$3,400)	\$ 771 (use \$800)
h. Base fee aggregate needed (1,000) d. minus (e. plus f.)	\$ 533	\$ 606
i. Base fee unit rate per registrant h./a.1	\$4,324 (use \$4,400)	\$ 899 (use \$ 900)

As a group, the existing 116 registrants that will remain in TCPA will pay an aggregate fee in 1995 of \$750,400, down from \$1,979,000 in 1994, determined as follows:

Aggregate base fee	\$104,400
Aggregate facility-derived fee	172,000
Aggregate inventory-derived fee	<u>474,000</u>
	\$750,400

The FY1995 proforma unit fee rates set forth in Exhibit 1 depend on the many assumptions, such as the estimate of new registrants, the estimate of

existing registrants who will discontinue registration and the estimates of the number of facilities and hazard units. Proceeding on the basis of these assumptions reveals significant economic impact.

A typical existing registrant with one facility and fifty hazard units of inventory would experience a decline in annual fee from FY 1994 of \$6100;

	Existing FY 1994	Proposed FY 1995	Increase (Decrease)
Base fee	\$4,400	\$ 900	(\$3,500)
Facility-derived fee	3,400	800	(2,600)
Inventory-derived fee	<u>500</u>	<u>500</u>	<u>0</u>
	\$8,300	\$2,200	(\$6,100)

Such a decline in annual TCPA fee would be experienced by approximately 19 registrants some of whom would also obtain an additional decline of \$250 based on lower hazard units of inventory from higher registration quantities.

A less typical existing registrant with 18 facilities and 10,000 hazard units of inventory based on revised higher thresholds (18,000 hazard units with the previous lower thresholds), would experience a decline in annual fee compared to FY 1994 of \$130,300:

	Existing FY 1994	Proposed FY 1995	Increase (Decrease)
Base fee	\$ 4,400	\$ 900	(\$ 3,500)
Facility-derived fee	61,200	14,400	(46,800)
Inventory-derived fee	<u>180,000</u>	<u>100,000</u>	<u>(80,000)</u>
	\$245,600	\$115,300	(\$130,300)

A reduction in TCPA fee of the order of magnitude of \$7,000 to \$55,000 would be experienced by approximately 23 registrants primarily reflecting the increase of registration quantity of chlorine, toluene diisocyanate, nitric acid and hydrofluoric acid. Of course an existing registrant with an inventory exceeding the threshold of any of the substances added at Table I of the rule would experience a higher inventory-derived fee than otherwise and very likely also an increase in its facility-derived fee as a consequence of including any additional facilities in the registrant's risk management program. A registrant in this category with two facilities having 1200 hazard units of a flammable substance added to the list would experience a proposed FY 1995 fee of \$14,500, determined as follows:

Base fee	\$ 900
Facility-derived fee	1,600
Inventory	<u>12,000</u>
	\$14,500

The new 558 registrants will experience an aggregate fee of \$1,345,800 as follows:

Aggregate base fee	\$ 502,200
Aggregate facility-derived fee	661,600
Aggregate inventory-derived fee	<u>182,000</u>
	\$1,345,800

It is expected that 350 new registrants will experience the minimal proposed FY 1995 TCPA fee of approximately \$2300. This minimal fee reflects a registrant with one facility and ten hazard units of inventory.

On the other hand some 8 to 11 new registrants are projected to experience a higher fee level of \$14,100. This fee would apply to a registrant with four facilities and 1000 hazard units of inventory and is determined as follows:

Base fee	\$ 900
Facility-derived fee	3,200
Inventory-derived fee	<u>10,000</u>
	\$14,100

The remaining 197 new registrants are projected to pay a FY 1995 TCPA fee ranging from \$2,200 to \$20,000, reflecting numbers of facilities and hazard units of inventory.

In the fiscal years FY 1995, FY 1996 and FY 1997, the new TCPA registrants will undergo the first phase of the cost of compliance with the EPA ARP rule, expected to be adopted in early 1995 calendar year. During this period the new registrants will experience the cost, primarily in labor costs, to bring their risk management program from the concept stage through the final design. This will include the cost of training selected managers, of writing risk management plan documents, and of learning the goals and requirements of EPA and DEPE regulations. Next, it will include the initial implementation of the written risk management plans. The new registrant will experience the cost, also primarily in labor costs, to perform such implementation tasks as writing operating procedures, updating process flow diagrams, piping and instrument diagrams, electrical-one-line diagrams, site plans, sewer diagrams, etc., critical training of operators and maintenance personnel and performing and documenting safety reviews, hazard analyses and risk assessments.

The \$7,000 to \$60,000 in TCPA fees that most of the new registrants will pay cumulatively during this three-year period of developing and initial implementing of the risk management program will be returned in lower registrant labor costs from interaction with DEPE. The counsel of DEPE chemical safety engineers with up to seven years experience implementing TCPA regulations over this period will provide for fewer false starts by the registrants and earlier achievement of full compliance with fewer penalties assessed.

Environmental Impact

The TCPA program has been seen by the Department to have resulted in significant environmental benefits, concurrent with reduced risks of accidents, since its inception in 1988. As shown in Exhibit 2, the number of EHS releases per year reported by TCPA registrants, after an increase due to the initiation of reporting requirements, has in aggregate decreased by 26% from 1990 to 1993. The number of major releases of the registration quantity (RQ) (as listed in Table I at N.J.A.C. 7:31-2.3) or more have been minimal to none each year of the program. The vast majority of releases are less than 1%

of the registration quantity and those above this amount have decreased by 35% from 59 to 38 since 1991. Those above 10% of the registration quantity have decreased by 48% from 31 to 16 since 1990.

Exhibit 2 - ACCIDENTAL RELEASES REPORTED BY TCPA REGISTRANTS

	<u>TOTAL</u>	<u>>0.01 RO</u>	<u>>0.1RO</u>	<u>>1RO</u>
1988	200	-	-	-
1989	240	33	13	2
1990	480	44	31	0
1991	460	59	26	0
1992	415	51	21	1
1993	355	38	16	0

The reduction in releases associated with the TCPA program indicates clearly the positive environmental impact of continued implementation of the TCPA program. The adoption of an expanded TCPA list, based on the USEPA list, is expected to contribute to the same environmental benefits of release reduction for those additional substances present in the state.

Regulatory Flexibility Analysis

The expanded list of substances will apply to all facilities which handle, use, manufacture, store, or generate these extraordinarily hazardous substances at or above the registration quantities established for the EHS in N.J.A.C. 7:31-2.3. It is estimated that of the approximately 130 registrants presently impacted by the Act, 15 are "small businesses" as defined in the New Jersey Regulatory Flexibility Act N.J.S.A. 52:14B-16 et. seq. It is anticipated that of the 543 additional registrants, an even greater percentage will be "small businesses", for example, many of the propane and LPG distributors.

In proposing these additional substances, the Department has balanced the need to protect the environment against the economic impact of the proposed amendment and has determined that to minimize the impact of the rule on small businesses would endanger the environment, public health, and public safety and, therefore, no exemption from coverage is provided.

In order to comply with these rules, small businesses will have to prepare or present to the Department for review a copy of their facilities risk management program which meets the requirements for the safe handling, use manufacturing, storage, or generation of EHSs in order to prevent the accidental release of the EHS into the environment. In doing so, it is likely that small businesses will need to hire professional safety and environmental consultants, to appoint a contact person for environmental affairs, to implement changes to their facilities' operations or to design to prevent or mitigate the consequences of an accidental release, and to pay fees for registration and yearly review of their risk management program.

The Department anticipates the development of generic risk management programs for LPG and propane distributors to simplify and reduce costs to such registrants.

It is expected that the annual costs of compliance for each small business will range from approximately \$8000 to \$50,000 depending on the type of business and on the types and quantities of EHSs involved. Small businesses are encouraged by the Department, however, to review actual inventory needs and to eliminate, if possible, these additional costs by reducing site inventories to below the registration quantities. In many cases these lower inventories will have little effect on facility operations. Registrants who are able to temporarily discontinue use, handling, storage or generation of an EHS at the site, but choose to retain registrant status shall be subject to only 25 percent of the annual fee. In addition, special reduced fees are established for water and wastewater system registrants, because of the Department's recognition of the reduced effort required in reviewing such facilities.

Full text of the changes appears with the additions underlined and the deletions in brackets, e.g., additions and [deletions].

SUBCHAPTER 1. GENERAL PROVISIONS

N.J.A.C. 7:31-1.5 Definitions

"USDOT identification number" means a number assigned by the United States Department of Transportation at 49CFR §172.101(e) to identify a specific substance, article or commodity transported.

SUBCHAPTER 2: GENERAL REQUIREMENTS, PROHIBITIONS AND PROCEDURES

[7:31-2.3 Extraordinarily hazardous substance list

(a) The substances and chemical compounds listed in Table I below shall constitute the Department's extraordinarily hazardous substance list:

[TABLE I

PART I

Name of Extraordinarily Hazardous Substance	CAS #	Registration Quantity in Pounds
✓ Hydrogen chloride (HCl)	7647-01-0	2,000
Hydrochloric acid		
36 by weight or more HCl	7647-01-0	5,600
Allyl chloride	107-05-1	2,000
Hydrogen cyanide	74-90-8	500
Hydrogen fluoride (HF)	7664-39-3	500
Hydrofluoric acid		
70% by weight or more HF	7664-39-3	700
Chlorine	7782-50-5	500
Phosphorus trichloride	7719-12-2	500
Hydrogen sulfide	7783-06-4	500
Phosgene	75-44-5	100

Bromine	7726-95-60	100
Methyl isocyanate	624-83-9	100
Toluene-2,4-diisocyanate	584-84-9 or .	100
	26471-62-5 (mixture with Toluene -2,6- diisocyanate)	

Part II

Name of Extraordinarily Hazardous Substance	CAS #	Registration Quantity in Pounds
Acetaldehyde	75-07-0	4,900
Acrolein	107-02-8	200
Acrylonitrile	107-13-1	2,300
Allylamine	107-11-9	1,200
Ammonia (NH ₃)	7664-41-7	5,200
Ammonia (aqueous) 28% by weight or more NH ₃	1336-21-6	19,000
Arsine	7784-42-1	60
bis (Chloromethyl) ether	542-88-1	80
Boron tribromide	10294-33-4	10,000
Boron trichloride	10294-34-5	1,700
Boron trifluoride	7637-07-20	200
Bromine chloride	13863-41-7	800
Bromine pentafluoride	7789-30-2	1,300
Carbon monoxide (CO) 10% by volume or more CO	630-08-0	12,000
Carbonyl fluoride	353-50-4	1,700
Chlorine dioxide	10049-04-4	500
Chlorine pentafluoride	13637-63-3	500
Chlorine trifluoride	7790-91-2	600
Chloromethyl methyl ether	107-30-2	300
Chloropicrin	76-06-2	900
Chloropicrin mixtures	76-06-2	900
Chloroprene	126-99-8	12,000
Crotonaldehyde	123-73-9	450
Cyanogen	460-19-5	1,300
Cyanogen chloride	506-77-4	200
Diazomethane	334-88-3	300
Diborane	19287-45-7	60
Dichloroacetylene	7572-29-4	125
Dichlorosilane	4109-96-0	2,000
Diethylamine	109-89-7	9,600
Dimethylamine	124-40-3	6,600
Dimethylamine solution	124-40-3	6,600
1,1-Dimethylhydrazine	57-14-7	800
Epoxypropane	75-56-9	7,700
Ethylamine	75-04-7	7,500
Ethylene oxide	75-21-8	2,700
Ethylenimine	151-56-4	800
Ethyl mercaptan	75-08-1	13,000
Fluorine	7782-41-4	450

Formaldehyde (gas)	50-00-0	175
Furan	110-00-9	200
Hexafluoroacetone	684-16-2	3,300
Hydrogen bromide (HBr)	10035-10-6	2,900
Hydrobromic acid		
62% by weight or more HBr	10035-10-6	4,800
Isopropylamine	75-31-0	3,300
Ketene	463-51-4	50
Methacrylaldehyde	78-85-3	1,300
Methyl acrylonitrile	126-98-7	175
Methylamine	74-89-5	2,300
Methylamine, aqueous	74-89-5	2,300
Methyl bromide	74-83-9	1,800
Methyl chloride	74-87-3	12,000
Methyl chloroformate	75-22-1	350
Methyl dichlorosilane	75-54-7	27,000
Methyl fluoroacetate	453-18-9	90
Methyl fluorosulfate	421-20-5	50
Methylhydrazine	60-34-4	125
Methyl iodide	74-88-4	2,900
Methyl mercaptan	74-93-1	2,400
Methyl vinyl ketone	78-94-4	10
Nickel carbonyl	13463-39-3	125
Nitric acid (HNO ₃)		
94.5% by weight or more HNO ₃	7697-37-2	450
Nitrogen Oxides		
-Nitrogen dioxide (NO ₂)		
10% by volume or more	10102-44-0	200
-Nitric oxide		
10% by volume or more	10102-43-9	125
-Nitrogen tetroxide		
10% by volume or more	10544-72-6	200
-Nitrogen trioxide		
10% by volume or more	10544-73-7	175
Nitrogen trifluoride	7783-54-2	10,000
Oleum-65% by weight or more		
free sulfur trioxide (SO ₃)	8014-95-7	800
Osmium tetroxide	20816-12-0	4,500
Oxygen difluoride	7783-41-7	10
Ozone	10028-15-6	15
Pentaborane	19624-22-7	15
Perchloromethyl mercaptan	594-42-3	125
Perchloryl fluoride	7616-94-06	2,900
Phosphine	7803-51-2	30
Phosphorus trifluoride	7783-55-3	34,000
Phosphoryl chloride	10025-87-3	800
Propylamine	107-10-8	11,000
Selenium hexafluoride	7783-79-1	700
Stibine	7803-52-3	250
Sulfur dioxide (SO ₂)		
10% by volume or more SO ₂	7446-09-5	4,600
Sulfur monochloride	10025-67-9	2,800
Sulfur pentafluoride	5714-22-7	175

Sulfur tetrafluoride	7783-60-0	150
Sulfur trioxide, inhibited	7446-11-9	500
Sulfur trioxide, uninhibited	7446-11-9	500
Sulfuryl fluoride	2699-79-8	22,000
Tellurium hexafluoride	7783-80-4	175
Tetrafluorohydrazine	10086-47-2	3,800
Tetramethyl lead	75-74-1	800
Tetranitromethane	509-14-8	900
Thionyl chloride	7719-09-7	250
Titanium tetrachloride	7550-45-0	600
Trichlorosilane	10025-78-2	2,700
Trifluorochloroethylene	79-38-9	7,300
Trimethoxysilane	2487-90-3	1,100
Trimethylamine	75-50-3	11,000
Trimethylamine, aqueous	75-50-3	11,000
Trimethylchlorosilane	75-77-4	1,400
Vinyl trichlorosilane	75-94-5	7,700]

TABLE I

Part A - Toxics

Extraordinarily Hazardous Substance (EHS)	CAS #	DOT #	Registration Quantity (pounds)
Acetaldehyde	75-07-0	UN1089	4,900
Acrolein	107-02-8	UN1092	200
Acrylonitrile	107-13-1	UN1093	2,300
Acrylyl chloride	814-68-6	None	5,000
Allyl chloride	107-05-1	UN1100	2,000
Allyl alcohol	107-18-6	UN1098	15,000
Allylamine	107-11-9	UN1334	1,200
Ammonia (aqueous)			
20% by weight or more NH ₃	1336-21-6	UN2672	20,000
Ammonia (NH ₃)	7664-41-7	UN1005	5,200
Arsenous trichloride	7784-34-1	None	15,000
Arsine	7784-42-1	UN2188	60
bis (Chloromethyl) ether	542-88-1	UN2249	80
Boron tribromide	10294-33-4	UN2692	5,000
Boron trichloride	10294-34-5	UN1741	1,700
Boron trifluoride	7637-07-2	UN1008	200
Boron trifluoride with methyl ether 1:1	353-92-4	UN2965	15,000
Bromine	7726-95-6	UN1744	1,000
Bromine chloride	13863-41-7	UN2901	800
Bromine pentafluoride	7789-30-2	UN1745	1,300
Carbon disulfide	75-15-0	UN1131	20,000
Carbon monoxide (CO)			
10% by volume or more CO	630-08-0	UN1016	12,000
Carbonyl fluoride	353-50-4	UN2417	1,700
Chlorine	7782-50-5	UN1017	1,000
Chlorine dioxide	10049-04-4	NA9191	500
Chlorine pentafluoride	13637-63-3	UN2548	500
Chlorine trifluoride	7790-91-2	UN1749	600
Chloroform	67-66-3	UN1888	20,000
Chloromethyl ether	542-88-1	None	1,000
Chloromethyl methyl ether	107-30-2	UN1239	300
Chloropicrin	76-06-2	UN1580	900
Chloropicrin mixtures	76-06-2	UN1583	900
Chloroprene	126-99-8	UN1991	12,000
Crotonaldehyde (E)	123-73-9	UN1143	450
Crotonaldehyde	123-73-9	UN1143	450
Cyanogen chloride	506-77-4	UN1589	200
Cyanogen	460-19-5	UN1026	1,300
Cyclohexylamine	108-91-8	UN2357	15,000
Diazomethane	334-88-3	None	300
Diborane	19287-45-7	UN2363	60
Dichloroacetylene	7572-29-4	None	125

Dichlorosilane	4109-96-0	UN2189	2,000
✓ Diethylamine	109-89-7	UN1154	5,000
Dimethyl dichlorosilane	75-78-6	UN1162	10,000
Dimethylamine solution	124-40-3	UN1160	10,000
Dimethylamine	124-40-3	UN1032	6,600
1,1-Dimethylhydrazine	57-14-7	UN1163	800
Epichlorohydrin	106-89-8	UN2023	20,000
Epoxypropane (Propylene Oxide)	75-56-9	UN1280	7,700
Ethyl mercaptan	75-08-1	UN2363	10,000
Ethylamine	75-04-7	UN1036	7,500
Ethylene diamine	107-15-3	None	20,000
Ethylene oxide	75-21-8	UN1040	2,700
Ethylenimine	151-56-4	UN1185	800
Fluorine	7782-41-4	UN1045	450
Formaldehyde	50-00-0	UN1198	175
Furan	110-00-9	UN2389	200
Hexafluoroacetone	684-16-2	UN2420	3,300
Hydrazine	302-01-2	UN2029	15,000
Hydrobromic acid			
62% by weight or more HBr	10035-10-6	UN1788	4,800
Hydrochloric acid			
30% by weight or more HCl	7647-01-0	UN1789	15,000
Hydrofluoric acid			
50% by weight or more HF	7664-39-3	UN1790	1,000
Hydrogen bromide (HBr)	10035-10-6	UN1048	2,900
✓ Hydrogen chloride (HCl)	7647-01-0	UN1050 or UN2186	2,000
Hydrogen cyanide	74-90-8	UN1051 or UN1614	500
Hydrogen fluoride (HF)	17664-39-3	UN1052	500
Hydrogen selenide	7783-07-5	UN2202	125
Hydrogen sulfide	7783-06-4	UN1053	500
Iron pentylcarbonyl	13463-40-6	UN1994	2,500
Isobutyronitrile	78-82-0	UN2284	20,000
Isopropyl chloroformate	108-23-6	UN2407	15,000
Isopropylamine	75-31-0	UN1221	3,300
Ketene	463-51-4	None	50
Methacrylaldehyde	78-85-3	UN2396	1,300
Methylacrylonitrile	126-98-7	UN3079	175
Methyl bromide	74-83-9	UN1062	1,800
Methyl chloride	74-87-3	UN1063	10,000
Methyl chloroformate	79-22-1	UN1238	350
Methyl dichlorosilane	75-54-7	UN1242	27,000
Methyl fluoroacetate	453-18-9	None	90
Methyl fluorosulfate	421-20-5	None	50
Methyl iodide	74-88-4	UN2694	2,900
Methyl isocyanate	624-83-9	UN2480	100
Methyl mercaptan	74-93-1	UN1064	2,400
Methyl thiocyanate	556-64-9	None	20,000
Methyl trichlorosilane	75-79-4	UN1250	5,000
Methyl vinyl ketone	78-94-4	UN1251	10
Methylamine, aqueous	74-89-5	UN1235	10,000
Methylamine	74-89-5	UN1061	2,300
Methylhydrazine	60-34-4	UN1244	125

Nickel carbonyl	13463-39-3	UN1259	125
Nitric acid (HNO ₃)			
80% by weight or more HNO ₃	7697-37-2	UN2031	15,000
Nitrogen trifluoride	7783-54-2	UN2451	10,000
Nitrogen Oxides			
-Nitrogen dioxide (NO ₂)			
10% by volume or more	10102-44-0	UN1067	200
-Nitrogen trioxide			
10% by volume or more	10544-73-7	UN2421	175
- Nitric oxide			
10% by volume or more	10102-43-9	UN1660	125
- Nitrogen tetroxide			
10% by volume or more	10544-72-6	UN1067	200
Oleum - fuming	8014-95-7	UN1831	10,000
Osmium tetroxide	20816-12-0	UN2471	4,500
Oxygen difluoride	7783-41-7	UN2190	10
Ozone	10028-15-6	None	15
Pentaborane	19624-22-7	UN1380	15
Peracetic acid	79-21-0	None	10,000
Perchloromethylmercaptan	594-42-3	UN1670	125
Perchloryl fluoride	7616-94-6	UN3083	2,900
Phosgene	75-44-5	UN1076	100
Phosphine	7803-51-2	UN2199	30
Phosphorus trichloride	7719-12-2	UN1809	500
Phosphorus trifluoride	7783-55-3	None	34,000
Phosphoryl chloride	10025-87-3	UN1810	800
Piperidine	110-89-4	UN2401	15,000
Propionitrile	107-12-0	UN2404	10,000
Propyl chloroformate	109-61-5	UN2740	15,000
Propylamine	107-10-8	UN1277	11,000
Propyleneimine	75-55-8	UN1921	10,000
Selenium hexafluoride	7783-79-1	UN2194	700
Stibine	7803-52-3	UN2676	250
Sulfur dioxide (SO ₂)	7446-09-5	UN1079	4,600
(Anhydrous)			
Sulfur monochloride	10025-67-9	UN1828	2,800
Sulfur pentafluoride	5714-22-7	None	175
Sulfur trioxide, inhibited	7446-11-9	UN1829	500
Sulfur trioxide, uninhibited	7446-11-9	NA1829	500
Sulfur tetrafluoride	7783-60-0	UN2418	150
Sulfuryl fluoride	2699-79-8	UN2191	22,000
Tellurium hexafluoride	7783-80-4	UN2195	175
Tetrafluorohydrazine	10086-47-2	UN1955	3,800
Tetramethyl lead	75-74-1	UN1649	800
Tetranitromethane	509-14-8	UN1510	900
Thionyl chloride	7719-09-7	UN1836	250
Titanium tetrachloride	7550-45-0	UN1838	600
Toluene-2,4-diisocyanate	584-84-9	UN2078	10,000
Toluene-2,6-diisocyanate	91-08-7	UN2078	10,000
Toluene diisocyanate (unspecified monomer or mixture)	26471-62-5	UN2078	10,000

Trichlorosilane	10025-78-2	UN1295	2,700
Trifluorochloroethylene	79-38-9	UN1082	7,300
Trimethoxysilane	2487-90-3	NA9269	1,100
Trimethylamine	75-50-3	UN1083	10,000
Trimethylamine, aqueous	75-50-3	UN1297	10,000
Trimethylchlorosilane	75-77-4	UN1298	1,400
Vinyl acetate monomer	108-05-4	UN1301	15,000
Vinyl trichlorosilane	75-94-5	UN1305	7,700

PART B - Flammables

Extraordinarily Hazardous Substance	CAS #	DOT#	Registration Quantity (pounds)
Acetylene	74-86-20	UN1001	10,000
Bromotrifluoroethylene	598-73-2	UN2419	10,000
1,3-Butadiene	106-99-0	UN1010	10,000
Butane	106-97-8	UN1011	10,000
1-Butene	106-98-9		10,000
2-Butene	107-01-7		10,000
Butene	25167-67-3	UN1012	10,000
2-Butene-cis	590-18-1		10,000
2-Butene-trans	624-64-6		10,000
Carbon oxysulfide	463-58-1	UN2204	10,000
Chlorine monoxide	7791-21-1	None	10,000
2-Chloropropylene	557-98-2	None	10,000
1-Chloropropylene	590-21-6	None	10,000
Cyclopropane	75-19-4	UN1027	10,000
Difluoroethane	75-37-6	UN1030	10,000
2,2-Dimethylpropane	463-82-1	UN2044	10,000
Ethane	74-84-0	UN1035 or UN1961	10,000
Ethyl acetylene	107-00-6	None	10,000
Ethyl chloride	75-00-3	UN1037	10,000
Ethylene	74-85-1	UN1962	10,000
Ethyl ether	60-29-7	UN1155	10,000
Ethyl nitrite	109-95-5	UN1194	10,000
Hydrogen	1333-74-0	UN1049 or UN1966	10,000
Isobutane	75-28-5	UN1969	10,000
Isopentane	78-78-4	UN1265	10,000
Isoprene	78-79-5	UN1218	10,000
Isopropyl chloride	75-29-6	None	10,000
Methane	74-82-8	UN1971 or UN1972	10,000
3-Methyl-1-butene	563-45-1	UN2561	10,000
2-Methyl-1-butene	563-46-2	UN2459	10,000
Methylether	115-10-6	UN1033	10,000
Methyl formate	107-31-3	UN1243	10,000
2-Methylpropene	115-11-7	None	10,000
1,3-Pentadiene	504-60-9	None	10,000
Pentane	109-66-0	UN1265	10,000
1-Pentene	109-67-1	None	10,000
2-Pentene, (E)-	646-04-8	None	10,000
2-Pentene, (Z)-	627-20-3	None	10,000
Propadiene	463-49-0	UN2200	10,000
Propane	74-98-6	UN1978	10,000
Propylene	115-07-1	UN1077	10,000
Propyne	74-99-7	None	10,000
Silane	7803-62-5	UN2203	10,000
Tetrafluoroethylene	116-14-3	UN1081	10,000
Tetramethylsilane	75-76-3	UN2749	10,000
Vinyl acetylene	689-97-4	None	10,000
Vinyl chloride	75-01-4	UN1086	10,000

Vinyl ethyl ether	109-92-2	UN1302	10,000
Vinyl fluoride	75-02-5	UN1860	10,000
Vinylidene chloride	75-35-4	UN1303	10,000
Vinylidene fluoride	75-38-7	UN1959	10,000
Vinyl methyl ether	107-25-5	UN1087	10,000

PART C - Explosives

Name of Extraordinarily Hazardous Substance	CAS #	DOT #	Registration Quantity (pounds)
Ammonium nitrate	6484-52-2	UN0222	5,000
Ammonium perchlorate	7990-98-9	UN0402	5,000
Ammonium picrate water	131-74-8	UN0004	5,000
Barium azide	18810-58-7	UN0224	5,000
Barium styphnate	20236-55-9	NA0473	5,000
Black powder or Gunpowder granular or as a meal	None	UN0027	5,000
Black powder compressed or Gunpowder compressed	None	UN0028	5,000
Cyclotetramethyl- enetetranitramine (HMX)	2691-41-0	UN0484	5,000
Cyclotetramethyl- enetetranitramine (HMX)	2691-41-0	UN0226	5,000
Cyclotrimethyl- enetrinitramine (RDX)	121-82-4	UN0483	5,000
Cyclotrimethyl- enetrinitramine (RDX)	121-82-4	UN0072	5,000
Diazodinitriphenol	87-31-0	UN0074	5,000
Diethyleneglycol dinitrate	None	UN0075	5,000
Dinitroglycoluril or Dingu	55510-04-8	UN0489	5,000
Dinitrophenol	25550-58-9	UN0076	5,000
2,4-Dinitrophenol	51-28-5	UN0076	5,000
2,5-Dinitrophenol	329-71-5	UN0076	5,000
2,6-Dinitriphenol	573-56-8	UN0076	5,000
Dinitroresorcinol	35860-51-6	UN0078	5,000
Dipicryl sulfide	2217-06-3	UN0401	5,000
Flash powder	None	UN0094	5,000
Guanyl nitrosamino- guanylidene hydrazine	None	UN0113	5,000
Guanyl nitrosamino- guanyltetrazene	109-27-3	UN0114	5,000
Hexanitrodiphenylamine Dipicrylamine; Hexyl	131-73-7	UN0079	5,000
Hexanitrostilbene	20062-22-0	UN0392	5,000
Hexatonal cast	None	UN0393	5,000
Hexolite	121-82-4	UN0118	5,000
Lead azide	13424-46-9	UN0129	5,000

Lead mononitro-resorcinat	51317-24-9	NA0473	5,000
Lead styphnate	63918-97-8	UN0130	5,000
Mannitol hexanitrate (Nitromannite)	46		5,000
Mercury fulminate	628-86-4	UN0135	5,000
5-Nitrobenzotriazol	2338-12-7	UN0385	5,000
Nitrocellulose	9004-70-7	UN0341	5,000
Nitroglycerine	55-63-0	UN0143	5,000
Nitroguanidine or Picrite	70-25-7	NA0473	5,000
Nitrostarch	9056-38-6	UN0146	5,000
Nitrotriazolone or NTO	932-64-9	UN0490	5,000
Nitrourea	556-89-8	UN0147	5,000
Octolite or Octol	2691-41-0	UN0266	5,000
Pentaerythrite tetranitrate or Pentaerythritol tetranitrate or PETN	78-11-5	NA0150	5,000
Pentolite	8066-33-9	UN0151	5,000
Powder cake wetted or powder paste wetted	None	UN0433	5,000
Powder, smokeless	None	UN0160	5,000
RDX and HMX mixtures	None	UN0391	5,000
Tetranitroaniline	53014-37-2	UN0207	5,000
Trinitro-meta-cresol	602-99-3	UN0216	5,000
Trinitroaniline or Picramide	26952-42-1	UN0153	5,000
Trinitroanisole	606-35-9	UN0213	5,000
Trinitrobenzene	99-35-4	UN0214	5,000
Trinitrobenzenesulfonic acid	2508-19-2	UN0386	5,000
Trinitrobenzoic acid	129-66-8	UN0215	5,000
Trinitrochlorobenzene or Picryl chloride	28260-61-9	UN0155	5,000
Trinitrofluorenone	25322-14-7	UN0387	5,000
Trinitronaphthalene	55810-17-8	UN0217	5,000
Trinitrophenetole	4732-14-3	UN0218	5,000
Trinitrophenol or Picric acid	88-89-1	UN0154	5,000
Trinitrophenyl-methylnitramine or Tetryl	479-45-8	UN0208	5,000
Trinitroresorcinol or Styphnic acid	82-71-3	UN0219	5,000
Trinitrotoluene and Trinitrobenzene mixture or Trinitrotoluene and Hexanitro-stilbene Mixture	None	UN0388	5,000

Trinitrotoluene mixtures containing Trinitrobenzene and Hexanitro-stilbene	None	UN0389	5,000
Trinitrotoluene or TNT	118-96-7	UN0209	5,000
Tritonal	54413-15-9	UN0390	5,000
Urea nitrate	124-47-0	UN0220	5,000

(b) For those mixtures not specified in (a) above which contain EHS, the registration quantity shall be calculated using the weight percent of EHS contained in the mixture. When the weight of the total mixture times the weight percent is equal to or greater than the registration quantity for that EHS, the owner or operator must register.

7:31-2.4 Prohibitions (No change.)

7:31-2.5 Registration

(a) Each owner or operator of a site handling, using, manufacturing or storing at least the registration quantity of an EHS, or who has the capability to generate, within one hour, at least the registration quantity of an EHS on the EHS list in Table I in N.J.A.C. 7:31-2.3, shall register with the Department on TCPA Registration Form (STP-010) (registration form) available from the Department. All forms can be obtained from:

Chief, Bureau of Release Prevention
New Jersey Department of Environmental Protection and Energy
Division of Environmental Safety, Health and Analytical Programs
CN 424
Trenton, New Jersey 08625

By no later than August 22, 1994, each owner or operator of a site handling, using, manufacturing or storing at least the registration quantity of an EHS, or who has the capability to generate, within one hour, at least the registration quantity of an EHS on the EHS list in Part A, Part B or Part C of Table I in N.J.A.C. 7:31-2.3, shall register with the Department and submit completed Sections A,C,D and E of the TCPA Registration Form (STP-010).

(b)-(d) (No change.)

(e) Each registrant shall submit:

1. [By no later than August 22, 1993, completed Sections A,C,D and E of the TCPA Registration Form (STP-010)] Reserved;

2. (No change.)

(f) (No change.)

(g) Each registrant shall provide the following information in the appropriate section of the registration form:

1. Section A of the registration form shall contain:
 - i. Legal name of owner or operator of the EHS site;
 - ii. The nature of the registrant's business;
 - iii. The identification number assigned by the Department's Air Pollution Enforcement Data System (APEDS) for the facility or the Employer Identification Number issued by the New Jersey Department of Labor if APEDS is not available;
 - iv. The site's geographic address;
 - v. The site's mailing address;
 - vi. The name, title and telephone number of the responsible manager;
 - vii. The site's tax lot and block number;
 - viii. The SIC code for the site;
 - ix. The number of facilities at the site as identified in Section D[.];
 - x. The Dun and Bradstreet number of the site; and
 - xi. Whether the registrant is a small business.

2.-4. (No change.)

5. Section E of the registration form shall contain the process description of and principal equipment used with each EHS at the site, by facility according to the definition of facility in N.J.A.C. 7:31-1.5. The process description shall include the sizes of EHS shipping containers stored, emptied or filled and identification of procedures performed or equipment installed outdoors.

6.-8. (No change.)

(h)-(j) (No Change.)

7:31-2.6 Risk management program procedures

(a) (No change.)

(b) [Each registrant with an EHS listed in Part I of Table I in N.J.A.C. 7:31-2.3, who has indicated on its registration form that it has a risk management program, shall submit a summary risk management program statement containing the information required by N.J.A.C. 7:31-3.12 to the Department within 60 days after the operative date of this chapter.]. Each owner or operator planning to construct a new EHS facility, or to utilize an existing facility in a new EHS service, who submits a completed registration form indicating a substance at the corresponding registration quantity and concentration criterion in Table I at N.J.A.C. 7:31-2.3, shall:

1. For any Part A substance, comply with the requirements of N.J.A.C. 7:31-2.10;

2. For any Part B or Part C substance, submit a summary risk management program statement containing the information required by N.J.A.C. 7:31-3.12 by February 15, 1997.

(c) [Each registrant with an EHS listed in Part II of Table I in N.J.A.C. 7:31-2.3, who indicates on its registration form that it has a risk management

program, shall submit a summary risk management program statement containing the information required by N.J.A.C. 7:31-3.12 to the Department by June 30, 1989]. Each owner or operator of an existing EHS facility, who submits a completed registration form indicating a substance at the corresponding registration quantity and concentration criterion added to Table I at N.J.A.C. 7:31-2.3 upon adoption of this amendment, shall submit a summary risk management program statement containing the information required by N.J.A.C. 7:31-3.12 by February 15, 1997.

(d)-(i) (No change.)

7:31-2.10 New EHS facilities

(a) Each owner or operator of a site planning to construct a new EHS facility or to utilize an existing facility for a new EHS service, or a registrant with an established risk management program planning to utilize an existing facility for a new EHS service, shall:

1.-5. (No change.)

(b)-(c) No change.



Winner of the NJ Governor's Award for Outstanding Achievement in Pollution Prevention

April 14, 1995

Honorable Robert E. Littell
Chairman, Senate Budget and Appropriations Committee
Box 328
Franklin, New Jersey 07417

Re: Proposed DEP Budget

Dear Chairman Littell:

I am writing to convey our serious concerns with the Administration's proposed Department of Environmental Protection (DEP) Fiscal Year 1996 (FY'96) budget and to request a meeting at your earliest possible convenience to discuss our concerns.

The budget document itself highlights our concern by stating "the FY'96 budget constitutes a substantial departure from past practice." (D-117). The past practices of the last three Governors and Legislatures evidenced a consensus commitment to environmental protection, with an assurance that the polluter paid for the costs of maintaining a healthy New Jersey environment. The Administration's proposed budget departures break faith with that consensus.

The proposed budget terminates the prior practice of dedicating fee and fine revenue to DEP environmental programs. At the same time, the budget anticipates substantially reduced fee and fine revenues and causes significant staff cuts. The effect of decoupling fee and fine revenue from the Department while decreasing these revenues can only shift the funding burdens from polluters, where it belongs, to the taxpayers of New Jersey. Reduced fines undercut an effective enforcement tool to assure compliance with environmental laws. As you may know, our recent poll of New Jersey voters amply demonstrates that the public overwhelmingly supports making polluters pay for the costs of assuring a healthy environment and for vigorous enforcement of strong environmental laws.

The proposed FY'96 budget continues the unacceptable practice of raiding environmental accounts and diverting revenues for other purposes. Last year, to close projected budget deficits, Governor Whitman diverted millions of dollars dedicated to hazardous site cleanup, to provide aid to municipal recycling and litter control programs, to assure clean beaches, to compensate property owners adversely impacted by landfill pollution and to pay for the infrastructure to assure safe drinking water. This year's budget continues to shortchange funding for necessary, effective and extremely popular environmental programs to pay for budget shortfalls.

The budget would eliminate 219 positions and, through a mandatory workweek reduction, reduce an additional 225 full time equivalent positions. The FY'96 cuts follow significant reductions in prior years. The cuts further reduce the ability of DEP to implement laws designed to protect public health and the environment. These cuts are not accompanied by or proposed as part of a coherent management plan to implement much needed regulatory reform measures and assure a smooth transition to a downsized DEP. In contrast, the budget will increase taxpayer burdens, unnecessarily harm DEP programs, cause more regulatory backlogs and result in lax enforcement of our environmental laws. As our recently released public opinion poll compelling demonstrates, the public overwhelmingly supports more, not less, environmental protection and vigorous enforcement of our strong environmental laws, even if we must trade-off some economic growth opportunities and forego tax cuts.

New Jersey Chapter of Clean Water Action, Washington, DC

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Fax: (908) 846-4320

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Fax: (908) 280-0371

South Jersey Office ☐

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Atco, NJ 08004
(609) 767-1110
Fax: (609) 768-6662

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(202) 457-1286
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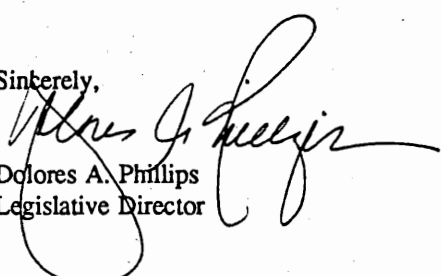


(DEP budget, page 2 of 2)

I strongly urge you to look closely at this proposed budget. We are currently conducting a programmatic analysis of the cuts and revenue diversions that we'd like to share with you. I am enclosing materials we provided to the Assembly Appropriations Committee on the budget. We ask that you consider these concerns and arrange a meeting to discuss this in more detail prior to the Budget and Appropriations Committee hearing on the proposed DEP budget.

I appreciate your consideration and look forward to discussing this matter further with you. You may contact me at (609) 530-1515.

Sincerely,


Dolores A. Phillips
Legislative Director

enclosure

FOX

1/20/95

DEPARTMENT OF ENVIRONMENTAL PROTECTION
FY96 TARGETED SPENDING REDUCTIONS

DIRECT STATE SERVICES REDUCTION

• Management & Administrative Services	\$ 3,179,000
• Water Pollution Control	1,369,000
• Geological Survey	756,000
• TCPA	550,000
• Legislative & Intergovernmental Affairs	533,000
• Hazardous Waste	443,000
• Solid Waste Regulation	433,000
• Air	380,000
• Water Monitoring	319,000
• Bayshore Flood Control	230,000
• Medical Waste	202,000
• Parks	200,000
• Land Use	199,000
• A-901	171,000
• A-901 Elimination of Loan Subsidy	2,166,000
• Right-To-Know	113,000
• Radiation	85,000
• Site Remediation	82,000
• Water Supply Management	80,000
• Pesticide Control	20,000
• Quality Assurance/Lab Certification	<u>5,000</u>
TOTAL DSS REDUCTIONS	<u>\$11,515,000</u>

81X

DEPARTMENT OF ENVIRONMENTAL PROTECTION
FY96 TARGETED SPENDING REDUCTIONS

STATE AID REDUCTIONS

• Dredging of Inland Waterways	\$ 600,000
• North Arlington Mine Remediation	200,000
• Rockaway Township Mine Subsidence Remediation	150,000
• City of Linden/GAF Hazardous Waste Siting	<u>100,000</u>
TOTAL STATE AID REDUCTIONS	<u>\$ 1,050,000</u>
• Increase to Payments In Lieu of Taxes	<u>300,000</u>
NET STATE AID REDUCTIONS	<u>\$ 750,000</u>
TOTAL DEP REDUCTIONS	<u>\$12,265,000</u>

- REVISED TARGET ON WHICH DEP SUBMITTED ITS BUDGET = \$193.5

- ADDITIONAL REDUCTIONS MANDATED BY TREASURY:

ORIGINAL TREASURY REDUCTION	\$ 9.5 MILLION (219 PERSONNEL)
DEP'S COUNTER PROPOSAL	\$ 9.1 MILLION
OTHER OMB TECHNICAL ADJUSTMENTS	<u>4.6 MILLION</u>
TOTAL REDUCTION	\$13.7 MILLION

- ANTICIPATED PROGRAM AND PERSONNEL IMPACT OF FY 1996 BUDGET OF \$179.8

WHITMAN DIVERSIONS OF ENVIRONMENTAL FUNDS FOR OTHER PURPOSES

I. CURRENT FISCAL YEAR (FY'95)

1. Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund	\$21 million
2. Clean Communities Account Fund	\$12 million
3. Pollution Prevention Fund	\$2 million
4. Safe Drinking Water Fund	\$4 million
5. State Recycling Fund	\$16 million
6. Solid Waste, Hazardous Waste, Medical Waste Fees million	\$ 4 . 1 6
Sub-Total Current Fiscal Year million	\$ 5 9 . 1 6

II. Next Fiscal Year Budget (FY'96)

1. Sanitary Landfill Contingency Fund	\$10.4 million
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TOTAL WHITMAN DIVERSIONS OVER 2 YEARS	\$69.56 MILLION
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State of New Jersey

Christine Todd Whitman
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.
Commissioner

MEMORANDUM

TO: Commissioner Robert Shinn

FROM: Lewis J. Nagy
Assistant Commissioner, Policy and Planning

RE: Ramifications of Reduction in Force (RIF) Measures

DATE: February 22, 1995

Per your request, the following is a brief outline of how the proposed reduction in force measures will affect the three elements within the Division of Science and Research. In the instance of the Environmental Research & Health Assessment Element, however, background is provided on the Element's technical and scientific functions to serve as the basis for making future programmatic decisions related to the reduction of state appropriations.

NEW JERSEY GEOLOGICAL SURVEY (NJGS)

While the NJGS must contend with a possible 30 percent reduction in staff (which equates to a maximum loss of 13 positions), of greater and more immediate concern is the change in the funding source for the NJGS. In the FY1996 budget, funding for all NJGS positions is shifted from state appropriations and other sources to just one -- the 1981 Water Supply Bond. The ramifications of this action are significant.

First, by designating the Bond as the NJGS's only source of revenue, it will be required to limit its activities exclusively to Water Bond projects. As a consequence, the statutory requirements of the NJGS and priorities of the DEP would not be met (specifics are provided below). Moreover, the monies allotted to the NJGS through the Bond will cease in less than two years, rendering the Survey without a dedicated source of revenue and its long-term viability in jeopardy.

The NJGS is the second largest DEP user of, and contributor to, the GIS system and has tremendous capabilities and databases which are utilized by the department, the general public, local governments, business and

industry and others. If the value and integrity of the NJGS is to be maintained, careful consideration must be given to finding a more flexible and permanent funding source in this budget cycle. If this should not occur, the following activities will be curtailed:

LOCAL GOVERNMENT AND INDUSTRY ASSISTANCE - The loss of this service would have the greatest immediate affect on the public since no other public or private agency can provide 150 years of consistent geotechnical information to the public. More important, every DEP permit involving groundwater or land use (NJPDES, ISRA, water diversion, solid waste, etc.) requires geologic and hydrologic data from NJGS databases, maps and reports.

GROUNDWATER & GEOLOGIC DATABASES - The NJGS maintains and continuously updates the DEP groundwater and geologic databases which contain thousands of water levels, formation characteristics and hydroparameters necessary for wellhead protection, aquifer recharge, and the resolution of pollution and water supply projects using the GIS.

GEOLOGIC MAPPING - NJGS maps both surface and bedrock geology throughout the state. This basic data is being entered into the GIS and is necessary for the construction of detailed derivative maps necessary for environmental decision-making (i.e. aquifer recharge). The National Governor's Association, at it's 1995 Winter meeting, passed a strongly worded resolution recommending adequate funding for geologic mapping at both the state and federal levels.

BOUNDARY AND TIDAL MONUMENT MAINTENANCE - NJSA 52:29-2 requires that the DEP maintain the state's boundaries with Delaware and New York. This requires the recovery of 150 monuments and preparation of site maps at least every three years. This type of work will be especially important if Sterling Forest is acquired. In addition, NJGS is responsible for the maintenance of 1,200 tidal benchmarks along the shore to measure beach changes and settle riparian disputes.

SITE REMEDIATION - The NJGS analyzes and performs hydrogeologic work at pollution sites where additional data or expertise is needed and reviews complex hydrogeologic consultant reports. Through the efforts of the NJGS, the use of geophysics to characterize sites with a minimum of expensive borings and wells has been implemented by the Office of Site Remediation. The pre-RI investigations save hundreds of thousands of dollars and allows the DEP to scope out remedies or issue clean-up contracts in a timely manner.

With increased awareness of geophysics as a tool to define groundwater contamination, many consultants with little experience are purchasing or renting equipment with no knowledge of theory or how to interpret the information. The NJGS has reviewed many such reports where the DEP would have accepted poor or erroneous information, costing the taxpayers millions in extra cleanup costs and unnecessary drilling.

BEACH REPLENISHMENT - All sand is not suitable for beach replenishment. The NJGS is examining on- and offshore deposits for future beach replenishment and tracking losing and gaining beaches utilizing the GIS.

RADON - the NJGS is correlating certain rock types and environments with elevated radon levels in order for state and local governments to

identify high-risk areas and concentrate education efforts in those areas. To date, maps for Mercer, Hunterdon and Somerset counties have been completed.

In addition to these activities, at risk would also be: staffing to the Low-Level Radioactive Waste Siting Board; analyzing complex water diversion applications for the Water Supply Division and oversight of the DEP/USGS groundwater monitoring network; groundwater pollution investigations, subsurface mapping of environmental hazards like sinkholes; mineral resource assessments, and the evaluation of natural groundwater contaminants (i.e. lead, radium, etc.).

WATER MONITORING MANAGEMENT

The proposed FY1996 budget reduction of \$319,000 in state appropriations to the Office of Water Monitoring Management (which equates to the loss of approximately six positions), would significantly affect the office's ability to perform both core and support functions on behalf of the department. In addition, the proposed reduction does not reflect the shift from a 40- to a 35-hour workweek, thus an additional four positions would be lost, resulting in a total of 10 positions for this office.

If effectuated, the elimination of these positions would be equally distributed between the two bureaus within WMM. The following, in order of importance, details the affect such cuts would have on the two bureaus within WMM.

BUREAU OF WATER MONITORING

WATERSHED/NON-POINT SOURCE - This program does not yet have funding available for either labor or lab analysis, therefore, work in this area cannot be justified.

WATERSHED/BASS SEDIMENT TOXICITY TESTING - This program, as well as other toxicity testing, would be discontinued in order to keep the Ambient Biomonitoring Network (AMNET) and watershed programs operational.

ECOREGION REFERENCE SITE MONITORING - This program would be discontinued in order to keep the AMNET and watershed programs operational. No additional reference sites would be added to the network.

SUPPORT TO THE BUREAU OF SAFE DRINKING WATER - Would reduce tests from fifty to twenty.

GIS MAP CREATION - Would have to be reduced from an estimated workload of 40 maps to 20.

BIOMONITORING DATA - Entry of approximately 15 years of data into the USEPA BIOS system (for access by the GIS system) would be abandoned.

DSR MERCURY FISH TISSUE SURVEY - This program was to provide additional fish tissue for the department's ongoing study of mercury in the environment. No further activity will be conducted in FY1996.

IPP INTENSIVE - This program, which provides 24-hour compliance sampling data on the efficacy of domestic treatment plants to treat industrial wastewaters discharging from their facilities, would be eliminated.

DREC FISH TISSUE - This program is an annual contract with the Delaware River Basin Commission, and while it supplies some revenue, analytical costs have risen so drastically that the contract now barely covers these costs. In light of anticipated labor shortages, work would no longer continue.

In addition, the department's zebra mussel monitoring program would be eliminated, review of the state's pesticide plan and aquatic vegetative permits curtailed, and all involvement in the Harbor Estuary Program would cease.

BUREAU OF MARINE WATER CLASSIFICATION & ANALYSIS

This bureau has statutory requirements (NJSA 58:24) for the classification of New Jersey's shellfishing waters which supports the state's shellfish industry, which reported revenues of \$60 million for 1994 landings.

It is recommended that if, under the lab consolidation effort the entire chemistry lab function is removed from this bureau, the loss of lab personnel be considered part of this reduction. Please be aware that the loss of the chemistry lab from this bureau will cause the discontinuation of the bureau's 200 station estuarine monitoring network unless monies are appropriated to pay for sample analysis outside the bureau.

NATIONAL SHELLFISH SANITATION PROGRAM - The bureau would be unable to fully maintain its coastal water monitoring network for this program; thus, monitoring would be discontinued in certain areas of the state with those areas becoming unavailable to the state's shellfish industry for harvest. Approximately 60,000 acres would be downgraded. This would mean that for the first time in eight years, New Jersey will reduce the amount of water available to the industry for harvest.

ESTUARINE & COASTAL MONITORING PROGRAM - Due to loss of staff to operate the chemistry section of the bureau's laboratory, routine monitoring of the health of New Jersey's bays and coastal waters would be eliminated.

TOM'S RIVER STORMWATER STUDY - Loss of the chemistry section would mean additional cost to this program for sample analysis. The result would be that fewer samples (20% less) could be analyzed.

REVIEW OF PERMIT APPLICATIONS FOR WATERFRONT DEVELOPMENT AND CAFRA - The bureau would no longer be able to make recommendations to Land Use Regulation on all permits in the coastal area. Review of applications for marinas and dredging projects would continue since they have the greatest potential affect on shellfish sanitation.

SHELLFISH PRODUCT SAMPLING - The bureau would discontinue collection and analysis of shellfish collected from the state's retailers.

ENVIRONMENTAL RESEARCH & HEALTH ASSESSMENT (ERHA)

The ERHA is the department's science foundation. As environmental protection relies heavily on a variety of technical disciplines, a science function is crucial to most of the department's responsibilities. The mission of the ERHA is to assure that the department's policies are based upon the best available technical information, thus fulfilling the current department mission statement "to base our standards, decisions and activities on sound science". The credibility and legal basis for the department's policies and regulations are jeopardized in the absence of a reasonable commitment to the department's functions.

At the request of management and staff from throughout the department, the DSR provides a wide variety of technical support. This support is in numerous technical disciplines, including toxicology, human exposure assessment, ecological risk assessment, microbiology, economics, communications science and statistics. These areas of expertise are generally unavailable elsewhere in the department and are now represented by only one scientist for each discipline within the division.

The science support is provided largely by review of existing technical literature and reports, consultation with external experts, and development of original health and environmental assessments. Only where existing literature information is NOT available to meet an identified DEP information need does ERHA initiate a research project. Examples would be cases where monitoring information does not exist for New Jersey, such as mercury in freshwater fish, or where a key piece of information is missing to develop standards, such as an appropriate model for the soil to groundwater contamination pathway for contaminants in soils. Currently, the DSR scientists allocate only 30 percent of their time for research programs, while 70 percent is spent on technical support activities.

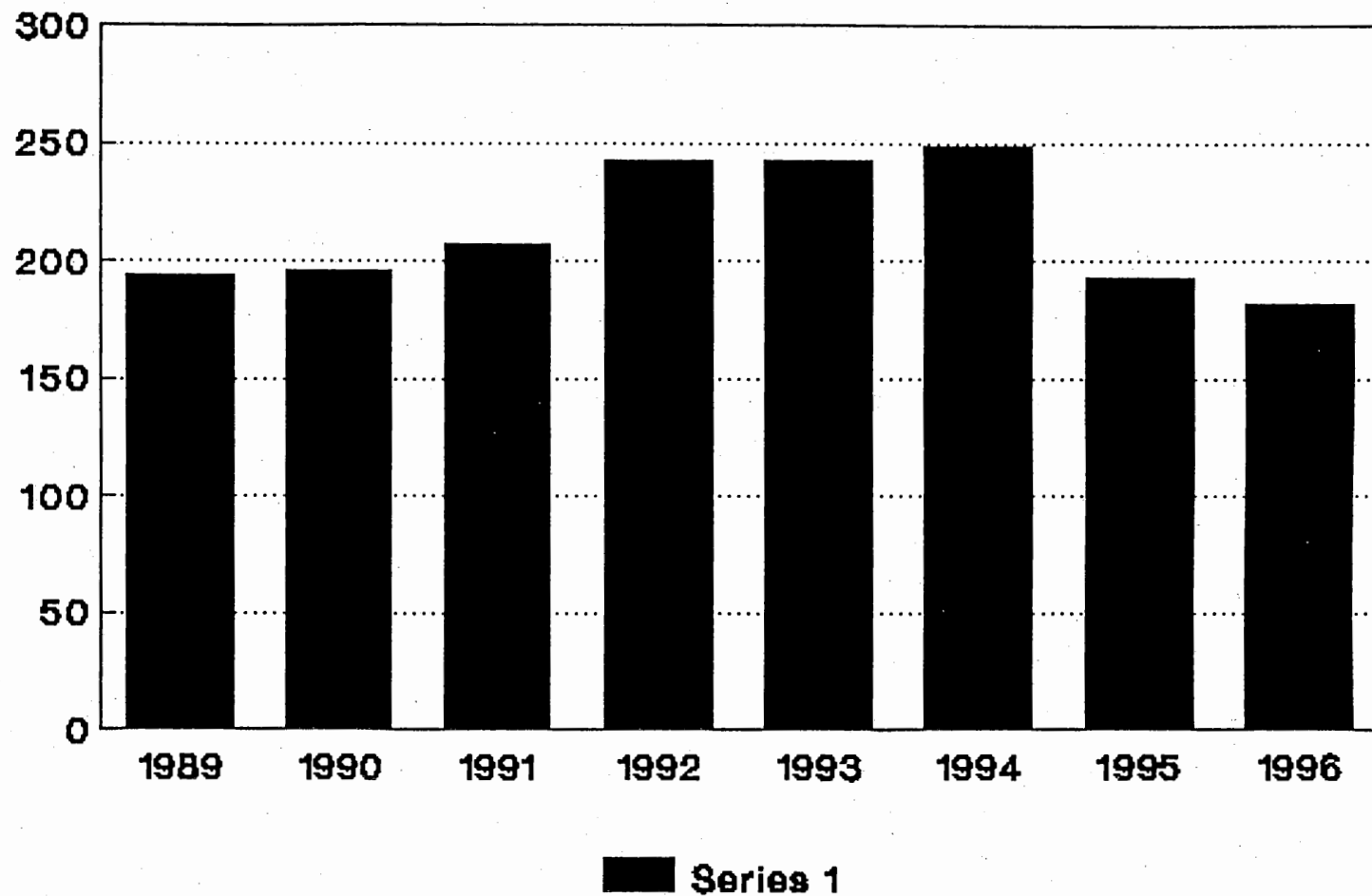
For years, ERHA has conducted formal department-wide solicitations for applied research needs. Certain programs have historically been more active in their recognition of their information needs than others, and in their willingness to contribute to applied research activities to meet these specific needs. The ideas for the research programs usually originate from the department's programs. For example, this year, as most of the remaining research funds are now for two dedicated areas -- potable water and site remediation -- ERHA has specifically developed research programs cooperatively with these two programs. Historically, ERHA, working with other programs, has also developed innovative research programs which addressed future departmental needs which gave us the progressive tools which it now relies. Examples of this are research to develop the department's GIS system, its Toxics Release Inventory, and its facility-wide permitting program.

The DEP's current structure of having a science unit responsible for its research functions is the ideal structure for a state environmental agency because it ensures that the investigations are targeted toward implementation of the findings within a regulatory framework. Any other arrangement would lead to a situation in which no DEP group would be responsible for identifying the department's information needs; no one would be available to design the studies so that they best meet the

department's specific regulatory needs; and no one would be available to interpret and integrate the findings once received by the department. In addition, ERHA conducts many investigations through its in-house scientists exclusively and performs some types of research which are so applied that they would be of little, if any, interest to the academic community.

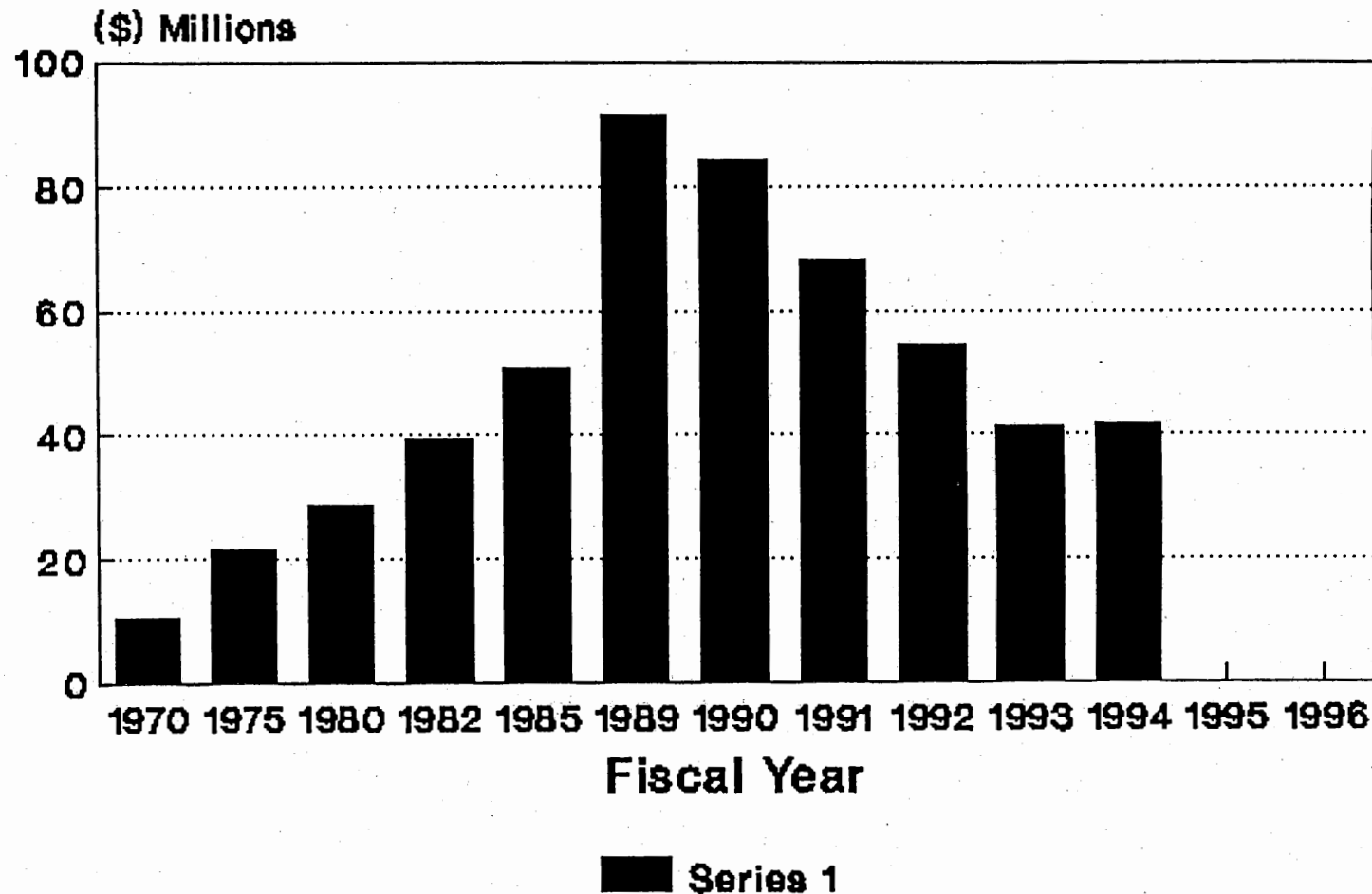
ERHA has always, and will continue, to provide key support to emerging policy initiatives that have fundamentally changed approaches to environmental protection in the state. Past examples of these landmark activities include the pollution prevention concept and the industrial Toxics Release Inventory. Current activities include assisting with the development of environmental indicators and laying the groundwork for future development of environmental goals and a "Green Plan" for New Jersey.

FUNDS AVAILABLE TO DEP



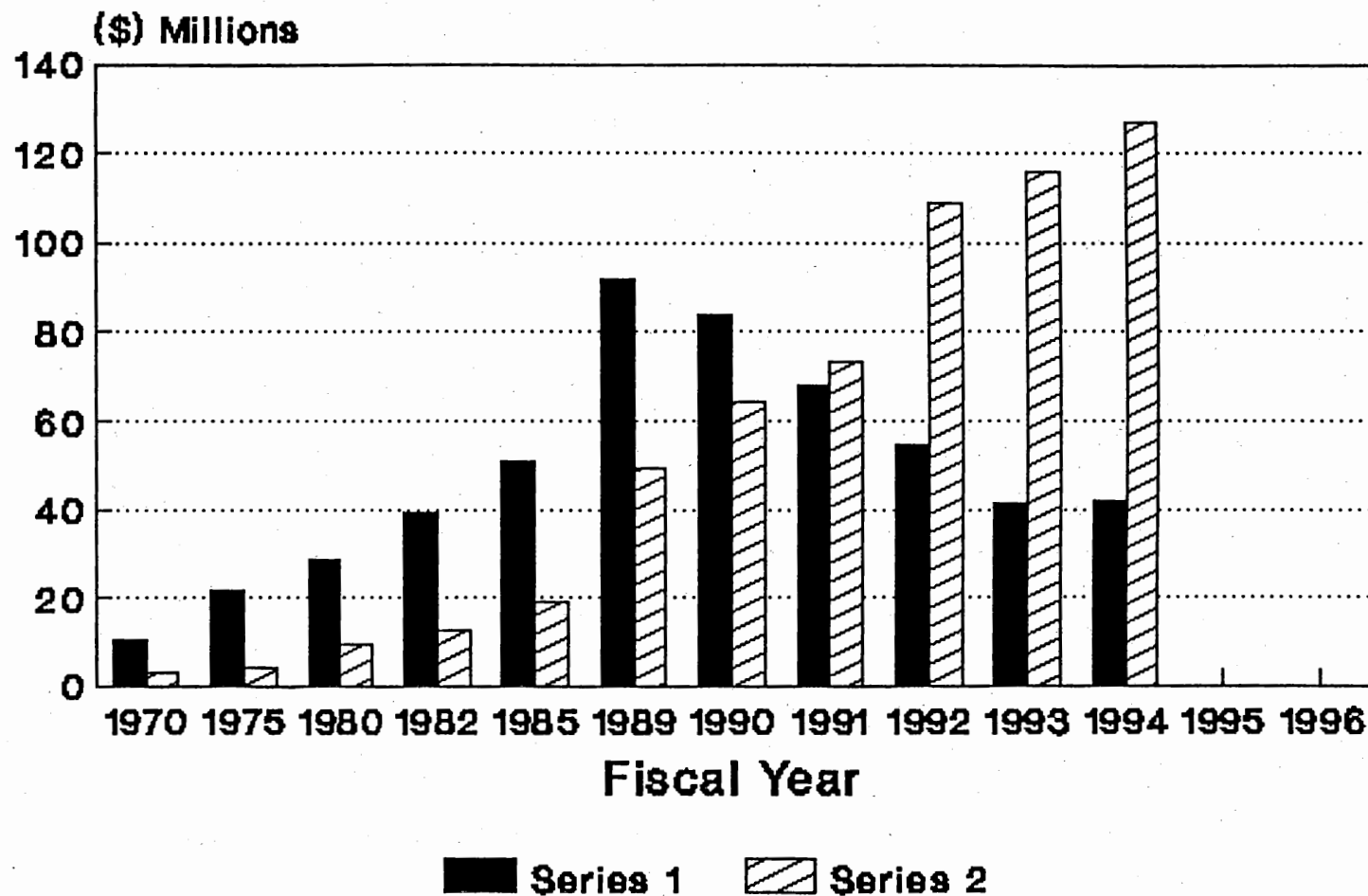
DEPE "BUDGETING FOR THE ENVIRONMENT"

GENERAL FUND SUPPORT DEP



DEPE "Budgeting for the Environment"

FEE/FINE V. APPROPRIATIONS



DEPE "Budgeting for the Environment"

13:1K-18

CONSERVATION AND DEVELOPMENT

WESTLAW Research

Health and environment cases:
199k[add key number].

13:1K-19. "Toxic Catastrophe Prevention Act"; short title

This act shall be known and may be cited as the "Toxic Catastrophe Prevention Act."

L.1985, c. 403, § 1, eff. Jan. 8, 1986.

Historical and Statutory Notes

Title of Act:

An Act concerning potentially catastrophic discharges of hazardous substances into the environment, supple-

menting Title 13 of the Revised Statutes, and making an appropriation. L.1985, c. 403.

Administrative Code References

Toxic catastrophe prevention act program, see N.J.A.C. 7:31-1.1 et seq.

Law Review Commentaries

Hazardous waste checklist. Lewis Goldshore and Marsha Wolf, 117 N.J. Law. 20 (Nov. 1986).

1985 environmental protection case law (second in a series). Lewis Goldshore and Marsha Wolf, 117 N.J.L.J. 375 (1986).

1985 environmental protection legislation (first in a series). Lewis Goldshore and Marsha Wolf, 117 N.J.L.J. 335 (1986).

Library References

American Digest System

Environmental protection in general; constitutional and statutory provi-

sions, see Health and Environment §25.5(2).

Comments

Controls on land and development; environmental reporting provisions,

see N.J.P. vol. 13B, Celentano, § 42.36.

Encyclopedias

Air pollution; statutory regulation, see C.J.S. Health and Environment § 92. Environmental protection and pollution control; constitutional and statutory provisions, see C.J.S. Health and Environment § 126.

Water pollution; statutory regulation in general, see C.J.S. Health and Environment § 106 et seq.

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The Legislature shall ensure that industrial and transportation safety, as a score the State and its public; discharges if the of a com effective mental ac in their o actions re L. 1985, c.

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environment, which could produce a significant likelihood that persons exposed may suffer acute health effects resulting in death or permanent disability;

b. "Commissioner" means the Commissioner of the Department of Environmental Protection;

c. "Department" means the Department of Environmental Protection;

d. "Extraordinarily Hazardous Substance Accident Risk Assessment" or "EHSARA" means a review and safety evaluation of those operations in a facility which involve the generation, storage, or handling of an extraordinarily hazardous substance, as provided in section 6 of this act;¹

e. "Extraordinarily Hazardous Substance" means any substance or chemical compound used, manufactured, stored, or capable of being produced from on-site components in this State in sufficient quantities at a single site such that its release into the environment would produce a significant likelihood that persons exposed will suffer acute health effects resulting in death or permanent disability;

f. "Extraordinarily Hazardous Substance List" means the substances or chemical compounds identified in subsection a. of section 4 of this act² and adopted by regulation pursuant to subsection c. of that section;

g. "Extraordinarily Hazardous Substance Risk Reduction Work Plan" or "work plan" means the document developed by the department for each facility at which is generated, stored, or handled an extraordinarily hazardous substance, setting forth the scope and detail of the EHSARA to which the facility will be submitted, as provided in section 6 of this act;

h. "Facility" means a building, equipment, and contiguous area. Facility shall not include a research and development laboratory, which means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which extraordinarily hazardous substances are used by or under the supervision of a technically qualified person;

i. "Risk management program" means the sum total of programs for the purpose of minimizing extraordinarily hazardous accident risks, including, but not limited to, requirements for safety review of design for new and existing equipment, requirements for standard operating procedures, requirements for preventive maintenance programs, requirements for operator training and accident investigation procedures, requirements for risk assessment for spe-

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L. 1985, c. 403, § 3, eff. Jan. 8, 1986.

¹ Section 13:1K-24.

² Section 13:1K-22.

The Department of Environmental Protection, and the Commissioner thereof, were redesignated the Department of Environmental Protection and Energy, and the Commissioner thereof, respectively, by Reorganization Plan No. 002-1991, set out under § 13:1D-1.

Library References

American Digest System

Environmental protection in general; constitutional and statutory provi-

sions, see Health and Environment
§25.5(2).

Encyclopedias

Air pollution; statutory regulation, see C.J.S. Health and Environment § 92.
Environmental protection and pollution control; constitutional and statutory provisions, see C.J.S. Health and Environment § 126.

Water pollution; statutory regulation in general, see C.J.S. Health and Environment § 106 et seq.

WESTLAW Research

Health and environment cases:
199k[add key number].

13:1K-22. Extraordinarily hazardous substance list; registration of facilities generating, storing or handling substances

a. The following chemicals or chemical compounds, in the quantities indicated, shall constitute the initial extraordinarily hazardous substance list: hydrogen chloride (HCl) and allyl chloride in quantities of 2,000 pounds or more; hydrogen cyanide (HCN), hydrogen fluoride (HF), chlorine (Cl₂), phosphorus trichloride, and hydrogen sulfide (H₂S) in quantities of 500 pounds or more; and phosgene, bromine, methyl isocyanate (MIC), and toluene-2, 4-diisocyanate (TDS) in quantities of 100 pounds or more.

b. Within 60 days of the effective date of this act, the department shall develop and issue a registration form to be completed within 120 days of the effective date of this act, by the owner or operator of each facility in the State which at any time generates, stores, or handles any of the extraordinarily hazardous substances

on the initial extraordinarily hazardous substance list, pursuant to subsection a. of this section. The registration form shall provide, in addition to any other information that may be required by the department, the following: an inventory of the extraordinarily hazardous substance or substances generated, stored, or handled at the facility and the quantity or quantities thereof, which inventory shall identify whether those substances are end products, intermediate products, by-products, or waste products; a general description of the processes and principal equipment involved in the management of the substance or substances; a profile of the area in which the facility is situated, including its proximity to population and water supplies; the extent to which the risks and hazards of the processes, equipment, and operations have been identified, evaluated, and abated, and the expertise and affiliation of the evaluators and any direct or indirect relationship between the evaluators and the owner or operator of the facility; and the name or names of all insurance carriers underwriting the facility's environmental liability and workers' compensation insurance policies and the scope of these policies, including any limitations and exclusions.

c. Within 18 months of the effective date of this act, the Department of Environmental Protection,¹ in consultation with the Department of Health, shall develop and, after public hearing, adopt as a regulation, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), an extraordinarily hazardous substance list. The list shall correlate the substances or compounds with the quantities thereof required to produce the potentially catastrophic circumstance. The department shall have the power to amend, by regulation, the extraordinarily hazardous substance list to accommodate new chemical compounds that may be developed or reflect new information or scientific data that may become available to the department.

d. Within 90 days of the adoption by the department of an extraordinarily hazardous substance list pursuant to subsection c. of this section, the owner or operator of each facility in the State which generates, stores, or handles any of the extraordinarily hazardous substances on the extraordinarily hazardous substance list, not registered pursuant to subsection b. of this section, shall complete the registration form developed and issued by the department.

L. 1985, c. 403, § 4, eff. Jan. 8, 1986.

¹ Now Department of Environmental Protection and Energy; see Reorganization Plan No. 002-1991, set out under § 13:1D-1.

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Health regulations in general; rules,
regulations, and orders, see C.J.S.
Health and Environment § 14.

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Health and environment cases:
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13:1K-23. Risk management program of registrants

a. If the owner or operator of a facility that submitted a registration form pursuant to section 4 of this act¹ has established a risk management program, the department shall provide for the submission and review of the risk management program before requiring the owner or operator to take any other action regarding the facility and program pursuant to this act. If the department finds the risk management program has any material deficiencies or omissions that could reduce the effectiveness of the risk management program, it shall recommend to the owner or operator risk management program changes or additions. No later than 60 days after the recommendation, the owner or operator shall submit to the department any action the owner or operator proposes in order to correct the deficiencies or omissions. The owner's or operator's proposals may be in accordance with the changes and additions recommended by the department or in accordance with alternative changes, additions or proposals recommended by the owner or operator.

b. If the owner or operator and the department agree on the measures necessary to correct the deficiencies or omissions in the risk management program, the parties may enter into a consent agreement.

c. If the parties cannot reach agreement, the commissioner, after notice and hearing and written findings of fact, may issue an administrative order requiring changes or additions to correct the deficiencies. Information available on the cost-effectiveness, extraordinarily hazardous accident risk reduction effectiveness and technical feasibility of any changes or additions that the department or owner or operator recommends shall be considered by the

13:1K-23

CONSERVATION AND DEVELOPMENT

department and the commissioner in making any decision. Such an order shall follow administrative hearing procedures, which are subject to judicial review as necessary. This hearing procedure shall, to the maximum extent practicable and feasible, be accorded priority status.

L. 1985, c. 403, § 5, eff. Jan. 8, 1986.

¹ Section 13:1K-22.

Library References

American Digest System

Environmental protection in general;
regulations in general, see Health
and Environment § 25.5(1).

Encyclopedias

Health regulations in general; rules,
regulations, and orders, see C.J.S.
Health and Environment § 14.

WESTLAW Research

Health and environment cases:
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13:1K-24. Extraordinarily hazardous substance risk reduction work plan; accident risk assessments

Upon review of all registrations and accompanying materials submitted pursuant to this section, the department shall, in cooperation with the facility owner or operator, develop an Extraordinarily Hazardous Substance Risk Reduction Work Plan for each registered facility without a risk management program agreed upon by the facility owner and the department or subject to a consent agreement or administrative order entered into pursuant to section 5 of this act.¹ The work plan shall constitute the basis for any Extraordinarily Hazardous Substance Accident Risk Assessment required of that facility, to be performed pursuant to this section. The work plan shall require the reporting of the identity and quantity of all extraordinarily hazardous substances generated, stored, handled, or that could unwittingly be produced in the event of an equipment breakdown, human error, design defect, or procedural failure, or the imposition of an external force; the nature, age, and condition of all the equipment and instruments involved in the handling and management of the extraordinarily hazardous substance or substances at the facility, and the schedules for their testing and maintenance; the measures and precautions designed to protect

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against the intrusions of external forces and events, or to control or contain discharges within the facility; the circumstances that would have to obtain in order for there to result a discharge of an extraordinarily hazardous substance, and the practices, procedures, and equipment designed to forestall such an event; any alternative processes, procedures, or equipment which might reduce the risk of a release of an extraordinarily hazardous substance while yielding the same or commensurate results, and the specific reasons they are not employed; any training or management practices in place which impart knowledge to relevant personnel regarding the dangers posed by a release of an extraordinarily hazardous substance and the training provided to prepare them for the safe operation of the facility and for unanticipated occurrences; any other preventive maintenance measure or on-site emergency response capability or other internal mechanism developed to safeguard against the occurrence of an accidental release of an extraordinarily hazardous substance or any other aspect or component of the facility deemed relevant by the department. The department may, by regulation or on a case-by-case basis, limit the scope or detail of the work plan and the priority or frequency of review of any facility or facility operation or component thereof where it determines, in writing, that the action does not remove or compromise the protection required for the public interest, and enables the department to allocate its resources more efficiently and effectively.

L. 1985, c. 403, § 6, eff. Jan. 8, 1986.

¹ Section 13:1K-23.

Library References

American Digest System

Environmental protection in general;
regulations in general, see Health
and Environment §25.5(1).

Encyclopedias

Health regulations in general; rules,
regulations, and orders, see C.J.S.
Health and Environment § 14.

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Health and environment cases:
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13:1K-25. Accident risk assessment

The owner or operator of every facility registered with the department pursuant to section 4 of this act¹ shall submit those opera-

tions in the facility concerned with the generation, storage, handling or safeguarding of any extraordinarily hazardous substance to an Extraordinarily Hazardous Substance Accident Risk Assessment, except as provided for in section 5² with respect to facilities with an established risk management program. The EHSARA shall be conducted in conformity with the work plan for the facility developed by the department pursuant to section 6 of this act³ by an independent consultant selected by the department from a list of three candidates submitted by the owner of the subject facility or, at the option of the department, by the department or by an independent consultant contracted for directly by the department; except that the department, with respect to the former option, may request the owner of the subject facility to provide three additional candidate consultants if it finds all three originally submitted by the facility owner unacceptable.

The owner of the subject facility shall be assessed a fee established in accordance with a schedule, established as a regulation by the department, which reflects all the costs of the risk assessment of that facility conducted by, or on behalf of, the department.

L. 1985, c. 403, § 7, eff. Jan. 8, 1986.

¹ Section 13:1K-22.

² Section 13:1K-23.

³ Section 13:1K-24.

Library References

American Digest System

Environmental protection in general;
regulations in general, see Health
and Environment § 25.5(1).

Encyclopedias

Health regulations in general; rules,
regulations, and orders, see C.J.S.
Health and Environment § 14.

WESTLAW Research

Health and environment cases:
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13:1K-26. Extraordinarily hazardous substance risk reduction plan

a. Upon review of the Extraordinarily Hazardous Substance Accident Risk Assessment for each facility, the department shall, if appropriate, order the owner or operator of the facility to under-

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take an extraordinarily hazardous substance risk reduction plan. The order shall identify the risk or risks which must, within the limits of practicability and feasibility, be abated and a reasonable timetable for implementation of the plan. The department shall, by regulation, establish criteria or quantitative standards for determining risk, which criteria and standards shall reflect, among other factors, the size of the potentially exposed population and the gravity of consequences. The commissioner may order those operations posing the identified risk or risks that have not been abated on schedule to cease until the risk reduction plan has been implemented.

b. The owner of a facility who is aggrieved by an order issued pursuant to subsection a. of this section may petition the commissioner for a review of the matter, pursuant to which he shall provide the commissioner with all data and documents which he believes demonstrate that the order is unwarranted. If the commissioner, after review, affirms the initial order, he shall, at the request of the aggrieved owner, transmit all relevant materials and documents on the matter to the Office of Administrative Law, which shall conduct a hearing on the order pursuant to the provisions of P.L.1978, c. 67 (C. 52:14F-1 et seq.). This hearing shall be an adjudicatory proceeding, and shall be conducted as a contested case pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.). The department and the aggrieved owner of the facility shall be deemed parties in interest in the proceeding. Intervention in this hearing by any other person shall be as provided in the "Administrative Procedure Act." After review of the record of the adjudicatory proceeding and the recommendation of the administrative law judge, the commissioner shall affirm or modify his order. The decision of the commissioner shall constitute final agency action on the matter, and shall be subject only to judicial review as provided in the Rules of Court. During the pendency of the review and the hearing, the timetable for compliance with the order giving rise to the proceeding shall be suspended.

L. 1985, c. 403, § 8, eff. Jan. 8, 1986.

Library References

American Digest System

Environmental protection in general;
regulations in general, see Health
and Environment ¶25.5(1).

Encyclopedias

Health regulations in general; rules, regulations, and orders, see C.J.S. Health and Environment § 14.

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13:1K-27. Verification of compliance; records

a. The department has the right to enter any facility at any time in order to verify compliance with the provisions of this act and the quality of all work performed pursuant to this act except that facility owners or operators shall be under no obligation to employ any personnel solely to assure access to the facility by the department when this access would otherwise be impossible.

b. The department shall develop and establish, pursuant to regulation, and enforce a system of recordkeeping, which system shall require the owner or operator of each facility registered pursuant to section 4 of this act¹ to report to the department on all risk assessment and risk reduction efforts undertaken pursuant to this act, all ongoing maintenance measures taken, all unanticipated and unusual events, and any other information the department deems appropriate, and which shall be so designed as to prevent the destruction or alteration of information and data contained in those records.

These regulations shall also establish strict penalties, or other sanctions, to be assessed against any party guilty of destroying or tampering with any records required to be kept pursuant to this act.

L. 1985, c. 403, § 9, eff. Jan. 8, 1986.

¹ Section 13:1K-22.

Library References

American Digest System

Environmental protection in general; regulations in general, see Health and Environment § 25.5(1).

Encyclopedias

Health regulations in general; rules, regulations, and orders, see C.J.S. Health and Environment § 14.

13:1K-2

a. The department shall determine whether or not the release of a substance is required to be written into the environmental impact statement for that facility and the risks of the substance release to the department.

b. An individual who is liable in a civil action voluntarily to a client facility shall extend the liability from being a director's company to the act.

c. The department shall be retained from this section in the proceeding.

d. A person who willfully fails to hold liable for enforced law" (N.J. the department keep the records ordered against reasonable this section

L. 1985, c. 403, § 9, eff. Jan. 8, 1986.

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13:1K-28. Insurance carriers; release of information

a. The department may institute an administrative procedure to determine whether an owner of a facility which generates, stores, or handles any extraordinarily hazardous substances should be required to authorize the insurance carrier or carriers which underwrite environmental liability or workers' compensation insurance for that facility to release to the department information relevant to the risks posed by the facility's management of the substance or substances. If so authorized, the insurance carrier or carriers shall release the information within the period of time established by the department, but in no case less than two weeks.

b. An insurance carrier or its representative shall not be held liable in a civil proceeding for any statement made or action taken voluntarily or in response to an authorization or request from the client facility pursuant to this section unless actual malice on the part of the insurer or its representative is present. This immunity shall extend to protect an insurance carrier or its representative from being held liable to any party who sustains any loss or injury as a direct or consequential result of the carrier's or its representative's compliance, noncompliance, or attempt to comply with this act.

c. The department is authorized to disclose information obtained from an insurance carrier or its representative pursuant to this section only to its own employees or agents to assist in enforcing the provisions of this act, or for use in a civil or criminal proceeding, if so ordered by a court.

d. A person who, as required by this section, knowingly and willfully refuses to release information required under this act, or fails to hold information received under this act in confidence, is liable for a penalty not to exceed \$5,000.00, to be collected and enforced in a summary manner under "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The proceedings may be brought by the department or by a person or an insurer injured by a failure to keep the information confidential. If a money judgment is rendered against the defendant, it shall be paid to the plaintiff. A reasonable and good faith effort to comply with the provisions of this section shall be a defense to an alleged violation of this section.

L. 1985, c. 403, § 10, eff. Jan. 8, 1986.

Library References

American Digest System

Environmental protection in general;
regulations in general, see Health
and Environment §25.5(1).

Encyclopedias

Health regulations in general; rules,
regulations, and orders, see C.J.S.
Health and Environment § 14.

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Health and environment cases:
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13:1K-29. Regulations governing confidential information

a. The department shall, pursuant to regulation, adopt principles, guidelines, and procedures governing the internal management of confidential information supplied to the department pursuant to this act. The regulations shall provide that information obtained pursuant to this act shall be disclosed only to its employees or agents to assist in enforcing the provisions of this act, or for use in a civil or criminal proceeding, if so ordered by a court, and shall include, but not be limited to requirements: (1) that all confidential information supplied pursuant to this act be labeled as such by the facility owner; (2) that receipt of such labeled information be acknowledged in writing by an authorized employee of the department; (3) that the department establish a review procedure by which only specifically designated personnel be authorized access to such information and then only on a "need-to-know" basis; and (4) that the department establish secure areas for the express purpose of storage of such confidential information.

b. The owner of a facility who alleges that certain information required to be disclosed pursuant to this act contains or relates to a trade secret or constitutes security information which, notwithstanding the management procedures for such information adopted by the department pursuant to subsection a. of this section, must be kept privileged so as not to competitively disadvantage the facility, or compromise the security of the facility or its operations, shall petition the commissioner for the right to withhold the information. Upon receipt of the petition, the commissioner shall review the matter. If the commissioner, in his discretion, denies the petition, he shall, at the request of the facility owner, transmit all relevant information to the Office of Administrative Law, which shall con-

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duct a hearing on the claim pursuant to the provisions of P.L.1978, c. 67 (C. 52:14F-1 et seq.). At the hearing, the petitioner shall have the burden to show that the trade secret or security risk claim is valid. This hearing shall be an adjudicatory proceeding, and shall be conducted as a contested case pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.).

L. 1985, c. 403, § 11, eff. Jan. 8, 1986.

Library References

American Digest System

Environmental protection in general;
regulations in general, see Health
and Environment §25.5(1).

Encyclopedias

Health regulations in general; rules,
regulations, and orders, see C.J.S.
Health and Environment § 14.

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Health and environment cases:
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13:1K-30. Violations; penalties

a. If any person violates any of the provisions of sections 4 through 8 of this act¹ or any rule, regulation or order promulgated or issued pursuant thereto, the department may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent this violation and the court may proceed in the action in a summary manner.

b. Any person who violates the provisions of sections 4 through 8 of this act or any rule, regulation or order promulgated pursuant thereto is liable to a civil administrative penalty of not more than \$10,000.00 for the first offense, not more than \$20,000.00 for the second offense, and up to \$50,000.00 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense. No civil administrative penalty shall be levied except subsequent to the notification of the violator by certified mail or personal service. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; a concise statement of the facts alleged to constitute the violation; a statement of the amount of the civil penalties to be imposed; and a statement of the violator's right to a hearing. The

violator shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon a finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in this act, and the payment of a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

c. The department is authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator.

d. Any person who violates any of the provisions of sections 4 through 8 of this act, or any rule, regulation, or order promulgated or issued pursuant thereto, or an administrative order issued pursuant to subsection b. of this section or a court order issued pursuant to subsection a. of this section or who fails to pay a civil administrative penalty in full pursuant to subsection b. of this section is subject, upon order of the court, to a civil penalty not to exceed \$10,000.00 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior Court shall have jurisdiction to enforce "the penalty enforcement law."

L. 1985, c. 403, § 12, eff. Jan. 8, 1986.

¹ Sections 13:1K-22 through 13:1K-26.

Library References

American Digest System

Air pollution; enforcement and penalties, see Health and Environment ¶25.6(9).

Environmental protection in general; enforcement and penalties, see Health and Environment ¶25.5(10).

Health regulations and offenses; violations of regulations, see Health and Environment ¶37.

Water pollution; offenses, penalties, and fines, see Health and Environment ¶25.7(24).

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Air pollution; judicial enforcement, see C.J.S. Health and Environment § 104 et seq.

Environmental policy legislation; judicial review of, or relief against, administrative action, see C.J.S. Health and Environment § 123 et seq.

Environmental policy regulation; judicial review, enforcement, see C.J.S. Health and Environment § 82 et seq.

Environmental protection and pollution control; judicial review and enforcement, see C.J.S. Health and Environment § 146 et seq.

Environmental protection and pollution control; penalties, see C.J.S. Health and Environment § 139 et seq.

Water pollution; judicial remedies relating to administrative acts and duties, see C.J.S. Health and Environment § 111 et seq.

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Health and environment cases:
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13:1K-31. Fees

The department is authorized to charge and collect fees from facility owners registered pursuant to section 4 of this act,¹ in accordance with a schedule adopted as a rule or regulation, which schedule shall reflect the costs to the department of reviewing individual facilities while enabling the department to continue to administer the program on a self-supporting basis.

L. 1985, c. 403, § 13, eff. Jan. 8, 1986.

¹ Section 13:1K-22.

Library References

American Digest System

Environmental protection in general; regulations in general, see Health and Environment ¶25.5(1).

Encyclopedias

Health regulations in general; rules, regulations, and orders, see C.J.S. Health and Environment § 14.

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Health and environment cases:
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13:1K-32. Local governmental programs; inconsistent ordinances; approval

The department shall make every effort to involve hazardous materials advisory councils, where they exist; local government

officials, and other pertinent entities in explaining actions taken in regard to facilities in their areas. Local ordinances which are inconsistent with, in conflict with, or more restrictive than the provisions of this act must be approved by the department before adoption.

L. 1985, c. 403, § 14, eff. Jan. 8, 1986.

Library References

American Digest System

Environmental protection in general;
regulations in general, see Health
and Environment ¶25.5(1).

Encyclopedias

Health regulations in general; rules,
regulations, and orders, see C.J.S.
Health and Environment § 14.

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Health and environment cases:
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HAZARDOUS MATERIAL DISCHARGE INITIAL EMERGENCY RESPONSE TRAINING PROGRAM

13:1K-33. Establishment and operation

Within 180 days of the effective date of this act and annually thereafter, the Division of State Police in the Department of Law and Public Safety and the Department of Environmental Protection shall establish and operate a hazardous material discharge initial emergency response training program for municipal and county agents or officers involved in investigating suspected hazardous material discharges. The training program shall be a one day program offered in different regions of the State in order to be accessible to all municipalities and counties. Each municipality and county shall, every two years, send to the training program that individual primarily responsible for activating the municipality's or county's hazardous material emergency response program or that individual's designee. Each municipality and county may send any other individuals with similar responsibilities as may be deemed necessary. A municipality's responsibility pursuant to this section shall not be fulfilled if the individual sent to the training program

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(609)767-1110 (609) 866-9405

Co-Chairs

Eric Scherzer (908) 381-3920

Jane Nogaki (609) 767-1110

May 23, 1995

Testimony of the Right to Know and Act Coalition regarding improvement of NJ's efforts to promote occupational safety and health, presented to the Assembly Labor, business and Industry Committee

Chairman Roma, Committee Members, thank you for the opportunity to present testimony to you hear today in Hackensack on the issue of occupational safety and health and employment retention in New Jersey.

My name is Jane Nogaki and I represent the 150 labor, citizen, environmental and religious groups that comprise the Right to Know and Act Coalition. The Coalition came together to win NJ's landmark Community and Right to Know Act in 1983, and has remained active on promoting the use of the RTK information to advance worker and community safety. The ready availability of that information is in jeopardy now because of actions taken, regulatory and budgetary, by the Whitman administration, to disinform the public. This direction in policy is directly contradictory to safe and healthy workplaces, safe and healthy communities. Other people here today will talk about those policies and budget deficits. My purpose is to talk about the **community** perspective on business retention and plant safety.

The chemical industry has long recognized that their very existence in a community rests on community acceptance of their presence. Community acceptance is based on a trust that an industrial facility will not recklessly endanger the community or pollute it's land, air and water. Generally a community accepts the presence of industrial facilities until visible signs of pollution or explosions and fires like the one at Napp Technologies forces a confrontation. Then there is anger, mistrust, and a highly charged situation that is almost impossible to resolve. I note here the indications on the part of the Lodi local government that they will shut out the possibility of future Napp Technologies siting facilities in their town by restrictive zoning. And who can blame them? But in this failed process, everyone loses. The workers who died, and their families lose. The workers who survived no longer have a place to go to work. The business owners lose their entire facility, and the public's trust. The community of neighbors and emergency responders suffer trauma and effects of toxic runoff and smoke.

Under what circumstances could a plant rebuild in the community? What assurances would neighbors and local government need that an industrial facility could operate safely in their town?

Community groups across the country have been dealing creatively with this issue by demanding participation in the siting and operating process, and by demanding that workers and management be a part of this process as well. The concept is based on the right to know, the right to inspect, and the right to act, and it has led to "neighborhood agreements" with over 200 facilities across the country. Because the only way a community will be able to trust that a facility is operating as safely is to verify that fact through review of internal company safety audits, risk management documents, and right to know information. That information needs to be tied to worker training, workers rights to shut down unsafe operations in immanent danger situations, and worker "hazard monitors". All parties need to develop a "Good Neighbor Agreement" so that decent paying jobs, safety and the environment can all be protected in a sustainable way.

Components of a cooperative siting process:

- * the facility needs to stress **primary prevention** as the preferred means of risk reduction. Primary prevention reduces the possibility of chemical hazards or accidents.

- * a commitment by the facility to pre-design review of **INHERENTLY SAFER TECHNOLOGIES**. That is, prior to construction of a facility, alternatives in process technologies will be reviewed and preference be given to inherently safer materials.

- * full hazard assessment (worst case accident scenarios, significant accident hazard) be conducted prior to implementation of new construction projects, as well as for existing facilities. The hazard assessment is shared with the community and the workers.

- * when changing of processes occurs, an evaluation prior to decisionmaking shall be made of lower risk design alternatives (materials substitution, materials storage elimination) which would be inherently safer, even if passive and active mitigation systems were to fail. Such alternatives should undergo hazards assessment and lifecycle analysis of costs so that such analyses can be used in making a final design decision.

- * technical assistance and training should be made available to the participating community members, workers, emergency responders.

- * participating stakeholders should be allowed to inspect the facility.

This model recognizes the right of a company to do business, but at the same time the right of workers to safe work, and the right of the community to insure the safety and health of its residents and the environment.

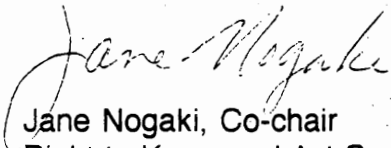
Even with an open and participatory process such as the one described, a community may decide that a proposed facility is just too risky. The Neighborhood Agreement is

an opportunity, but it is not a guarantee of acceptance of a facility into a community.

I'm including a news clipping entitled "a Tale of Two Neighbors" which describes a neighborhood group's inspection and agreement with Dynasil, a glass manufacturer in Berlin, NJ. The neighbors, once highly suspicious of the glass plant's pollution, after inspecting the facility with its own technical expert, arrived at an agreement on improvements in emergency management at the facility. Twice since the agreement the neighbors have gone to bat for Dynasil at the local planning board level when the facility was under fire. The level of trust was only achieved by the willingness of the facility owners to disclose pertinent documents, open the plant to inspection, and address community concerns.

In the interest of job retention in our state, and in the belief that industries **can** operate safely when they are designed to do so, and when workers, management, and the community act as partners, I urge us all to examine the opportunity that the terrible accidents in Lodi and in Hackensack presents: the opportunity to strengthen existing systems such as the Right to Know Program, OSHA rules, the TCPA program, but also to recognize that without real participation with the community, emergency responders and the workers on the job, the chemical industry will continue to be regarded as dangerous and untrustworthy. This characterization can be turned around, but it will require upfront disclosure and aggressive pollution prevention.

Thank you for your time. I will be happy to take any questions or provide more information if you need it.



Jane Nogaki, Co-chair
Right to Know and Act Coalition
609-767-1110

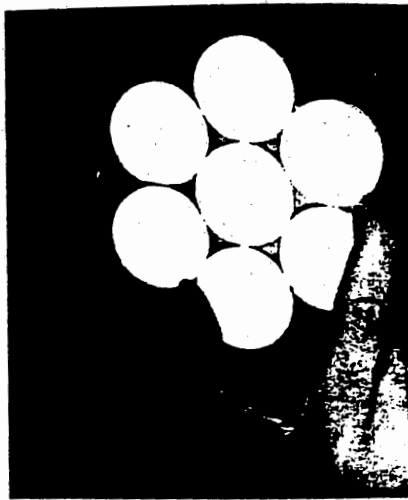
A TALE OF TWO NEIGHBORS



*How Dynasil
turned environmental
enemies into allies*

"I lived down the road from Dynasil and wondered what they did," says Jane Nogacki of the Coalition Against Toxics (CAT). "I heard it was some kind of glass, rocket science glass, but I never thought much about it until all of the fish in our lake died. We wondered if the water's acidity was coming from Dynasil."

So began a remarkable story of how a company and a community group worked together to improve environmental safety in Berlin Township,



Dynasil produces high-purity silica glass.

New Jersey—a tale recounted by environmentalists with the same surprise and hopefulness as tales about the fall of the Berlin Wall.

Nogacki began her inquiry by calling an official at the New Jersey Depart-

ment of Environmental Protection, who suggested she call Martin Saepoff, Dynasil's president, directly. "It never occurred to me that I could call the company, and that Marty (as she now calls him) would talk to me directly." But Saepoff did talk with her, because, he says, "I trusted Jane, and because I believe the community has a right to know we are not putting them at risk."

Dynasil had been doing business in the community for thirty years, and was now a \$4 million company with forty employees. Going out of his way to reassure the community group, Saepoff arranged a tour of the plant for CAT members, where the group witnessed first-hand the processes by which the company produces high-purity silica glass, used in lasers, solar-cell covers, lenses, and aerospace applications. But most importantly, CAT members saw a monitoring statement which assured them that one of the company's byproducts, hydrochloric acid, was no longer

being discharged on the premises and had not, at least recently, contributed to the fishkills.

That was in 1985. Two years later, Dynasil had a small fire, and while no chemicals were released, the coalition began to wonder: What if there had been a chemical fire? Would there be an explosion? Would residents need to be evacuated? Again, they requested an inspection—this time with an industrial hygienist, whose services were provided by the National Toxics Campaign. Again, Saepoff said yes.

The industrial hygienist made five recommendations, including building a dike around storage tanks containing silicon tetrachloride, which when exposed to water can create hydrochloric acid; installing showers and eye-wash stations; and training employees to be a company fire brigade. As it turns out, the company was already implementing some of these measures. Dynasil completed the rest within a month.

The most important result for CAT members was peace of mind. As Nogacki says, "We now know we never have to

fear an explosion or chemical fire. We know that none of the emissions are carcinogenic or mutagenic. We can sleep at night." Dynasil went one step further, voluntarily filing an emergency-response plan with local officials and the fire department—even though it wasn't required by law. That's happy ending enough. But the story takes another twist.

Last year, members of the coalition called Saepoff to tell him that the Berlin Township Council had held a meeting about air emissions from Dynasil and Owens-Corning—and was threatening to revoke both companies' business licenses.

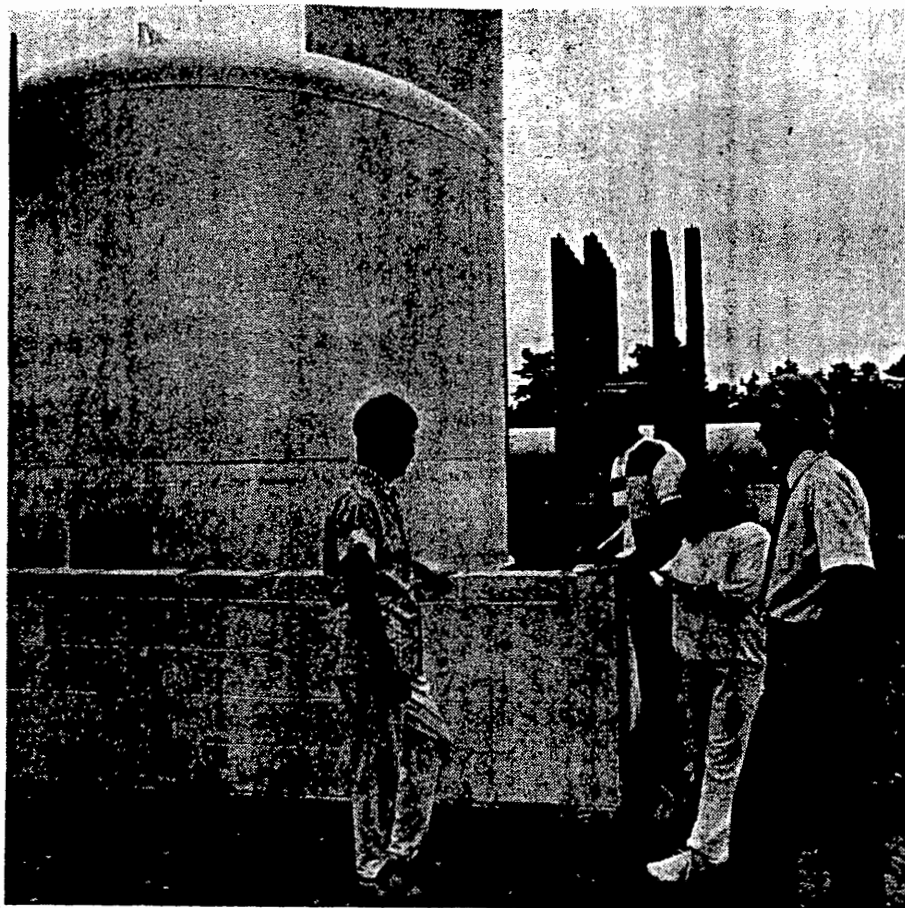
Immediately, Nogacki drafted a letter to the mayor detailing the coalition's community inspection report and the group's support of Dynasil's anti-pollution efforts. At the next council meeting, she took the floor to report how Dynasil's wet scrubbers had brought emissions of hydrochloric acid into compliance with state regulations, and how the company planned to install new electrostatic precipitators to

control emissions of silica particulates. As a result, the mayor changed his position and supported Dynasil—without Saepoff having to say more than a few words in his own defense.

Providing groups with information can not only soothe residents' fears, it can also give your company an ally against future attacks from the misinformed. As Nogacki says, "When people see smoke coming from a stack, they think the worst." But the people of Berlin Township now know what's coming out of Dynasil's stacks, and their fears are laid to rest.

For Saepoff, keeping up with environmental regulations and community demands has been an "arduous and winding road," but he considers it a cost of doing business. He says he's doing nothing more than what other companies should be willing to do. "If anyone came to my backyard and tried to pollute my water and air, I'd be outraged too," Saepoff says. "We have a responsibility to work with people, not fight them."

—Karen Gedney



Special to The Inquirer / TAMMY MCGINLEY

(From left) Nogaki, Somers and Falkowski inspect spill containment wall with Dynasil's Bill Pufta.

Factory, environmentalists forge uncommon alliance

By S. Joseph Hagenmayer
Special to The Inquirer

Dynasil Corp. president Martin Saepoff says he allowed a neighboring environmental organization to inspect his glass plant because they seemed like nice people.

In fact, the Berlin Township company's legal counsel advised against allowing the community inspection, he says.

Saepoff went with his instincts and ignored the legal advice. The result has been an unusual story of cooperation between industry and environmentally concerned residents.

Dynasil, in operation since 1960, produces high-purity glass for use in optics, laser lenses and components in satellites and spacecraft — including docking lights used on Apollo moon landings.

The Marlton Lakes-based Coalition Against Toxics (CAT) was formed in May 1982 when residents became concerned about pesticides being sprayed to combat gypsy moths, according to Wynne Falkowski, chair-

Opening itself to the scrutiny of environmentalists has brought a revolving door of cooperation to Dynasil Corp.

woman of the group.

The coalition took its first tour of the Dynasil facility in October 1986, when several members of the organization expressed concern about the facility and potential groundwater contamination.

"At the time all of our fish (in Marlton Lakes) had just died, and we were wondering if the water's acidity might be coming from [Dynasil]," recalled Jane Nogaki, a coalition member and a Marlton Lakes resi-

dent. The plant, located at the intersection of Cooper and Taunton Roads, is upstream from the private lakes.

One inspection led to another, and in May 1988, the coalition received permission to tour the facility again — this time with its own technical consultant and members of state and national environmental organizations, according to Nogaki.

The coalition's report was prepared by technical consultant Peter Youngstrom, whose services were provided by the National Campaign Against Toxic Hazards, of Boston. The report included a number of recommendations for improving the facility's safety including:

- Completing the diking around storage tanks containing silicon tetrachloride that, when exposed to water, can create heat and hydrochloric acid.
- The installation of shower/eye wash stations.
- Training employees to be a company fire brigade.

CAT presented the report to Sae-

poff in September 1988 and returned in December to discuss the recommendations.

Kettle Run Fire Chief Joseph Somers, who joined Nogaki and Falkowski for the May 1988 plant tour, said, "When we returned on Dec. 1, (the recommendations) were all in place, at least the majority of them and the others were being worked on."

Saepoff thought he had done all the right things to ensure good relations with local officials and nearby residents. In addition to opening the doors to the neighboring environmentalists, Saepoff said the company had on several occasions contacted local officials to keep communication lines open. In early 1988, the company also filed — although not required — an emergency management plan with local officials, fire departments and the state.

Local officials had "never" called him about anything, Saepoff said.

Members of the coalition did call Saepoff on July 17, however, when they noticed an article in The Inquirer reporting that four state Department of Environmental Protection officials had attended the previous night's Berlin Township Council meeting to discuss concerns about air emissions from Dynasil as well as the Owens-Corning plant in Berlin Borough.

During the July 16 council meeting, DEP officials offered as background the fact that Dynasil had been cited for violations seven times since 1984. The last three violations, however, — Oct. 18, 1988, Feb. 15, 1989 and July 18, 1989 — were not for emission problems but for failing to obtain the required permits for installation of pollution-control equipment on seven of the eight smokestacks at the facility, according to Julius Tivald, regional enforcement officer for the DEP's Air Program Bureau of Enforcement Operations.

The equipment involved scrub-

bers, which were placed on the furnaces without first obtaining the required permits, Tivald said.

Saepoff said he was surprised that the council had requested a meeting with DEP about his facility. But he said, he had contacted Mayor P. Farms and arranged to attend the council's meeting tomorrow. The company's story of its emission air-emission restrictions as well as answer any residents' questions.

Coalition Against Toxics representatives also plan to attend the meeting to share their experiences and the results of the 1988 community inspection with the council and Berlin Township residents.

Nogaki recalled that the coalition inspection found that wet scrubbers had brought down emission of hydrochloric acid to within state limitations. The report also noted that Dynasil was preparing to install new electrostatic precipitators to control the plant's other primary emission, silica particulates.

The Dynasil community inspection "seems to have worked out as beneficial for both sides," Falkowski said. "It was a learning experience — his first and our first."

"People have the idea that environmentalists just want to shut down industries; that's not true," she added. "We are trying to work with them."

For his part, Dynasil's Saepoff has shown his neighborly appreciation by acting as a reference for the organization as they seek out other companies willing to open their doors for a community inspection.

"I have received phone calls from companies around the country asking about the coalition," Saepoff said. "I tell them, first of all, if you have something to hide, don't let anybody see it. If there is nothing to hide, these are citizens with a right to know."

SOME NEW JERSEY RIGHT-TO-KNOW SUCCESS STORIES

Labeling Toxic Chemicals in Schools

Right-to-Know inspections in many schools have found substantial compliance with the law's requirements, particularly labeling. Many schools have reported health benefits for students and staff as a result of labeling. For example:

*Dramatic improvements in general housekeeping and safe organization of chemical storage.

*Discovery of outdated and dangerous chemicals which had been on the shelves for years. These were then disposed of.

*Substitution of less toxic materials.

*Simplification of inventories by ordering smaller amounts of fewer products.

*Greater awareness of the need for better ventilation, personal protective equipment, and training in dealing with toxics, especially in science and art departments.

Labeling In A Water Treatment Plant

During a Department of Health inspection of a water treatment plant, an employee expressed elation when informed that requirements even included labeling drums of water. This employee had been burned by chemicals when he dipped his hands into a container of what had appeared to be water but was actually acid.

Elimination of Picric Acid in Schools

1988 Right-to-Know survey data was used to identify schools storing picric acid, an extremely toxic and potentially explosive chemical. The Department of Health then sent letters to the schools alerting them to this hazard and advising them on safe disposal. As a result, many schools eliminated storage of picric acid.

over

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Voluntary Compliance with the Law

Numerous employers not covered by the Right-to-Know law, such as doctor's offices, have voluntarily trained staff about toxic chemicals using the New Jersey Hazardous Substance Factsheets and training materials.

Elimination of a Male Reproductive Hazard

A county highway department discovered while labeling paint supplies that a reflective road paint contained a chemical known to be a male reproductive toxin. A less toxic alternative was found and substituted for the toxic paint.

Better Respirators

After reading the Department of Health's "Hazardous Substance Factsheets," many employers have recognized that the paper dust masks they supplied to employees didn't prevent exposures to solvents and other volatile chemicals. As a result, they have supplied better respirators.

Hazardous Substance Factsheets

The Department of Health has produced factsheets for 1,034 different chemicals. They are vastly superior in scientific quality and readability compared to material safety data sheets produced by chemical suppliers or for-profit vendors. Millions of factsheets have been requested by physicians, firefighters, employers, unions, and individual citizens who rely on them for reliable information on chemical hazards.

Hazardous Substance Factsheets in Spanish

These factsheets are also available in Spanish for 235 chemicals to-date. They are widely used, particularly in schools, including Rutgers University, N.J. Institute of Technology, UMDNJ, and DEPE. Scientific studies have found that Hispanic residents and employees suffer extensive toxic exposure. Thus these factsheets are particularly important.

Issued by New Jersey Right-to-Know and Act Coalition-July 1992

WHY "UNIVERSAL LABELING" PROVISIONS OF THE NEW JERSEY WORKER AND COMMUNITY RIGHT-TO-KNOW LAW ARE IMPORTANT FOR PUBLIC HEALTH

"Universal labeling" requires that all chemical containers used in New Jersey by employers covered by this law be labeled. The label must include **the chemical name** and chemical abstracts service number of the five most predominant substances and any environmental hazardous substances in the container. Exceptions are made for trade secrets and containers that must be labeled under certain federal laws. If ingredients are unknown or partially unknown, the label must say this.

Knowing the chemical name -- not the code or trade name -- is essential. Without the chemical name, it is impossible to learn the health and safety hazards of most chemicals.

Universal labeling has been upheld by the U.S. Third Circuit Court of Appeals. The Court found that the New Jersey labeling provisions **do not conflict** with federal OSHA labeling requirements. In fact, it found that New Jersey's universal labeling requirements could be used by employers to comply, in part, with OSHA labeling rules. The U.S. Supreme Court refused to hear an appeal of this decision on July 3, 1989.

Why "universal labeling" is important:

1) Under the federal OSHA Hazard Communication Standard, chemicals do not have to be labeled with their real chemical name. Instead a code or trade name can be used if that name and the chemical name also both appear on a "Material Safety Data Sheet (MSDS)," a company produced document that is supposed to explain the hazards of that chemical.

Under A1232 to obtain the real chemical name, an employee or emergency responder would often have to request the sheet from the employer. This is unacceptable. The real chemical name must, as under present law, directly appear on the container so that employees and firefighters are not limited to asking management for MSDS sheets.

During pre-fire planning firefighting this is impractical. And it's unfair to employees -- particularly ones without union protection -- to make them ask their employer every time they need to learn the real name of

the material they are working with. Employees need **direct access** to this information, in part so that they can inform their doctor of the real names of their potential exposures.*

2) Under the OSHA Hazard Communication Standard, only containers with chemicals that the employer decides are hazardous need be labeled.

According to the New Jersey Business and Industry Association:

Implicit in the labeling requirements of the [N.J.] Act was the concept that, unless all containers are labeled (as opposed to only hazardous material containers), a person would not know if a container held non-hazardous materials or held hazardous materials, but was improperly labeled.

The BIA correctly interprets this essential reason why **all** chemical containers must be labeled.

3) Federal OSHA does not cover New Jersey state, county, municipal, or public school employees. The State's Public Employee OSHA program has no right-to-know rule. Thus, if A1232 passed, it would mean that over 200,000 public workers potentially exposed to chemicals would have absolutely no right to know about what toxic substances they work with.

Thus public school students who face potential chemical exposures in chemistry labs, arts and crafts classes, and other school areas also would have absolutely no way to know what they are working with.*

For these and many other reasons, A.1232 -- the "right-to-know nothing" -- should be rejected.

**Private sector employees and students do not have legal rights under the New Jersey Act. However, private sector employees and students are able to read the same labels that firefighters, teachers, and other public employees can read. Therefore, to take away these rights for firefighters, teachers, and other public employees is to deprive private sector employees and students of the benefits of this law.*

Issued by the New Jersey Right-to-Know and Act Coalition - July, 1992.

DAMAGE TO THE DEPARTMENT OF HEALTH RIGHT TO KNOW PROGRAM
FROM THE FY96 BUDGET CUTS AND POLICY CHANGES

Prepared by the Right to Know & Act Coalition

OVERVIEW

The proposed \$700,000, 36% cut in the FY96 budget of the Right to Know Program (RTK) in the New Jersey Department of Health (NJDOH), from \$2.1 to \$1.3 million will damage all of the Program's activities and result in the loss of key staffpeople. Simultaneously, policy changes which damage the RTK program are being implemented by the Whitman Administration. These include transfer of enforcement of universal labeling from NJDOH to the Department of Environmental Protection (DEP), and elimination of hazardous substances from the Hazardous Substance List. All of these changes, which are described in detail below, will make it impossible for the RTK Program to provide the same quality and quantity of services to employers, employees, and the public.

STAFFING

In December 1994, the NJDOH RTK Program had 30 filled positions and 5 vacant positions. In anticipation of budget cuts, three staff [the enforcement supervisor with 6 years in RTK, an education and training specialist with 9 years in RTK, and the only industrial hygienist writing Hazardous Substance Fact Sheets (HSFSSs)] were reassigned in February into federally funded positions in the Public Employee Occupational Safety and Health (PEOSH) Program and three clerical staff left. Currently, the process of reassigning four other staff is underway, including the person responsible for assuring the completeness of incoming Workplace RTK Surveys, a scientist compiling the Hazardous Substance List, a data manager, and a data entry specialist. A temporary clerical will be laid off in June and eight vacant positions are being eliminated. Staff size will soon be down to 20 filled and 3 vacant positions and several more positions will probably be lost during 1995.

Morale among RTK staff is understandably low and fear that their position will be the next to be eliminated is high. The remaining staff is being given additional duties as people leave.

SPECIFIC DAMAGE

The following specific damage to program activities is taking place:

1. Hazardous Substance Fact Sheets (HSFSSs)

* BACKGROUND: These fact sheets are a widely distributed and respected source of information on the health and safety hazards of chemical substances. They are key to providing objective and complete information to workers, community members, and emergency

responders. There are currently HSFSSs on 1045 chemicals; 235 have been translated into Spanish. The law requires that there be a HSFSS on every one of the 2500 chemicals on the Workplace RTK Hazardous Substance List. All are required to be translated into Spanish.

* DAMAGE: NJDOH is preparing a list of just 500 chemicals for which HSFSSs will be kept up to date. Each of the other existing 545 fact sheets will be eliminated after it is 5 years old. Fact sheets will not be prepared for the remaining 1455 substances. It is unlikely that more Spanish translations will be produced.

2. Workplace RTK Hazardous Substance List

* BACKGROUND: This list contains the names of chemicals found to be harmful to health by various scientific organizations. The law requires that the list be updated every three years to reflect new scientific information. The current list was published in 1989.

* DAMAGE: A revision to the list, containing 400 additional chemicals, was proposed by the NJDOH in February 1994 but was not adopted by the February 1995 deadline due to a decision made by the Department of Health's Chief of Staff, John Kohler. Mr Kohler has stated that the list should be reduced, not enlarged. The list dictates which HSFSSs must be prepared by the NJDOH and which chemicals must be reported by public employers on the Workplace RTK Survey. The list also indicates which chemicals are especially hazardous (carcinogens, teratogens, mutagens) and therefore cannot be claimed as trade secrets.

3. Workplace Right to Know Survey

* BACKGROUND: This is a survey of the hazardous substances kept onsite which is filled out and submitted to NJDOH by public employers, including public schools. Surveys were conducted by NJDOH every two years until 1992 when an employee successfully sued NJDOH for not conducting the survey every year, as the law requires. The 1993 survey was the last one conducted; it was mailed in April 1994. There was 99% employer compliance with this 1993 survey; the data from it is now being entered into the NJDOH database.

* DAMAGE: The NJDOH will not be on time with the 1994 survey which would normally go out in April 1995. Only an update survey, where employers report additions and deletions to the previous survey, is planned for this and several years to come. The next complete survey is not anticipated until 1998. The survey provides the information for public employer training of their employees in the hazardous substances to which they are exposed. Update surveys will be more difficult for public employees to understand than a complete survey, since they must be looked at in conjunction with the last complete survey and all subsequent updates.

4. Coordinate 21 County Lead Agencies

* BACKGROUND: The NJDOH coordinates funding of all 21 counties in NJ to perform outreach and information services to employers and the public.

* DAMAGE: Funding is being cut 35% from \$413,000 to \$266,000. Each of the county programs will have its budget reduced by 35%. It is anticipated that some counties will not be able to sustain qualified staff and meaningful activities at reduced funding levels.

5. Private Sector Enforcement of Labeling

* BACKGROUND: Universal labeling is a key provision of the RTK Law, was upheld by the NJ Supreme Court in 1989 against preemption by the OSHA Hazard Communication Standard, and began to be enforced in February 1991. This provision of the RTK Law is intensely disliked by the chemical industry because it requires that real chemical names, rather than trade names, be put on labels. This provision makes it possible to obtain independent information on chemical hazards, rather than rely on incomplete and misleading information provided by the chemical industry on Material Safety Data Sheets. Two NJDOH inspectors conduct inspections of approximately 200 private employers a year for compliance with the universal labeling provisions of RTK. About 60% of employers are found to have some degree of non-compliance. Most come into compliance voluntarily without the need to issue legal orders. Even when Administrative Orders are issued, the penalties are usually waived.

* DAMAGE: A Memorandum of Understanding has been drafted to transfer enforcement of labeling in the private sector from NJDOH to DEP, along with \$140,000, the amount equivalent to the two DOH inspectors' salaries and benefits. DEP has indicated that it will not pursue enforcement of universal labeling, however.

6. Public Sector Enforcement of Labeling and Education and Training

* BACKGROUND: Two NJDOH inspectors conduct inspections of approximately 100 public employers a year for compliance with labeling, and education and training provisions of RTK. About 65% of employers are found to have some degree of non-compliance with labeling and 75% with education and training provisions. Most come into compliance voluntarily without the need to issue legal orders. Penalties are usually waived.

* DAMAGE: The NJDOH is unable to observe and audit the quality of RTK training being provided by public employers, due to lack of staff. Only training provided by consultants to public employers is observed; these audits are becoming less frequent. The demand for Train-the-Trainer Training to train public employer staff to conduct employee training is decreasing, perhaps due to the perception that the NJDOH will not be checking-up on training. Train-the-Trainer Training was provided every 2 months in the past; it is now provided every 4 months.

7. Determine Validity of Trade Secrets

* BACKGROUND: After universal labeling was upheld by the NJ Supreme Court, the NJDOH was flooded with requests from chemical manufacturers to use trade secret numbers, rather than chemical names on labels. The requests were so numerous they could not even be counted or reviewed for completeness- it is estimated that over 100,000 were received.

* DAMAGE: The NJDOH will continue to not have enough staff to review trade secret claims for completeness and to assure that Special Health Hazards are not claimed as trade secrets.

IMPACT ON THE DEPARTMENT OF ENVIRONMENTAL PROTECTION
COMMUNITY RIGHT TO KNOW PROGRAM
BY THE FY96 BUDGET CUTS AND POLICY CHANGES

Prepared by the Right to Know & Act Coalition

OVERVIEW

The proposed \$585,000 (39%) cut in the FY96 budget of the Bureau of Hazardous Substances Information (BHSI, aka Community Right To Know Program) will impact all of the Program's activities and result in the loss of key Program personnel. At the same time, policy changes and program consolidations that affect Program activities are being implemented by the Whitman Administration. These changes will make it impossible for the Program to provide the same quality and quantity of services to employers, employees, and the public.

STAFFING AND REORGANIZATION

In December of 1994, the DEP BHSI had 15 filled, funded positions and one vacant, unfunded position (for which funding was eliminated in FY95). Additionally, the Program employs one temporary personnel who conducts extremely valuable clerical duties on behalf of the BHSI. In anticipation of FY96 budget cuts, two key staff (an inspector in the enforcement section with four and one-half years in BHSI and the Bureau Chief's secretary with more than two years in BHSI) were reassigned in April to the Radiation program. The Program anticipates the loss of the clerical temp at the end of June 1995.

Additionally, management has made it known that the BHSI will be merged with the existing Bureau of Release Prevention (BRP) (established by the New Jersey Toxic Catastrophe Prevention Act of 1986). BRP anticipates a funding cut of \$550,000 and five staff personnel. The secretary of BRP will now serve as the new program secretary. The two individual programs have very little, if anything, in common with respect to legislative mandates. The only commonality is that some of BRP's regulated substances are also CRTK regulated substances and, therefore, reported to both programs.

PROGRAM IMPACT

The following specific impacts to program activities are taking place:

1. Community Right To Know Survey

More than 33,000 facilities in New Jersey annually receive the CRTK Survey, which are due by March 1 of the year following the reporting year, on which facilities report their inventories of New Jersey Environmental Hazardous Substances (EHS). Mailing, receipt and processing of the surveys are handled by a now dwindling staff

of personnel. The individual that was lost in FY 95 was directly responsible for preparation of the annual survey form, instructions and booklet. This task has been divided among existing staff. The enforcement section is now comprised of a supervisor and two inspectors. This is the staff appropriated to conduct the Program's compliance activities for the 33,000+ regulated employers.

2. Private Sector Enforcement of Labeling

(See background as stated in NJDOH document.) The MOU drafted for the transfer of enforcement of labeling in the private sector from NJDOH to DEP states that \$140,000 (the amount equivalent to the two NJDOH inspectors' salaries and benefits) will be forwarded to DEP. That leaves DEP with the burden of creating two positions at the same time that a RIF is being conducted in the DEP. As stated in #1 (above), BHSI's inspection staff are stretched beyond limits already. Additionally, NJDOH reports that about 60% of all employers are found to be non-compliant to some degree. The burdens placed upon DEP to reinvent this activity would be beyond current program abilities to maintain status quo and to continue to operate efficiently.

3. Data Management Capabilities

One of the mandates of the Worker and Community Right To Know Act is to make the information available to the public. The Department, along with the NJDOH and State Police/Office of Emergency Management have invested a significant amount of time, effort and monies into a variety of mechanisms to automate the data and to make it available (to emergency responders, emergency planners and the public) on a much more timely basis. Program cuts as well as additional burdens placed upon the Program (of the nature identified above) are setting back the progress that has been achieved by diligent, thoughtful and creative measures implemented by Program staff to date.

ASSEMBLYMAN CHARLES "KEN" ZISA

REMARKS

HEARING ON WORKPLACE SAFETY

WHEN A FIRE BROKE OUT AT A TRUCKING WAREHOUSE IN HACKENSACK ON MARCH 25, RESIDENTS DID NOT REALIZE THAT THE WAREHOUSE WAS BEING USED TO STORE TOXIC CHEMICALS.

MOREOVER, HACKENSACK FIREFIGHTERS ENTERED THE WAREHOUSE AND FOUND THEMSELVES FACING DANGEROUS FUMES THAT LEFT 19 OF THEM NEEDING TREATMENT OF EYE, SKIN, AND THROAT IRRITATIONS. SOME DEVELOPED BREATHING PROBLEMS. IT TOOK A FEW HOURS TO IDENTIFY THE CHEMICALS THAT WERE CAUSING THE INJURIES.

WHY DIDN'T THE FIREFIGHTERS KNOW WHAT WAS AHEAD OF THEM? STATE RIGHT-TO-KNOW LAWS REQUIRE BUSINESS OWNERS TO NOTIFY THE FIRE DEPARTMENT AND THEIR OWN EMPLOYEES OF THE PRESENCE OF HAZARDOUS CHEMICALS.

BUT STATE AND FEDERAL LAWS EXEMPT THE OWNERS FROM REPORTING THIS FACT IF THE CHEMICALS ARE ONLY BEING STORED TEMPORARILY. IN THE CASE OF THE HACKENSACK FIRE, WE DON'T KNOW

HOW LONG THE "TEMPORARY" CHEMICALS HAD BEEN THERE. IT APPEARS THAT THEY WERE BEING PROCESSED IN SOME MANNER THAT POINTS TO A LONGER-TERM PRESENCE.

IN RESPONSE TO THIS TRAGIC EVENT, ASSEMBLYWOMAN LORETTA WEINBERG AND I HAVE INTRODUCED A BILL THAT WOULD REQUIRE THE OWNERS OF BUILDINGS HOUSING HAZARDOUS CHEMICALS TO POST PLACARDS AND NOTIFY LOCAL AUTHORITIES WHENEVER DANGEROUS CHEMICALS ARE BEING STORED - NO MATTER HOW SHORT THE TIME.

THE BILL WOULD AMEND THE "WORKER AND COMMUNITY RIGHT TO KNOW ACT" AND WOULD ADD OWNERS OR OPERATORS OF WAREHOUSES TO THE LIST REQUIRED TO REPORT STORAGE OF HAZARDOUS SUBSTANCES. THE BILL WOULD ALSO REQUIRE EMPLOYERS TO REPORT ANY QUANTITY OF A HAZARDOUS SUBSTANCE USED OR STORED IN THE PRIOR YEAR.

THE WHITMAN ADMINISTRATION HAS BEEN MOVING IN THE WRONG DIRECTION. IT IS WEAKENING RIGHT-TO-KNOW LAWS RATHER THAN CLOSING THE LOOPHOLES AND STRENGTHENING DISCLOSURE REQUIREMENTS TO HELP EMERGENCY MANAGEMENT RESPONSE.

RIGHT-TO-KNOW REGULATIONS HAVE THE POWER

126X

**TO MAINTAIN PUBLIC SAFETY AND SAVE LIVES.
DANGEROUS CHEMICALS, NO MATTER HOW TRANSITORY
THEIR PRESENCE, HAVE NO BUSINESS BEING STORED IN
ANY FACILITY WITHOUT EMPLOYEES AND SAFETY
OFFICIALS KNOWING ABOUT THEM.**

**MY LEGISLATION ELIMINATES LOOPHOLES FOR
WAREHOUSES, STRENGTHENS THE REPORTING
REQUIREMENTS AND PROVIDES UP-TO-DATE ACCURATE
INFORMATION ON THE TYPES AND LOCATION OF
CHEMICALS AT AN ACCIDENT SITE.**

**THE HACKENSACK FIRE DEMONSTRATES WHAT
CAN HAPPEN WHEN GOVERNMENT ABROGATES ITS
DUTY TO PROTECT OUR CITIZENS.**

HUDSON REGIONAL HEALTH COMMISSION

215 HARRISON AVE., HARRISON, NEW JERSEY 07029
TEL. 201-485-7001 FAX 201-485-1251

Richard Censullo, President

Robert Ferraiuolo, Director

May 23, 1995

Gregory L. Williams, Committee Aid
Assembly Labor, Business and Industry Committee
State House Annex
CN-068
Trenton, New Jersey 08625-0068

Via Fax and Regular Mail

RE: Comments for the Committee Public Hearing of May 23, 1995

My name is Gary Garetano. I am the assistant director of the Hudson Regional Health Commission the County Environmental Health Agency in Hudson County. Additionally, the Commission is the County Lead Agent for the provision of Right to Know Services. I have personally been involved with Hazardous Materials Emergency Response activities for the previous 15 years and with Right to Know activities for the previous five years.

I understand the intent of the hearing is to accept testimony regarding the maintenance of safe and healthy workplaces in New Jersey with attention to several recent industrial accidents.

New Jersey Right to Know regulations as initiated at their inception were designed to help ensure a safe and healthy workplace for both public and private sector employee's and emergency responders to such facilities. Early changes to the regulations eliminated provisions designed to protect private workers which are presently addressed by the OSHA Hazard Communication Standard.

The reporting provisions of the law regarding the private sector remained intact as this was deemed protective of emergency responders and the community. Until the present Right to Know reporting year the surveys were a very useful tool for local, county and state emergency response personnel. The survey provided a detailed listing of virtually all hazardous materials at a site and allowed for detailed hazard assessments at the time of an incident.

Additionally, the information could be used to identify facilities which warranted "pre-planning".

"SERVING BAYONNE, EAST NEWARK, GUTTENBERG, HARRISON, HOBOKEN,
JERSEY CITY, KEARNY, NORTH BERGEN, SECAUCUS,
UNION CITY, WEEHAWKEN, WEST NEW YORK."

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Changes to the regulation in 1994 removed the DOT list of hazardous substances, from reporting requirements, and placed a reporting threshold of 500lbs for most substances. The net effect is that emergency responders cannot rely on the surveys to provide comprehensive information. The following are examples of some materials which would not be reported currently:

- A 1,000 gallon tank of Petroleum Naptha (Flammable Liquid)
- 99lbs of Hydrogen Cyanide Gas (Poison)
- 499lbs of Picric Acid (Explosive)

All of the above if involved in an incident such as a fire or other industrial accident could kill or maim emergency responders. If the responders knew of the presence of such materials appropriate precautions could be implemented. I suggest the following changes be made in the interest of public safety as well as the health and safety of emergency responders:

***Return the DOT list of hazardous substances to those materials required to be reported.**

***Remove the 500lbs reporting threshold from "High Hazard" materials including: Poisons, Oxidizers, Water Reactive Materials, Explosives, and Radioactive Materials.**

Additionally, funding to the County Agencies coordinating Right to Know programs has been cut 35% from the very nominal grant awards of approximately \$30,000. I understand there are sufficient resources in the Right to Know Trust Fund to reinstate funding to the County Lead Agents in 1996. However, it does not appear this will be done without interest on the part of the legislature.

Please feel free to contact me should have any questions in this regard.

Respectfully Submitted,



Gary Garetano
Assistant Director

GG:mlc

c: Robert Ferraiuolo, Director

Chemical Plant Explosion Kills 4 in New Jersey Town

4/22/95
N.Y. Times

By ROBERT HANLEY

LODI, N.J., April 21 — An old chemical plant in the heart of downtown Lodi exploded and burned this morning, killing four workers, injuring eight others, forcing the evacuation of nearby homes and sending a dense plume of toxic black smoke over much of western Bergen County.

The blast at Napp Technologies, which had a history of environmental violations and workplace accidents, was being described as an industrial accident, apparently tied to a malfunctioning mixing vat for

chemicals. Residents were urged today to keep their windows closed, and their children and pets off the street in case smoke from the plant was dangerous.

For a few unsettling moments after the 7:50 A.M. explosion, as storefronts shattered along North Main Street and bricks, glass, and flaming debris scattered over nearby backyards, residents were terrified that their working-class community had been hit by a bomb similar to the one that destroyed a Federal building in Oklahoma City on Wednesday.

Dolly Bevilacqua, 68, was knocked out of a chair at her breakfast table in a trailer court across the Saddle River from the rear of the plant. "I thought about Oklahoma and I thought we're next," Ms. Bevilacqua said.

The explosion forced the evacuation of about 400 residents and intensified animosity that has existed for decades about the presence of chemical plants in the middle of Lodi's commercial district, next to a tanning salon; an aquarium, a basket store and scores of homes. Over the last 25 years, many said, there have been several explosions, some minor and some major, that have rocked the block-long row of factories that have housed several chemical companies. One accident in 1973 at the Mallinckrodt Chemical Company killed seven workers.

"How do they let these chemical companies stay right in the middle of town?" asked Linda Tedesco, who lives near Napp Technologies.

By this evening the bodies of the four dead had not been removed from the burned factory because the chemical fumes inside were still too dangerous, officials said.

The identities of the four were not immediately released. Relatives and friends who could not track down their loved ones began gathering in late afternoon at the Lodi firehouse and were then moved to the Borough Council chambers of the municipal building nearby to await news.

After the four-hour blaze was brought under control in early afternoon, Mayor Philip V. Toronto called Napp Technologies an unwelcome neighbor and said town officials would not grant it a permit to rebuild.

"We don't want these kinds of industrial uses on Main Street," Mayor Toronto said.

The factories, he said, occupy the remnants of a turn-of-the-century dye works, United Piece Dye Works.



Norman Y. Lono for The New York Times

A mother and daughter fled yesterday after evacuating their Church Street home in Lodi, N.J.

Continued on Page 26, Column 1

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Norman Y. Lonn for The New York Times

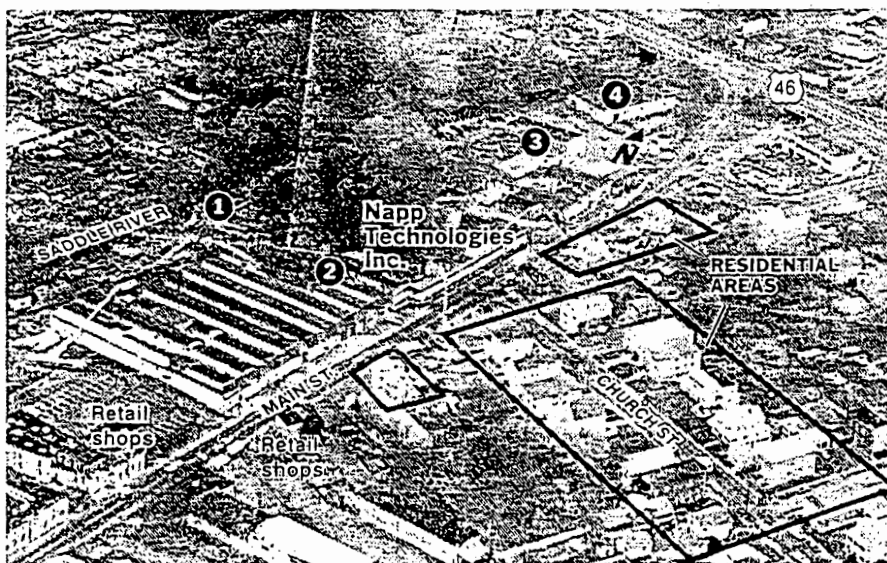
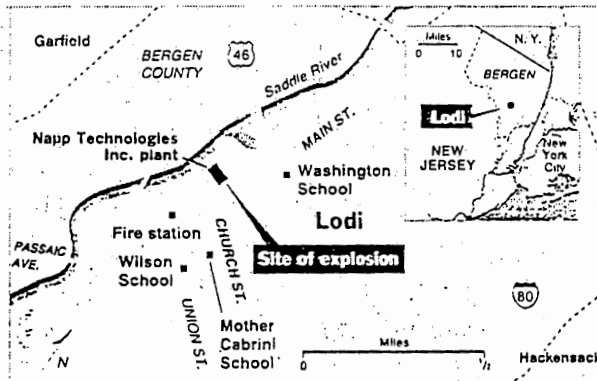
Two women, one wearing a mask for protection from fumes, were evacuated from their homes on Church Street in Lodi, N.J., yesterday, in the wake of an explosion and fire at a nearby chemical plant.

N.Y. TIMES 4/22/95

A CLOSER LOOK

Another Deadly Blast

A fatal explosion yesterday morning terrified residents of a Lodi, N.J., neighborhood shared by homes and chemical plants. Over the last 25 years there have been several explosions, some minor and some major, that have rocked the block-long row of factories that have housed several chemical companies.



Associated Press

- ① Chemicals and other pollutants may have seeped into the river.
- ② Frame shop, pet supply store, tanning salon and a home decorating store were damaged by fire. Across Main Street, many homes and business were damaged by flying debris.
- ③ Fine Organics chemical plant
- ④ Vincenzo's Restaurant

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As Grief Replaces Shock, Families

Mourn Four Victims of Plant Explosion

NY Times 4/23/95



Lenore Victoria Davis for The New York Times

ning her father in a parking lot of the factory where he worked and died, Jessica Rivera, 16, is comforted by her godfather, Manuel Ric



Wilbur Gouridine



Glenn Terraneo



132X Thomas Furlong Jr.



Calixto Rivera

Widows Cherish Their Parting Words

N.J. Times 4/24/95

Continued From Page B1

who came by to express condolences. Some came with small children, and for them, Mrs. Gourdine pretended that life was going on just as usual. "You playing basketball?" she asked a small nephew who had come up from Atlanta.

Mr. Gourdine, a slender 6-footer with a mustache that almost circled his jaw, supervised 20 people in the repair and installation of machinery. The oldest of seven children raised in a housing project, he considered college, but then he met Eleanor, a young woman from Gary, Ind., at a wedding. "I was taking pictures and he left the girl he was with," Mrs. Gourdine recalled. He decided he needed to find work right away to support the two of them. On a whim they decided to settle in the Newark

from the Napp factory for Mr. Furlong — his children were trying to come to some kind of understanding of what it meant that their father was dead. Kevin, 3, scrawled something on a piece of paper that he said was a letter to his father. Later, Kevin asked his mother if his father was still wearing the same clothes he wore when he went to work on Friday morning.

Mrs. Furlong said that her husband was a perfectionist, a "Type A personality" who, when he wasn't working, took nighttime graduate courses in chemical engineering and played hard at company-league softball. He rarely paused to pamper himself. She could remember only two vacations, both modest, one a stay in a motel room in Wildwood, N.J., that had a pool outside and an amusement park across the street that the children enjoyed.

"We had big birthday parties for the kids," she said. "He'd always do the grill and clean up. He never sat down to eat."

Mr. Furlong, a trim man with light brown hair and brown eyes who joined Napp only six months ago, grew up in Ocean Township and studied chemical engineering, first at Virginia Polytechnic Institute and State University, and then, to be close to the woman who would be his wife, at the New Jersey Institute of Technology. His widow remembered that they met at a Christmas party in Long Branch, N.J., where Tom was tending bar in uniform.

"He changed his clothes in the car," Mrs. Furlong remembered. "I thought, 'This guy is nuts.' We truly just fell in love and never parted a single minute since."

Mr. Furlong was Roman Catholic, but his wife is Episcopalian, and Mr. Furlong made sure that both his wife and children attended Episcopal

Relatives sweep one another up in tearful embraces and memories.

area, picking the city at random on a map.

"He said it wasn't fair that I left my people, so he left his people, too," she said.

For 18 years of their marriage, Mrs. Gourdine said, her husband worked at BASF A.G., the German chemical maker, at its plant in Kearney, N.J. So knowledgeable was he about safety that three years ago, when BASF closed the plant, company officials invited him to Germany to train other employees. But his wife did not want to move, so he went over to Napp, which hired half a dozen of his BASF colleagues, she said.

Again and again, relatives described Mr. Gourdine as intensely dedicated to his work. Indeed, some speculated that Mr. Gourdine and the other victims may have perished because they chose to stay near the troubled vat to make sure a chemical emergency was brought under control.

But Mr. Gourdine was also a fun-loving man, who enjoyed a game of pool or horseshoes or a day of salt-water fishing at Belmar. His younger brother, Brian, 39, said Mr. Gourdine always made sure the two of them were together on May 31 for James Gourdine's birthday, often taking vacation time to drive down to the younger man's home in Atlanta.

"In the news media," he said, "you hear how black men leave their families," Brian Gourdine said. "My brother was a father's father. He went beyond the normal scope of things."

At the Furlong home in West Long Branch, N.J. — a daily 60-mile drive

A generous gesture, a wise joke remembered.

services regularly. "He would take the kids himself when I stayed home," Mrs. Furlong said.

Mr. Terraneo, who worked for Napp for more than 15 years, filled his free time with his children, whirling them on a backyard rope swing, catching fireflies with them at dusk or playing Wiffle ball in an empty parking lot.

"Anywhere he went he had his kids on his shoulders or pulled them in a wagon," said John Sunday, a next-door neighbor.

Raised in Clifton, Mr. Terraneo met his wife, Georgette, in junior high school, said a brother, Keith. In his spare time, he worked as an emergency medical technician in Garfield, and he loved to fish. Mr. Terraneo was head of Napp's crisis team, and early on Friday morning he had called his wife to say there was an emergency and he would be late.

"He struck me as the kind of guy who wouldn't run away from an emergency," Mr. Sunday said. But at the same time, he said, Mr. Terraneo "seemed too smart to make a foolish mistake by staying in a situation that would have cost him his life."

Mr. Rivera, whose parents came to the United States from Puerto Rico in 1954 and settled in Newark, had worked for Napp for nine years but also worked a part-time job as a technician at Barnard Hospital in Paterson.

"He was strong as an ox, very easygoing, and that's what got him killed," said a brother, Jose Antonio, 42. "They told him to go back in there and he obeyed them."

In the end, many of the relatives said that what made the explosion so hard is that the world was now without the people they had loved.

Mrs. Gourdine said that among her husband's perennial projects was a 6-foot-square patch of dirt in his tiny backyard that he turned into a garden every summer. With her husband gone, Mrs. Gourdine said, she didn't know what she would do with the plot.

"I guess I'll just throw some seeds on it," she said.

The New York Times

NY Times 4/24/95

Families' Grief Replaces Shock After Fatal Lodi Blast

By JOSEPH BERGER

IRVINGTON, N.J., April 23 — James Wilbur Gourdine was a fussy man, said his wife, Eleanor, so neat that he would fold his clothes right away when he undressed at night.

At work, she said, he was fussy about safety, no small consideration in a factory that mixed treacherous chemicals for the pharmaceutical industry. When he joined Napp Technologies three years ago as maintenance supervisor at its chemical plant in Lodi, N.J., his family said, he tightened company policy by insisting that workers protect themselves with proper clothing and equipment, and that all power be shut off before anyone entered the giant vats where the chemicals were mixed.

"Safety was his religion," said a cousin, Al Giles, who worked for him at the plant.

On Friday morning, the chemicals in one of those vats exploded, turning much

of the old plant into an inferno. Four workers were killed, including the 55-year-old Mr. Gourdine.

Today, after the identities of the four were officially confirmed through dental records, relatives gathered at each victim's home, sweeping one another up in tearful embraces and bittersweet memories.

Some of what they said focused on the accident. But mostly they dwelled on familiar details — a generous gesture, a wise joke, an offbeat talent.

Mr. Gourdine was a father of two grown children, a tinkerer who had built his home's cement porch and barbecue and replaced the basement furnace. Thomas Furlong Jr., 38, a production supervisor and father of three small children, was a gifted mathematician who had a knack for adding six-digit figures in his head.

Glenn Terraneo, 33, another production supervisor and father of three, would sit on

the porch of his Clifton, N.J., home and play children's songs on his guitar for neighborhood youngsters. Calixto Rivera, 37, a chemical operator and father of three, was so meticulous about his appearance that he sometimes played baseball wearing a tie.

The widows wanted to remember the first time they met their husbands and the last words they exchanged.

"All I know is my husband went to work," said Susan Furlong. "You don't expect your husband to go to work and die. He was working all week and left me a note and I threw it in the trash. He was apologizing for working all week."

At the Gourdine home, Eleanor Gourdine stood with her son, her daughter and her son-in-law on the porch her husband had built, greeting relatives and friends

New Jersey Explosion Led to a Toxic Spill

The explosion that killed four people at a chemical plant Friday in Lodi, N.J., also spilled a toxic chemical into the Saddle River, killing thousands of fish, Federal officials said yesterday. An Environmental Protection Agency supervisor at the scene said the chemical had been identified as phenol, which forms carbolic acid when combined with water. Investigators found no remaining traces of airborne chemical toxins at the site.

Article, page B5.

Continued on Page B5

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T.T. 4/24/95

Activists call for tougher controls after Lodi blast

NEWARK (AP) — As investigators continued to search yesterday for the cause of a chemical plant explosion in Lodi that killed four workers, environmentalists called for stricter controls on the manufacturing industry.

"A tragedy like this should make sure we continue to put environmental protections at the top of the list, not way down on the bottom as (the Whitman) administration seems to do," Madelyn Hoffman, director of Grass Roots Environmental Organization, told The Record of Hackensack.

The four men killed in the explosion and subsequent fire at the NAPP Technologies plant Friday were so badly burned officials had to use dental records to identify them.

The men were Glenn Terraneo, 33, of Clifton; Wilbur James Gourdine, 55, of Irvington; Calixto Rivera, 37, of Newark and Thomas Furlong, 38, of West Long Branch, according to the Bergen County Prosecutor's Office.

Buster McKenzie, 35, of Paterson, remained in critical condition yesterday at the Hackensack Medical Center with burns over 90 percent of his body. Three other workers remained in good condition at the hospital, according to hospital officials.

Investigators from the prosecutor's office arson squad finished collecting evidence at the chemical plant Saturday night and planned to release details of their investigation

Chemical manufacturing is the state's largest industry, accounting for 108,000 jobs and more than \$24 billion in revenues. Only Texas, with more than twice the population and more than 30 times the area of New Jersey, makes more chemicals.

into the fire today, said Bergen County First Assistant Prosecutor Frank Puccio.

The Lodi explosion proves that New Jersey needs to remain uniquely wary of accidents involving chemicals, environmentalists said.

Chemical manufacturing is the state's largest industry, accounting for 108,000 jobs and more than \$24 billion in revenues. Only Texas, with more than twice the population and more than 30 times the area of New Jersey, makes more chemicals.

New Jersey reported 857 toxic accidents between 1988 and 1992, ranking 10th on the list of states with the most toxic accidents, according to a study by the National Environmental Law Center in Boston.

"The reality is that New Jersey has the highest population density, and it also has the highest density

per square mile of toxic releases and transfers," Curtis Fisher, an environmental attorney with the New Jersey Public Interest Research Group, told The Record. "It's a grim picture."

To protect its residents from the chemicals in their midst, New Jersey has enacted some of the country's strictest controls on chemical plants.

The state's Right To Know law requires thousands of businesses to detail the chemicals they have, how they store them and what dangers they pose.

The Pollution Prevention Act of 1991 requires companies to reduce the amount of hazardous chemicals they use.

The Toxic Catastrophe Prevention Act requires companies using the most dangerous chemicals to develop special emergency response plans in case of a disaster.

Last year the Whitman administration cut the number of chemicals on the Right To Know list to 850 from 2,500.

Chemical manufacturing representatives said their industry was relatively safe and the regulations imposed by the state were burdensome and could not prevent occasional accidents like the Lodi blaze.

"I don't want to minimize the fact that it occurred," Hal Bozarth, executive director of the Chemical Industry Council of New Jersey, told The Record. "These things do happen, just as planes go down."

Company Had History Of Violation Since 1988

NY Times 4/21/95
By IVER PETERSON

TRENTON, April 21 — Napp Technologies has been fined \$26,400 for violating health and environmental laws over the past seven years. All the violations were considered minor, state officials said, and the fines were reduced sharply once the company corrected the problems.

A total of seven violations were recorded by the state Department of Environmental Protection since 1988, which is as far back as the department's active files reach. The penalties range from a \$15,000 fine as of Dec. 14, since reduced to \$1,600, for failing to test the strength of several storage tanks, to a \$200 penalty last year for procedural violations when the company changed its name from Napp Chemicals Inc. to Napp Technologies Inc.

State law requires companies to register any name changes before a change is made, in order to keep regulatory records accurate.

In total, Napp has paid just \$2,200 in reduced penalties, with \$9,400 still being contested.

From the perspective of an agency that collects around \$10 million annually in penalties, Napp's violations of environmental laws are not considered very serious, said John F. Spinello Jr., an attorney in the enforcement division of the Department of Environmental Protection. The company is still contesting three findings against it, including the name change penalty. Neal Bedrock, the company's attorney for environmental regulatory matters, was not in his office this afternoon.

"It's not unusual for even a cooperative corporation to contest each order against them just to preserve their right to sit down and negotiate in good faith with us about what the issues are and what the penalties should be," Mr. Spinello said.

In the universe of pollution fines, Mr. Spinello said, penalties are not considered unusually large until they reach \$100,000, and some companies have been fined millions for persistent serious violation.

Public records also show that Napp reported under Federal right-to-know laws that it kept 63 different chemicals in its works, listed from acetic acid to zinc bacitracin, the familiar household first-aid ointment. The chemical inventory lists also show that between five and 25 tons each of such of highly flammable chemicals as isopropyl alcohol, liquid acetone and methanol were kept in daily inventories at the site.

Here are details of the penalties against Napp:

9 In June 1988, Napp was fined \$400 for altering an air pollution control system without permission.

9 In September 1992, the company was fined \$1,800 for installing unapproved equipment.

9 On Oct. 14, 1994, the company was fined \$9,400 for the name change, for altering equipment without permission, using chemicals in a dryer that were not on a dryer permit, and for altering a dust collector system. All are being contested.

9 In December 1994, Napp was fined \$15,000 for failure to pressure-test storage tanks. The fine has not

Leaves Four Workers Dead

NY Times 4/27/95

Continued From Page 1

An industrial blast raises momentary fears of terrorism.

that closed in the 1950's. Some 23 acres now occupied by Napp and other factories, and the shells of abandoned brick industrial concerns, have been rezoned as a new commercial center.

Lodi, the Mayor said, is seeking a developer for the site and had planned to begin condemnation proceedings against Napp and its neighboring plants once a commercial developer was retained. The redevelopment efforts began when Lodi voters approved it by a 3-to-1 vote in a referendum three years ago, the Mayor said.

Gov. Christine Todd Whitman went to the Lodi firehouse at the height of the blaze in mid-morning and later visited some of the eight injured workers at Hackensack Medical Center. She said that zoning rules in New Jersey no longer allow construction of chemical companies in residential neighborhoods.

"This factory far predated any of the regulations that would have kept them out," she said. "We have already learned, and that is why you have zoning codes that do not allow this kind of thing to happen with new construction."

Napp Technologies produces pharmaceuticals and other chemicals, officials said. It operates around the clock and employs about 144 workers, Mayor Toronto said.

Law enforcement officials said the explosion occurred in a large V-

Medical Center, said at a news conference after talking to some of the injured workers.

"There was an odor of something that wasn't just right," Dr. Barbara said. "The plant managers decided to evacuate the whole plant. They did that, and then some people went back in to see what they could do, and the explosion occurred."

It was not immediately clear if the workers went back into the plant voluntarily or if they were instructed to do so by plant officials, law enforcement officials said.

A Napp employee who would identify himself only as Bob said about 30 workers were evacuated sometime after 6 A.M. because the vat was smoldering. About 7:30, he said, four went back inside the plant and the explosion occurred about 20 minutes later.

The authorities said three of the victims were found near the vat. The fourth was about 35 feet away.

At Hackensack Medical Center, Governor Whitman put on a hospital gown, mask, gloves and a cap for her visit with some of the injured. She spoke briefly with James Gannon, 42, of Lodi, who, she said, was about 35 feet away, in a different room, when the vat exploded. He suffered first- and second-degree burns over 5 to 15 percent of his body, hospital officials said.

Governor Whitman said Mr. Gannon talked about an apparently improper mixture of water and a chemical in the vat before the blast.

"If you have a little bit of water with a lot of that chemical, you have an explosion, which is what occurred," the Governor quoted Mr. Gannon as saying.

Investigating authorities were unable to explain if the water Mr. Gannon mentioned to the Governor was used as part of a chemical-mixing process or in an attempt to quell a small fire.

The plant manager, Ed Murray, declined to discuss any aspect of the explosion.

Governor Whitman said of Mr. Gannon: "The last thoughts he remembered before he came to the hospital was that he was flying through the air and he thought he was dead."

Another employee who declined to give his name said he was standing in a doorway of the factory when the explosion occurred. Chemical drums, pieces of steel and bricks whizzed through the air, he said. He said a 25-pound lid from a cone-shaped mixing vat was blown across the Saddle River, which flows past the rear of the factory.

Steve Blum, the plant manager at Muggs Plus, a glassmaking company next to Napp Technologies, said he was about to light an oven to apply paint to glasses when the blast occurred.

Mr. Blum said he was blown about 15 feet across the room and landed on his left shoulder. "It was just a fireball, flames shooting up 100 feet in the air," he said.

As he ran outside, Mr. Blum said, a chemical worker was approaching him.

"The guy came stumbling down to me and said: 'My God, the whole place just blew up. I can't believe

Town residents are angered by the proximity of several factories.

shaped mixing vat that had not been working properly since yesterday. They said they were still trying to learn the exact nature of the trouble and the full details of how company workers apparently tried to extinguish a small fire in or near the vat shortly before the explosion.

Frank Puccio, first assistant Bergen County Prosecutor, said irregular "reaction" of some chemicals occurred in the vat yesterday.

"The chemicals began to interact as if they were going on fire," Mr. Puccio said. He said it was not immediately clear if the interaction created heat or actual flames. The problem apparently reoccurred shortly after the day crew reported for work about 6 A.M.

Sometime before 7 A.M. there was apparently a small fire near the vat and workers tried to put it out, Mr. Puccio said.

"It looks like they tried to handle it themselves," Mr. Puccio said. "Obviously it didn't work. It would seem they should have called in earlier," meaning, he said, that the Lodi Fire Department should have been notified before the blast.

The exact sequence of events in the room with the faulty vat between 6 A.M. and 7:30 A.M., and how the workers reacted to problems with the vat in those 90 minutes, remains under investigation, Mr. Puccio said.

At some point in that time, a warning sensor sounded and workers left the plant, Dr. Anthony Barbara, the head of the burn unit at Hackensack

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Napp part of pharmaceutical empire

By MICHAEL MOORE

Staff Writer

The Lodi chemical plant where four workers died last week in a massive explosion is owned by a Connecticut family with heavy business interests in the pharmaceutical industry, including a company that does nearly \$400 million in business a year.

Napp Technologies Inc., a company with a history of environmental violations and workplace accidents, is owned by Mortimer Sackler, Raymond Sackler, and Richard Sackler, corporation documents show.

The Sacklers — all brothers, company officials say — also own Purdue Frederick Co. in Norwalk, Conn., corporation records filed in December show. Purdue is a large pharmaceutical company that manufactures more than 100 products, mostly over-the-counter and prescription drugs.

With a product line including the laxative Senokot, the antiseptic Betadine, and MS Contin morphine pills, Purdue has a niche among pharmaceutical giants.

Betadine is a topical microbicide, used by physicians to sanitize their hands before operating.

The Sacklers — all brothers, company officials say — also own Purdue Frederick Co. in Norwalk, Conn., a large pharmaceutical company.

Purdue posted corporate sales of \$300 million to \$400 million in 1993.

The Sacklers did not return repeated calls on Monday, and Martin Greene, a New York attorney listed as Napp's corporate secretary, could not be reached for comment. Calls to a New York City law firm that officials said is representing Napp and the Sackler brothers were not returned.

Lloyd Kaplan of the public relations firm Rubinstein and Associates, which was retained by Napp, confirmed the Sacklers' ownership of the Lodi chemical company and said the plant manufactured chemicals for making cosmetic and pharmaceutical products.

"This isn't a public company trading on the stock market," Kaplan said of Napp. "They are a privately held company run by a family. As I understand it, they did not produce the finished drug pro-

ducts at the plant."

Officials at Purdue's offices Monday said Napp produced some materials used for Purdue's products, but details were not available.

Records show that Napp Technologies was incorporated in Delaware in December 1970. Purdue Frederick Co. was purchased by Mortimer and Raymond Sackler, both psychiatrists, in 1952.

Before the family's interest in Napp, Mortimer and Raymond Sackler founded Napp Laboratories, another chemical manufacturer, in England. Purdue distributes its products in 56 countries and lists research facilities in the United States, Canada, the United Kingdom, and Germany.

Purdue, which has about 300 employees at its corporate offices in Connecticut, employs 2,300 physicians, chemists, pharmacists, and other medical professionals.

Kaplan would not comment on reports of unsafe working conditions at the Lodi plant. Eric Frumin, health and safety director of the Amalgamated Clothing and Textile Workers Union, which represents Napp's chemical workers, said it was too early to determine whether Napp's facilities were hazardous.

"The union is pressing for a complete and thorough investigation of anything and everything relating to health and safety in that plant," he said. "Until the investigation is complete, I can't say anything."

Frumin would not comment on whether there were any past or pending grievances stemming from Napp's working conditions.

However, the Lodi chemical company has a history of work-related violations and injuries.

The federal Occupational Safety and Health Administration, during three inspections of Napp since 1975, fined the company \$1,970 and issued 21 notices of violations ranging from improper storage of flammable substances and chemicals to failure to implement safety protection on machinery to shield employees from danger.

Union attacks lawman for blaming Lodi workers

Says they were 'heroes, not buffoons' before chemical blast

By DEBRA LYNN VIAL
and EMILY LABER
Staff Writers

Union leaders and workers responded angrily Wednesday to suggestions that employee carelessness caused the fiery blast that killed four men at a Lodi chemical factory Friday.

"These people were heroes, not buffoons," said John Hudson, vice president of the Amalgamated Clothing and Textile Workers Union of America. "It's absolutely reprehensible to point the finger at workers, who by definition were operating under company defined policy."

On Tuesday, acting Bergen County Prosecutor Charles Buckley, along with fire and environmental officials, said the explosion could have been prevented if the company had acted more quickly. He said three shifts of employees allowed a volatile mixture of chemicals to smoulder for more than 12 hours until it was too late to stop the blast. And the firefighting effort might have been hindered by misleading information supplied by supervisors, officials said.

"Four people died because of lack of action," Buckley said at the news conference in which he said no criminal charges were expected to be filed against Napp Technologies Inc. or its workers.

Relatives of the men who died in the explosion, along with employees who were at work at the time, said they would never have been so negligent with dangerous chemicals. Their accounts of the incident conflict with Buckley's.

"We know what we're doing," said Leo Santiago, who said employees wouldn't have been careless with dangerous chemicals.

James Gannon, who was burned in the blaze, agreed.

"The workers did what they were supposed to do," he said. "They did the right thing."

Several workers say they were following the instructions of their supervisors, who said they knew how to handle the smouldering vat. They have also claimed the four men who died were ordered back into the building shortly before the blast, although Buckley's office said they found no evidence to support that accusation.

"My brother had three children and he loved life. Do you think he would go back into that building where he would be in danger?" said Jose A. Rivera, whose brother, Calixto, died in the fire. "He was ordered into that building."

"I don't understand how the prosecutor can spend a couple days on this and come to a conclusion," Rivera said.

Buckley responded to the criticisms Wednesday with an apology.

"I'm sorry if they took it [that way]," he said. "I wasn't suggesting it was the fault of the workers."

Buckley said the main thrust of his announcement was that he had found no sign of arson, terrorism, or other criminal action that could

have led to the deadly explosion and fire.

But labor leaders criticized the timing of his comments, which came before the federal Occupational Safety and Health Administration has finished its investigation.

"Is this investigation complete? Why are people doing this public finger-pointing?" Hudson asked.

"It's destructive and irresponsible."

"The apparent tone of the prosecutor's comments appears to blame the victims," said Rick Engler, vice president of the New Jersey Industrial Union Council, AFL-CIO. "This rush to premature judgment smells political to me."

Meanwhile, a company official

denied that Napp's workplace safety record was deficient.

"It's a chemical plant, not a hospital. Compared with industry standards, I think the plant's working conditions were good," said Howard Udell, a member of Napp's board of directors.

"The company is very concerned about these issues of health and safety and the environment."

It's very painful for the executives who take this very seriously to be painted as a bunch of bad guys who don't care and run a plant rife with violations."

Workers at Napp, a pharmaceuticals factory, were members of the Amalgamated Clothing and Textile Workers Union Local 7587. The company's managers were not unionized, and three of the dead

were management-level employees.

An OSHA spokesman said Wednesday the agency's investigation could take months to complete. If workplace violations are found, fines will be imposed on the company. Criminal penalties are possible but unlikely, the spokesman said.

Staff Writer Michael Moore contributed to this article.

Lodi plant owners known for wealth, philanthropy

By MICHAEL MOORE
Staff Writer

They're a family of American tycoons and philanthropists, brothers who have donated priceless art to galleries they have established at the Metropolitan Museum of Art, the Smithsonian Institution, Harvard, and London's Royal Academy.

Their international spectrum of

friends includes Britain's Princess Diana, Nobel Prize winners, influential entrepreneurs — in general, the upper crust of society whose sense of noblesse oblige mandates involvement in the arts, sciences, and humanities.

They're not the Rockefellers. They are the Sacklers, who own Napp Technologies Inc., the Lodi

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BROTHERS: Plant

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factory where four workers died last week in a chemical explosion.

Napp is an important piece of an international pharmaceutical empire whose crown colony is Purdue Frederick Co., a big player in the multibillion-dollar drug industry. Brothers Mortimer, Raymond, and Arthur Sackler, all research psychiatrists, bought the Manhattan-based Purdue Frederick in 1952, when annual sales totaled about \$20,000, and built a privately held company with yearly sales of about \$400 million.

Arthur Sackler, once considered one of the country's leading art collectors and patrons, died in 1987. Raymond, of Greenwich, Conn., and Mortimer, who lives in England, continue to steer a company that has carved a niche among the pharmaceutical giants. Both brothers are in their 70s.

"Enormously generous. That's the best way to describe the Sackler family," a representative of the Metropolitan Museum of Art in New York City said.

Although the family has made untold fortunes in various business ventures, it has managed to keep a low profile. Raymond Sackler declined to comment when contacted, and Mortimer Sackler could not be reached for comment on the explosion at Napp Technologies that injured more than 40 people and forced 400 residents to evacuate.

"The Sacklers are very, very, very distressed by all this," said Howard Udell, Purdue Frederick's

vice president and the corporation's general counsel. "But they live very private lives."

Udell said the Sackler family has pledged "to make things right" by compensating the families of the four men who died in the Napp explosion.

"We will be doing the right thing for the families, and when the dust and debris clear, anyone who looks back at what the company did before, during, and after this catastrophe will conclude the company did the right thing," he said. "These people have suffered, and things will be made right."

Using a network of corporations and subsidiaries, Purdue manufactures more than 100 products, mostly over-the-counter and prescription drugs, including the laxative Senokot, the antiseptic Betadine, and MS Contin morphine pills.

A New York corporation with its principal offices in Norwalk, Conn., Purdue Frederick, along with Sackler-owned Runham Corp. and Banela Corp., also markets and distributes Alferon N Injection, an anti-cancer medication manufactured by Interferon Sciences Inc. of New Brunswick.

"Our objective is to sell a quality product, an innovative product, and one that contributes real value to its patients," Udell said.

Purdue's flagship product is its MS Contin morphine pills, which officials tout as the first controlled-release morphine pills to be effective in relieving the pain of terminal cancer patients.

Purdue officials said Napp Technologies is the only chemical-manufacturing company in which the Sackler family holds an ownership interest. However, Purdue contracts with several independent manufacturers throughout the United States to produce the chemicals for its pharmaceuticals.

"We, like other pharmaceutical companies, buy the chemicals and raw materials for our products from a long list of companies," Udell said. "There are dozens."

Napp is a small but primary part of the family's pharmaceutical operations. The Lodi company, purchased in 1970 by the Sacklers, produced the chemicals and materials used to make Trilisate, a Purdue analgesic.

The Sacklers' ties to North Jersey also include The PF Laboratories in Totowa, a sister corporation to Purdue whose labs make and package the company's finished pharmaceuticals from chemicals and raw materials produced at Napp and other suppliers.

"PF Labs makes all the finished products for Purdue," Udell said.

Purdue Frederick Co. then distributes the drugs in the United States, with the help of Purdue Pharma Inc., a subsidiary in Norwalk. Mundipharma Pharmaceutical, a Purdue entity in Canada, distributes Purdue's products outside the United States.

Purdue distributes its products in 56 countries and lists research facilities in Yonkers, N.Y., Canada, the United Kingdom, Germany, and Israel.

Purdue, which has about 350 employees at its corporate offices

in Connecticut, employs 2,500 physicians, chemists, pharmacists, and other medical professionals. The company's sales in 1993, the last year for which figures were available, approached \$400 million.

The various business holdings have provided the Sackler family with the wherewithal to achieve national prominence as philanthropists, not only donating priceless art to museums but also funding the museums and galleries themselves.

"The Sackler family has been very involved with the gallery and has made substantial donations," said Susan Bliss, a spokeswoman for the Arthur M. Sackler Gallery, a museum of Asian art at the Smithsonian Institution. The Sacklers donated art valued at \$50 million and posted \$4 million toward construction of the three-story, underground museum beneath the Mall in Washington.

The Metropolitan Museum of Art holds individual galleries named for Mortimer and Raymond Sackler and several other members of the family. These complement the Sackler Wing, a separate extension of the museum funded by the Sackler brothers.

Institutions that have benefited through the family's non-profit Sackler Foundation include the National Gallery of Art in Washington; Long Island University, which received a \$2 million donation to build an educational facility; Clark University in Worcester, Mass., which got an \$8 million contribution; Tufts University, and New York University.

Blast site in Lodi won't be rebuilt

NEWARK (AP) — A chemical plant where an explosion and fire killed four workers and critically injured another last week will not be rebuilt in Lodi, the company's owners announced yesterday.

Following the accident that devastated the plant last Friday, Lodi Mayor Philip Toronto and other borough officials said new zoning ordinances would make it almost impossible for Napp Technologies to rebuild its facility.

So the owners have decided to leave.

"They said, 'We will not go where we are not wanted,'" said Napp spokesman Lloyd Kaplan.

The company, which manufactured chemicals for use in pharmaceutical and cosmetic products, plans to build a new factory, which would meet the most stringent safety standards, at an undetermined site outside the borough, Kaplan said.

The company was planning to meet with workers to discuss whether they will keep their jobs and to talk about other pressing issues, Kaplan said.

Friday's explosion and fire occurred after chemicals being mixed in a vat turned volatile, Bergen County prosecutors said Tuesday.

Prosecutors said workers at the plant allowed the explosive mixture to smolder for about 12 hours before notifying authorities or taking emergency measures to stabilize the mixture.

Prosecutors said workers at the plant allowed the explosive mixture to smolder for about 12 hours before notifying authorities.

Employees at the plant insisted they followed proper procedures.

"The workers did what they were supposed to do," said James Gannon, an employee who was burned in the blaze. "They did the right thing."

The company is undertaking an extensive review of the incident, but also believes the workers acted appropriately, Kaplan said.

"Based on preliminary discussions, we indicate that there was no reason to have summoned the fire department Thursday evening," Kaplan said.

FOUR WORKERS died, and a fifth, Buster McKenzie, remained in critical condition at Hackensack Medical Center with burns over 90 percent of his body, said hospital spokesman Valerie Jordan.

A busload of workers from the Napp plant was scheduled to travel to Trenton today to commemorate National Worker Memorial Day on the steps of the State House, said Rick Engler, vice president of the New Jersey Industrial Union Council,

AFL-CIO.

The Napp Technologies plant in Lodi was part of an international pharmaceutical empire built by brothers Mortimer, Raymond and Arthur Sackler. Its centerpiece is Manhattan-based Purdue Frederick Co., with annual sales of \$400 million.

Arthur Sackler died in 1987. His brothers continue to be active in the family businesses.

The Lodi factory produced chemicals used to make Trilisate, a Purdue analgesic.

The Sacklers planned to compensate the families of the four men killed in the explosion, said Howard Udell, a member of Napp's board of directors.

"We will be doing the right thing for the families, and when the dust and debris clear, anyone who looks back at what the company did before, during and after this catastrophe will conclude the company did the right thing," Udell said. "These people have suffered and things will be made right."

The Sacklers are nationally known art patrons and philanthropists. The family gave more than \$50 million in art and money to the Smithsonian Institution in Washington, D.C. The Sacklers have also donated millions to the Metropolitan Museum of Art in New York and to various universities around the country.

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HAZARDS LINGER IN LODI



BETH BALBIERZ/STAFF PHOTOGRAPHER

Equipment dismantling the Napp Technologies plant in Lodi this week. The work may take months.

Factory cleanup hampered

Fires, spills among dangers for workers

By EMILY LABER
Staff Writer

Unexpected explosions, small fires, and chemical spills have plagued workers cleaning up the burned-out remains of the Lodi chemical factory that was the site of a deadly accident one week ago.

There has been no danger to the public, and no workers have been injured. But officials say the situation is full of unknown potential hazards because many of the factory's chemicals were damaged, left unidentified, or thrown together with other volatile substances in the wake

of last Friday's explosion and fire at Napp Technologies Inc.

"There have been all sorts of situations encountered. . . . Most were sufficiently dangerous that had anyone been near them, they would have been hurt," said Jim Taradash, supervisor of the Bergen County Hazardous Materials Re-

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■ Napp officials say they won't rebuild in Lodi.

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■ Explosion contaminated fire equipment.

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Final loss from chemical blast could be all 109 jobs



By MICHAEL MOORE
and DEBRA LYNN VIAL
Staff Writers

The chemical plant destroyed in last week's fiery blast that killed four workers will not be rebuilt in Lodi, and owners raised the possibility Thursday that the company — and its 109 jobs — could disappear from North Jersey altogether.

"I don't want to make false promises and tell the employees we will be back in business," said Hans Peter Kirchgaessner, president of Napp Technologies Inc. "There is a willingness to continue the business, but we don't know where we will go from here."

Kirchgaessner said that if Napp does rise from its ashes, officials could not guarantee it would do so in New Jersey.

"Lodi doesn't want us here, and we will go somewhere else," said Kirchgaessner, Napp's broad-shouldered and intense 53-year-old leader. "I realize nobody wants a chemical company next to their home, and I certainly don't, either. But people don't realize that Napp was a big contributor to the town of Lodi with taxes, and it also brought jobs."

The announcement elated Lodi officials and residents, who have long wanted chemical companies out of a borough whose history has been punctuated by chemical plant accidents.

But the prospect of joblessness came as another blow to employ-

ees, who have spent the week attending the funerals of co-workers and keeping vigil at the bedside of another who was critically burned.

"There's no work out there. You can't feed your family without a job," said Ernesto Gonzalez, who had worked at Napp for 10 years.

The blast April 21 occurred after volatile chemicals being mixed in a vat were allowed to smolder for 12 hours, officials said. The explosion left more than 40 people injured, forced the evacuation of more than 400 residents, and sent acid-laden black smoke thousands of feet into the air.

During an interview Thursday, Kirchgaessner said he learned of the explosion from radio news while driving to work from his New York home.

"When I saw the cloud of smoke from the George Washington Bridge," he said, "it was one of the worst moments of my life."

He refused to comment on the events leading up to the explosion because investigations are continuing. However, he maintains that Napp officials acted responsibly and described the explosion as "an act of God."

"Something went wrong, terribly wrong," he said.

Napp's announcement surprised few. Long before the accident, Lodi officials had adopted zoning ordinances to muscle Napp and other chemical companies out of the heart of this working-class borough.

On Wednesday, Mayor Philip Toronto said Napp officials asked him if they could open a plant in an industrial section of Lodi. "They said that if our answer was 'no' they would move on," Toronto said. "Our answer is 'no.'"

The \$41,000 in property taxes Napp pays each year is not worth the risk to the residents, Toronto said.

"What has happened here has devastated our community," he said.

Napp officials said relocating beyond North Jersey could be unwise. Napp, part of an international pharmaceutical empire known as Purdue Frederick Co. based in Norwalk, Conn., produces chemicals for a number of New Jersey companies, including subsidiaries of Johnson & Johnson in New Brunswick. "We may not want to go too far from the customers," Kirchgaessner said.

In his first interview since the deadly April 21 explosion, Kirchgaessner fought with his emotions when speaking about the four employees who perished.

"I feel like a captain of a ship who has lost his crew," Kirchgaessner said, using his thick fists to wipe tears from his bloodshot eyes. "This has been terrible, just horrible."

Though the plant had a stormy history with the borough, it was a place that employed generations of families. Four McKenzie brothers — Carlton, Buster, Phil, and Fred

— were longtime employees, along with their father and several cousins. Others joined as teenagers, coming to work with their fathers.

"It wasn't the best-paying job, but it was the most caring place," said Carlton McKenzie, who worked at the plant for 22 years and hopes the plant will reopen in North Jersey. His brother, Buster, was burned over 95 percent of his body in the blast and is in critical condition at Hackensack Medical Center.

Employees doubted they could find other work in a region where most factories are struggling to survive.

"It's going to have a bad impact on the employees and the area," said Luis Ginorio, a local director with the Amalgamated Clothing and Textile Workers Union, the union representing Napp employees. "A lot of our guys live in Paterson, and that's not going to help that area either."

Company officials will meet with employees Friday morning. Workers have already been told they will be paid through May 5 and receive health benefits through the end of May.

"I'm 53. I'm too old to get another job," said Fred McKenzie, who worked at the company for 19 years. "You want to open a restaurant with me?"

Staff Writer Mary Jo Layton contributed to this article.

FACTORY: Unknown hazards hamper chemical cleanup

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sponse Team. "We've had several drums ignite on us; we've had one that ... exploded after being run over by a piece of equipment. It's a real problem for us."

The huge explosion and fire at Napp Technologies, a pharmaceutical company, killed four workers, injured 40 people, forced the evacuation of 400 residents, and damaged nearby buildings. A fifth worker, Buster McKenzie of Paterson, remains in critical condition at Hackensack Medical Center with burns over 95 percent of his body.

Since the explosion, life in Lodi has slowly been returning to normal, with Main Street set to reopen today.

But officials say the complicat-

ed hazardous-waste cleanup is bound to take months and will be treacherous, in part because they still are unclear about the nature of every chemical in the building.

"You go in with a truck and try to scoop up a pile of material in front of you, you push it forward into another pile of material, and you could have a reaction," said Gary Allen, region chief of the Department of Environmental Protection's Bureau of Emergency Response, who is overseeing the cleanup.

And though officials do not expect the work to disrupt the neighborhood, they have not ruled out the possibility of future evacuations if toxic vapors are released or other dangers emerge.

"In the worst-case scenario,

that there is any concern [about danger at the site], we will err on the side of safety," Mayor Philip V. Toronto said. "[We will] ask people to leave the premises; we will secure the premises, do what we have to do, and then bring them back."

But a high-ranking state environmental official who toured the site Thursday called the chance of an evacuation minimal.

"I'd never say never, but from what I saw and heard today, I see that as very unlikely," said Bob Van Fossen, the DEP's assistant director for discharge response element.

The 1-acre Napp site is a tangle of twisted metal and rubble, and on Thursday morning a backhoe and front-loader were lifting piles

of debris and dumping them into an open tractor-trailer to be carted away. A metal fence is being erected to enclose the site.

The part of the building where most of the medicines were manufactured, and which was most severely damaged by the initial explosion, has been designated the "hot zone." Any workers who venture inside it will have to wear special protective gear and be decontaminated afterward.

One incident occurred Tuesday while workers were removing lockers containing small bottles of chemicals from a laboratory area, Taradash said. Because the lab at the front of the building, officials wanted to clear it out before reopening Main Street to traffic.

After a locker was lifted by a

piece of machinery and set back down, it exploded, causing a contained chemical fire that burned for 45 minutes.

Also, a 55-gallon drum exploded after a piece of heavy equipment ran over it. Several other drums have spontaneously burst, Taradash said, presumably because they had been damaged by fire,

falling debris, or the water that was used to douse the original flames.

Taradash said the number of potential dangers will grow as work begins in the "hot zone."

Small chemical fires and spills also have occurred. On Thursday, a bottle of acid broke, spewing white smoke, Van Fossen said.

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NEW JERSEY

'OUR JOBS ARE KILLING US'



AL PAGLIONE/STAFF PHOTOGRAPHER

A worker in protective clothes continuing the cleanup at the Napp factory Friday.

Rally for safety

Union memorializes Lodi victims

By CHARLES YOUNG
Trenton Bureau

Holding aloft a sign bearing photographs of the four workers who died last week in Lodi and the words, "Our Jobs Are Killing Us," union members from across the state rallied Friday as part of Worker Memorial Day.

About 100 workers came to remember those who have died on the job and to criticize Governor Whitman for what they called her attempts to "gut" laws designed to protect workers.

Despite the rally's focus on dangerous working conditions, many of the 13 employees on hand from Lodi's Napp Technologies Inc. said they believed the Napp factory, destroyed by an explosion and fire, was a safe place to work.

Danuta Berlinski of East Rutherford came to the rally with her husband, Stanley, who had worked at the chemical factory for five years. He was walking into the factory April 21 when the explosion pushed him back and showered him with bits of concrete. He was unhurt, but three of his co-workers and his boss were killed.

"He [Stanley] wanted to participate today because he lost his good friends. They were very good people who died," Danuta Berlinski said for her husband, a Polish immigrant who speaks little English.

Leo Santiago, 42, of Paterson, led a moment of silence for his Napp co-workers.

"I wanted to honor those that died," said Santiago afterward, his

eyes filled with tears.

"We want to continue with the company," said Santiago, who worked at the plant for seven years and was the union's shop steward. "They were good to us and we can't blame them for anything. It was an accident. When you work with chemicals, it's like that. But where do we go now?"

Danuta Berlinski had the same concern.

"We have five children to support. How can we support the family without work?" she said.

Napp's employees will receive their full pay through July 7, company officials announced Friday morning. If the 105 employees find work during that period that pays less, Napp will make up the difference.

"We value and respect our dedicated work force and are committed to do all we can to be helpful during this difficult period," said Hans Peter Kirchgaessner, president of Napp Technologies.

Employees and their union representatives said they were satisfied with the plan.

"This company has been good to us," said George Bukowski, who had worked in the maintenance department at the plant for seven years. "They're doing the right thing."

Napp officials have offered to continue discussions with employees and help set up job-training workshops and sessions with counselors to help workers deal with any psychological stress from the explosion.

One Napp worker, who would not give his name but said he was an



ASSOCIATED PRESS

Napp Technologies Inc. employee Tom Branigan, left, comforting co-worker Leo Santiago, after Santiago spoke on behalf of the Napp workers who died last week.

assistant shop steward, said some employees would not attend a Tuesday memorial service organized by Lodi officials. He said they would stay away to protest the way the town for years tried to drive the company out of the community.

The Napp workers arrived in Trenton on a bus with about 30 other members of the Amalgamated Clothing & Textile Workers Union from North Jersey. As the Napp workers stepped off the bus, they were applauded by about 60 people gathered for the rally.

"These are the latest victims of the war on working people in this country," announced Bill Kane, president of the New Jersey Industrial Union Council, AFL-CIO. The council, which represents 235,000 workers in the state, sponsored the Worker Memorial Day rally. Organizers covered the front steps of the State House with mock tombstones representing those who died from job-related injuries or diseases.

Wallace Burdick, 67, of Washington Township, said that although he thought Napp was a safe place to work during his 18 years there, he

doesn't want the state to change laws that protect workers.

"We have to keep industry safety laws intact and OSHA [Occupational Safety and Health Administration] intact," he said.

After the rally, participants marched about one-half mile to the state Department of Health, where they delivered what union officials said were between 5,000 and 6,000 postcards demanding information on the state Worker and Community Right to Know law. By cutting funding and changing regulations, Whitman is making the law ineffective, the unions charged.

Rita Manno, a spokeswoman for the governor, said Whitman was committed to worker safety. "The governor believes they [the changes] will not impact worker safety," she said. "The chemicals on the [Right to Know] list are always under review and we are continually looking at the list and adding and subtracting things."

Staff Writer Debra Lynn Vial contributed to this article.

Lodi firm failed to list all hazards

Violated laws on disclosure

By MICHAEL MOORE
Staff Writer

Napp Technologies Inc. violated Right to Know laws by failing to notify environmental officials that the chemicals involved in the fatal April 21 explosion were on hand at its factory in Lodi, state officials said.

None of the three chemicals that sparked the runaway reaction — aluminum powder, sodium hydrosulfite, and benzaldehyde — was listed on the company's last Right to Know filings to state and federal environmental agencies, the officials said.

Right to Know laws are designed specifically to advise the public and emergency response personnel of the presence of potentially hazardous substances in their midst. The laws apply to thousands of institutions and businesses, from oil refineries to lawn-care services.

"If the company had those materials on the site, then the report they filed is not accurate," said Allan Edwards, the second-in-command of the state Department of Environmental Protection's Right to Know monitoring arm. "Aluminum powder is on our list and on the federal Environmental Protection Agency's list, so if there is more than 500 pounds of alumi-

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■ Scores left jobless by the disaster contemplate their fate. A-4

NAPP: Unlisted chemicals

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num. on site, it must be reported. That's the law."

Four workers died in the Lodi explosion, which also injured more than 40 people and forced the evacuation of about 400 residents.

The chemical concoction at Napp — which officials say was allowed to smolder in a huge vat for 12 hours before it erupted — included 1,000 pounds of aluminum powder, a highly flammable substance when mixed with water, 8,000 pounds of sodium hydrosulfite, and an unknown quantity of benzaldehyde. Napp officials say the mixture was designed to produce a solution that helps extract gold from compounds.

Edwards said it appears that Napp also was obligated to notify state and federal authorities of its use of sodium hydrosulfite if the Lodi plant stored more than 10,000 pounds.

"If they are mixing some 8,000 pounds in the reactor, I would think they would have much more on site," said Edwards, the assistant director of DEP's Release Prevention Element Office. "There's usually a surplus involved."

When workers added benzaldehyde to the mixture, the tube that was feeding it into the vat clogged. Workers tried to clear the pipe with water but a portion seeped into the vat and reacted with the sodium hydrosulfite, which then began to smolder.

Edwards said the company was obligated to list benzaldehyde only if Napp stored more than 10,000 pounds.

Napp's latest state Right to Know survey lists about 65 chemicals, ranging from methanol, or wood alcohol, to xylydine, which can penetrate skin and cause liver damage.

“They were lucky something worse didn't happen.”

Keith Lewandosky
County environmental specialist

But the 14-page report filed on Feb. 27, which details chemicals used and stored at Napp during 1994, does not include the three chemicals linked to the explosion.

Signed by Frederick Schaefer, a Napp vice president, the report pledges that the information it contains is "true, accurate, and complete."

Napp officials maintain the chemicals were included in the company's 1994 Right to Know survey.

"Any reports that ingredients are not filed with the proper agencies are completely incorrect," said Lloyd Kaplan of the New York City public relations firm of Rubenstein Associates, hired by Napp Technologies after the explosion. "Everything was filed correctly, all the appropriate sheets."

But DEP officials said Napp representatives told them this week they didn't include aluminum powder and sodium hydrosulfite on their latest Right to Know survey because the company only began mixing the chemicals in 1995.

Therefore, Napp officials said, the company was exempt from identifying the chemicals in the recent report because it required documenting chemical activity and storage only during 1994, DEP officials said.

"We were given information that this was a new process the company just brought on line," said Bruce Doyle, a DEP emergency response specialist.

Despite what DEP officials say Napp told them, Napp President Hans Peter Kirchgaessner recently told The Record that the company had mixed the chemicals before, including 1994, to make the gold-extracting compound. Kirchgaessner said he did not know how many times the product was mixed last year. Kaplan also said Friday that the Lodi plant has manufactured the compound since 1992.

"The workers dealt with these chemicals before," Kirchgaessner said. "This wasn't something new."

The DEP's Edwards said if Napp used the chemicals in 1994, the company not only violated the state's guidelines, but also similar federal Right to Know stipulations. Officials from the EPA did not return calls Friday.

Keith Lewandosky, Bergen County's senior environmental specialist, said Napp's failure to provide an accurate inventory of the plant's chemicals ultimately created a greater hazard for firefighters, rescue officials, and even residents near the scene.

"These chemicals weren't reported at all, and you're talking about two water-reactive chemicals that pose a severe risk to anyone around that amount, and mixture, of them," Lewandosky said. "They were lucky something worse didn't happen."

On their own, the chemicals may also pose hazards, according to the Encyclopedia of Chemistry. Benzaldehyde is moderately toxic if ingested. Aluminum powder is highly flammable, and sodium hydrosulfite is combustible.

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4/30/95

'Our friends are dead; our jobs are gone'

By DEBRA LYNN VIAL
Staff Writer

They buried four of their friends in four exhausting and painful days.

Then they attended another last rite.

The three men stood rigidly just outside the mangled gate of the Napp Technologies plant in the early-morning drizzle. For 10 long minutes they silently looked at the charred rubble that was once their factory.

"It's gone," said Ernesto Gonzalez, who worked at the Lodi plant for 10 years until it was destroyed in the explosion that killed four men April 21. "Our friends are dead. Our jobs are gone."

And soon the remains of this chemical plant also will be gone.

Gonzalez and the two other men had come to say goodbye. "I had to see this place one last time," he said.

He was dressed in heavy work clothes for a job that no longer exists. He had put them on out of habit. "I'm not thinking right these days," he said.

Someday new shops — maybe a park or homes — will be built on the site where the Napp Technologies Inc. plant sits in a contaminated ruin on Main Street. For now residents are just relieved to see the demise of another factory in the heart of this working-class borough — a borough whose past has long been marred by chemical accidents.

But for the more-than-100 employees who survived the fiery blast, the end of the Napp factory means the end of their jobs, and of a company they considered their family.

"We were all brothers," said Leo Santiago, a 42-year-old Paterson resident who worked at the plant for seven years and was the union shop steward. "This is painful for everyone."

The explosion occurred after volatile chemicals being mixed in a vat were allowed to smolder for more than 12 hours, according to the Bergen County Prosecutor's Office. The blast left more than 40 injured, forced the evacuation of more than 400 residents, and sent acid-laden black smoke thousands of feet into the air. Runoff from the fire killed hundreds of fish along a two-mile stretch of the Saddle River.

Napp officials said the plant will not be rebuilt in Lodi and say they doubt whether the company will rise again in any location.

Although the plant had a stormy relationship with the borough, it was the kind of company that employed generations, a place where fathers worked alongside their teenage sons. There were company parties and late nights in bars. Many workers lived in the same neighborhoods of Paterson and Passaic, so it wasn't unusual for a carload of Napp employees to

arrive unexpectedly at the soccer game of a co-worker's child.

"This is a place where everyone cared about everyone," George Bukowski said. "It was family."

Bukowski, of Lodi, worked in the maintenance department at Napp for seven years. Now he is one of 235,000 unemployed New Jersey residents.

He's already begun looking for work, but doesn't have much hope of finding a job soon. "It's going to be rough," he said.

At their union office on Friday morning, a dozen former Napp employees scribbled down names of employers who might be hiring. Napp has agreed to pay them through July 7, but in a region where factories are struggling, most say it will take months to find work.

In his crowded Paterson row house, Carlton McKenzie already is worried about money. His back was seriously burned in the blaze and he walks stiffly and speaks slowly from the pain. But his primary complaint is emotional.

"I feel bad," said McKenzie, who worked at the plant for 22 years. "It's pretty hard to find work once you're past 50."

It's only been a week now, but they're already telling stories about what it was like in what Gonzalez calls the "Napp days." Many of the stories focus on those who paid the highest price in the fire.

Buster McKenzie, Carlton McKenzie's 44-year-old cousin, who was the most seriously hurt of nine injured Napp workers, always had the latest joke ready for his co-workers.

Calixto Rivera, 37, was so fastidious he would wear a tie while playing baseball. James Wilbur Gourdine, the 55-year-old maintenance supervisor, was the tinkerer who could fix anything at the plant.

And then there was Glenn Terraneo, the 33-year-old production supervisor who, after a long shift at work, would tend to his few feet of dirt in his Clifton back yard. Each summer he'd pray he would finally be able to grow some grass or keep some flowers alive past July.

"None of us had any secrets because we were so close," Gonzalez said. "But we had a good time."

Last week, this was a family in mourning. Rivera, Gourdine, Terraneo, and Thomas Furlong Jr., a 38-year-old production supervisor, died in the explosion. There were wakes and funerals for the four men, all fathers.

"I saw more roses and old suits this week than I ever want to see again," said one employee who did not want to be identified. "There are no words for this kind of pain."

Many Napp employees didn't go home for days, catching quick naps on cots at the homes of their deceased co-workers while they helped organize the burials. Those who did sleep fought

nightmares.

"I can't stop thinking about it," said the worker who was injured in the blast and did not want to be identified. "I keep dreaming they are walking out the plant laughing like they always did. But then the plant blows and their skulls are crushed."

"My friends disappeared in that fire," said Alfredo Gamarra, a 47-year-old Passaic resident who worked at the plant for seven years. "It is too much."

Their grief turned to anger when the Prosecutor's Office blamed worker carelessness for causing the explosion. "We know our jobs," said an outraged Santiago, who, like many employees, said he would return to Napp if the company opened another plant. "We wouldn't jeopardize each other's lives that way."

The workers say the four men who died were heroes because they chose to stay near the vat to try to bring the emergency under control.

"Our hearts are broken from all this," said Napp Technologies President Hans Peter Kirchgaessner. "But these problems and adversity we're going through is somehow bonding us together. It's amazing how people stick together."

Furlong, a father of three young children, had to be buried without the St. Christopher medal he always wore. It was lost in the explosion.

And Jose A. Rivera had to bury his brother in a closed casket because his body was so badly burned it could be identified only through dental records.

"I wanted to see him one last time and they told me not to open the casket," Rivera said. "The people at the funeral home told me that in the 35 years they had been in business they had never seen anything as bad as what he looked like."

"I loved him," he said. "I just wanted to see him again."

Now he is worried that with the plant gone and the employees scattered, his younger brother will be forgotten.

"Everyone talks about the fish that were killed," he said. "Well, my brother died. People need to think about him. I don't like to think of him alone in the cemetery."

On Friday the demolition of the Napp factory continued. The streets of downtown Lodi are reopening and the town slowly is returning to normal. The fence around the Little League field streams with paper flags.

After his two former co-workers left, Gonzalez stayed behind to watch cranes crush the remains of the plant. Residents stopped to gawk at the blackened steel.

"Nobody in this place is going to remember us," Gonzalez said. "People are just glad we're gone."

145X

Worker at Lodi plant dies from burns in blast

By CHRISTOPHER MUMMA
and MARY JO LAYTON
Staff Writers

Buster McKenzie, the Napp Technologies employee who sustained burns over 95 percent of his body in the deadly April 21 explosion at a Lodi chemical plant, died Monday, said a spokeswoman at Hackensack Medical Center.

McKenzie, 44, of Paterson, died at 8:19 p.m., the spokeswoman said.

He became the fifth Napp employee to die of injuries from the massive explosion that injured more than 40 people and forced the evacuation of 400 residents.

McKenzie, who worked at Napp for nearly 22 years, was a leadman, a supervisory position under foreman, who managed chemical operators, said his cousin Carlton McKenzie, who also worked at the plant.

Officials said McKenzie volunteered to enter the plant April 21, when a smoldering vat of chemicals had been left unchecked for more than 12 hours. McKenzie, who entered the building with five other employees, intended to smother the chemicals.

But the fumes quickly overcame the crew, and McKenzie was sent to another room to look for masks. He was there when the explosion occurred. It killed the four men closest to the vat.

A fifth man was blown toward the door. Buster was in the burning building for several minutes until firefighters carried him out.

"He was a great man," said Fred McKenzie, a relative.

Doctors told the family that McKenzie would live only a few hours. But when he was still alive several days after the explosion, his family said, they allowed themselves to hope he would survive.

He spoke a few words to his brothers when they visited him. "All we could see was his eyes, because the rest of him was bandaged," a cousin said.

Bergen Record 5/2/95

146X

Lodi air tests called inadequate

By MICHAEL MOORE
Staff Writer

Within hours of the deadly explosion at Napp Technologies Inc., environmental officials sought to allay fears by stressing that the air in the area surrounding the Lodi fire site posed little risk to residents.

But now, more than a week after the April 21 chemical blaze that killed five workers, those officials who conducted air-sampling tests during the fire acknowledge that there are no guarantees people were safe.

Officials with the state Department of Environmental Protection, which conducted

DEP: No guarantees of safety

the bulk of the air tests in Lodi, said the equipment it used to test for elevated levels of dangerous chemicals and hydrocarbons is unable to record some byproducts of chemical fires, including substances that can be "very hazardous."

"In a situation like this, there are compounds which escape detection to which people are going to be exposed," said Bruce Doyle, an emergency response specialist for the DEP. "For me to sit here and tell you

there's no possibility of long-term health effects, especially from a fire like this, would be irresponsible."

Doyle said the DEP's air-monitoring equipment, although modern and efficient, was unable to decipher the full spectrum of
See AIR Page A-8

■ **Bradley seeks federal funds for probe of Lodi blast.**
A-9

"For me to sit here and tell you there's no possibility of long-term health effects, especially from a fire like this, would be irresponsible."

Bruce Doyle
Department of Environmental Protection

A-8 THE RECORD

FROM PAGE ONE

WEDNESDAY, MAY 3, 1995

AIR: Risk overlooked?

From Page A-1

chemicals made airborne by the blast and fire. The equipment can adequately assess the hazards of chemicals in what Doyle referred to as "cleaner smoke."

But officials are still in the dark about the composition of thick, black smoke produced by the fire, the most visible element of a plume that stretched at one point for miles.

"That black smoke was made up of particles of unburned chemicals that can be hazardous, very hazardous, if ingested," Doyle said. "It's so thick sometimes that it's almost like breathing dust. And our machines don't pick this type of stuff up, which makes it difficult to detect all the chemicals in the air during this type of fire."

Doyle said the black smoke could have comprised unburned elements of any of the hundreds of chemicals stored at Napp, ranging from innocuous substances to toxic materials. He said such smoke is dangerous primarily when airborne, and usually settles quickly.

Among the chemicals detected by the DEP's air-sampling equipment, set up about 150 feet from the site within an hour of the blast, were elevated levels of sulfur dioxide, nitrogen dioxide, and formaldehyde — all products of chemical reactions resulting from the fire.

Doyle said the level of sulfur dioxide posed the most danger to

firefighters, rescue personnel, and nearby residents. DEP officials said levels of sulfur dioxide peaked at 25 parts per million, five times greater than the amount considered safe for hourly exposure.

When ingested, sulfur dioxide can turn into a form of sulfuric acid if mixed with water. And, in turn, that concoction can cause severe internal swelling.

At the same time, similar air-sampling tests conducted by county officials and the federal Environmental Protection Agency produced results that differ from the DEP findings.

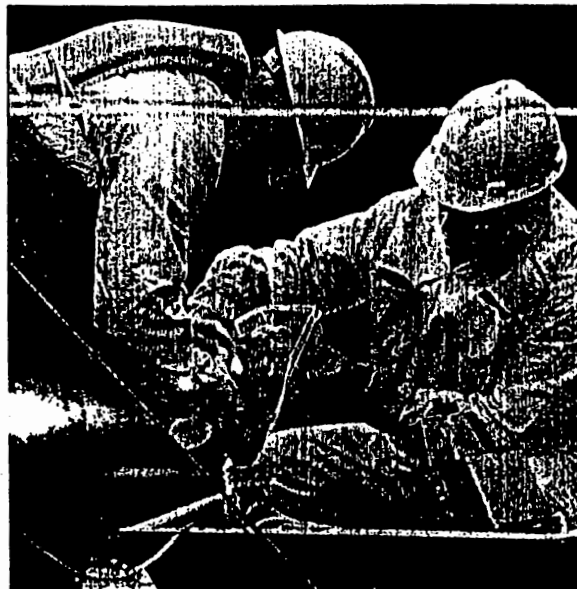
County officials, using similar sampling equipment and testing locations as DEP officials, found only slightly elevated levels of sulfur dioxide.

"The highest level we got was 3.8 parts per million of sulfur dioxide," said Keith Lewandosky, Bergen County's senior environmental specialist.

Lewandosky added that the county's tests failed to detect elevated levels of any other chemicals.

EPA officials said they did not have the results of the agency's air-sampling tests at Lodi but that they had received assurances from the laboratory compiling a report on the findings that no recorded levels posed any health risks. The officials refused to elaborate.

In addition to the deaths of the



BETH BALBIERZ/STAFF PHOTOGRAPHER

Hydrogeologist Art Goeller, left, and environmental scientist David Signor collecting sediment samples Tuesday in the Saddle River in Lodi, near the Napp Technologies site devastated by an April 21 blast.

five workers, the Napp explosion resulted in more than 40 injuries, including a few to residents of the neighborhood. Additionally, 400 people were evacuated as a precaution.

Environmental groups say the conflicting findings underscore the haphazard and "potluck" nature of air testing around chemical accidents.

"Chemical-accident investigations are very uncoordinated, and the data that different agencies come up with are not always correct," said Joel Tickner, a policy analyst with the National Environmental Law Center, a Boston-based organization that has tracked and evaluated more than 34,500 chemical accidents in the United States since 1988.

AIR TESTING IN THE SMOKE'S PATH

As the Lodi chemical fire burned, air at the site and in surrounding towns was tested for harmful substances.

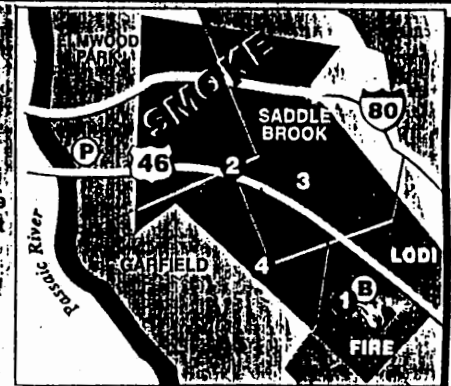
(Readings expressed in parts per million)

■ Only the site adjacent to the chemical plant, which was monitored by
① the Department of Environmental Protection and
② Bergen County, produced readings. These readings varied.

DEP readings
■ nitrogen dioxide 1 to 3 ppm
■ formaldehyde 1 to 4 ppm
■ carbon monoxide - 200 ppm inside the plume; no readings available outside
■ sulfur dioxide - ranging from 5 to 10 ppm, with a peak (about 60 seconds) of 25 ppm

Bergen County reading
■ sulfur dioxide - peak of 3.8 ppm

■ The DEP sent teams 2, 3, 4 to other sites, and
③ Passaic County tested at one location just across the Passaic River in Elmwood Park. No chemicals were found.



KEVIN O'NEIL / STAFF ARTIST

147X

BR 5/4/95

Bull story in Lodi

No wonder people don't believe government

IT'S very upsetting to learn that the state didn't level with the people of Lodi and tell them there was no way anyone could be completely sure about their safety the day of the chemical explosion at Napp Technologies.

Shortly after the blast on April 21 that took five lives and blanketed the area with a black cloud of poisonous smoke, 400 nearby residents were evacuated and others were told to stay indoors and close all windows to avoid any toxic fumes.

But a day later, Bruce Doyle of the Department of Environmental Protection, said things appeared to be safe. "It is impossible for me to say definitively that nothing involved in the fire could be carcinogenic" or cause other serious long-term health problems, said Mr. Doyle, an emergency response specialist. "However, we did extensive sampling of the air and water, and there is no evidence of such compounds."

Now Mr. Doyle has told The Record's Michael Moore that the air testing was only "extensive" up to a point. That's because the equipment the DEP used could not measure everything. It could not record some of the byproducts of chemical fires, including some sub-

stances that Mr. Doyle said can be "very hazardous."

The thickest, blackest smoke produced by the Napp explosion was made up of "particles of unburned chemicals that can be hazardous, very hazardous, if ingested," Mr. Doyle said this week. "And our machines don't pick this type of stuff up, which makes it difficult to detect all the chemicals in the air during this type of fire."

Shouldn't the DEP have shared that vital information with Lodi residents on the day of the explosion? Shouldn't agency officials have said, "We're not sure exactly what the dangers are, so let's take all precautions"?

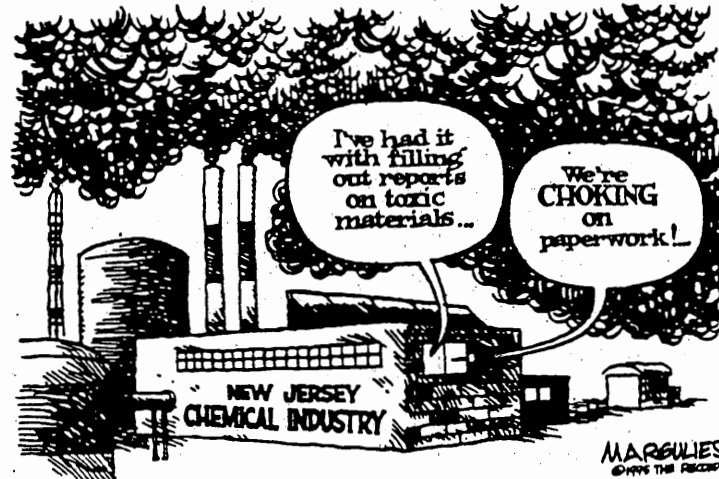
Although it may have been embarrassing for the state to admit its equipment was inadequate, it would have been wiser to err on the side of caution.

For the future, New Jersey should get the most sensitive equipment that money can buy. Chemical manufacturing is the state's largest industry, and 15,000 chemical plants operate here.

In the meantime, the agency should consider leveling with the public. No wonder there is so much cynicism about honesty in government.



We encourage readers to contact our editorial writers, Richard Benfield, Tom Moran, Mary Ellen Schoonmaker, and Jim Wright. Please leave messages for them by telephoning (201) 525-4600, Ext. 2260, sending a fax to (201) 646-4749, contacting them via e-mail at newsroom@bergen-record.com, or writing them in care of The Record, Opinion Section, 150 River St., Hackensack, N.J. 07601-7172.



Accident at Lodi shouldn't be allowed to happen again

By CURTIS FISHER

The chemical explosion at Napp Chemicals in Lodi was a grim reminder of the toxic risks associated with New Jersey's chemical industry that produces more toxics than any other state except Texas — a state with twice New Jersey's population and 30 times its size. The toll in human suffering was immeasurable: Four workers died and 41 were injured; thousands of fish in the Saddle River were killed by the toxic runoff. Through a stroke of luck, the elementary school, only one block away from the plant, was closed because the school took advantage of unused snow days and canceled class.

New Jersey residents and workers know all too well that the Lodi accident is not the first major chemical accident in New Jersey. In a report entitled "Accidents Do Happen," the New Jersey Public Interest Research Group and the National Environmental Law Center found 857 chemical accidents occurred between 1988-1992 in this state, placing New Jersey 10th in the nation. One in 13 of these accidents caused immediate injuries or death, or required an evacuation. A New York study found this federal data dramatically underestimates the human toll of chemical accidents.

The Lodi accident ought not be repeated. Yet, our industry and political leaders seem resigned to allow these toxic threats to remain unchecked. Hal Bozarth, executive director of the Chemical Industry Council of New Jersey, responded to the news of the Lodi accident by saying, "These things do happen, just as places go down." More troubling is Gov. Whitman's refusal to connect the Lodi chemical accident to the rollback in the New Jersey Pollution Prevention Act in a recent press interview.

Whitman may be interested to learn that the easiest way to eliminate or reduce the chance of toxic accidents is through prevention. That simple concept is embodied in the New Jersey Pollution Prevention Act of 1991, which requires companies to plan and report on ways to reduce the use of toxics. In the first year of implementation, New Jersey companies expect to reduce the use of toxics by 122 million pounds. Once a company switches from toxic to nontoxic materials, worker and consumer toxic exposure decreases, pollution generated at these facilities drops, and there is less of a chance of a serious accident.

Despite this law's record of success, the chemical industry is pushing a bill (S-308, sponsored by Senate Majority Leader John O. Bennett III, R-Monmouth) that would rollback the Pollution

*The easiest way to
reduce toxic accidents
is through prevention.*

Prevention Act's most critical element: its focus on reducing toxics use in New Jersey. The Assembly already has passed the bill, and the Senate Environmental Committee is expected to hold hearings on the bill in May. The chemical industry has also proposed radical reform of other laws which protect against chemical accidents.

Over 160 organizations and 20 prominent medical professionals in New Jersey have urged legislators and Gov. Whitman to oppose this callous and radical attack on the Pollution Prevention Act. It is too late to prevent the deaths that occurred in Lodi, but preserving the Pollution Prevention Act and other environmental laws may prevent the next Lodi.

□ Curtis Fisher is environmental advocate for the New Jersey Public Interest Research Group in Trenton.

Health Dept. mailing chemical fact sheets

By DONALD WARSHAW

The state Department of Health will respond to a massive request for information on potential chemical hazards in the workplace filed by some 3,000 union workers and community activists, a department official said yesterday.

The postcard requests for hazardous substance fact sheets were submitted to Health Commissioner Leonard Fishman shortly after the April 21 explosion that killed five workers at Napp Technologies in Lodi.

The fact sheets provide data on 1,045 different chemicals, explaining their impact on health, their potential to ignite or explode and methods for safe handling.

The campaign marks the largest coordinated use of the New Jersey Worker and Community Right to Know

of former Gov. Thomas Kean.

Whitman's proposed budget would reduce funding for the Right to Know program by 38 percent, threatening the Health Department's ability to make full and timely responses.

"It is outrageous that in the dozen years since the act was passed, less than one-half of the required fact sheets have been issued by the Department of Health," said IUC president Bill Kane. "The tragedy at Lodi demands that Gov. Whitman fully fund the state Right to Know program to finish the job as required by law."

Kane said the IUC also has called on the Governor to seek passage of legislation requiring that all New Jersey private-sector employers distribute hazardous substance fact sheets as part of existing training programs on health and safety.

"The explosion at Napp Technologies suggests that Gov. Whitman should be strengthening our safety and health laws, not gutting them," said Sally Rees, chairwoman of Teamsters Local 877 Safety & Health Committee at Tosco Bayway Refinery in Linden.

"Workers are the first line of defense," added Jane Nogaki, co-chairwoman of the state Right to Know Coalition, an alliance of over 100 environmental, firefighter, labor and public health organizations.

"If Gov. Whitman takes away workers' right to know, neighborhood residents will suffer more fires, explosions and pollution," Nogaki contended.

Whitman intends no such actions, responded Rita Manno, the Governor's press secretary.

"The Governor is committed to the Right to Know Act and certainly is committed to recognition of hazardous chemicals in the workplace," Manno said. "The worker has a right to know."

The Governor "did support" a change in regulations by the Department of Environmental Protection "to remove some materials from the list," Manno said. "However, our standards in New Jersey are certainly higher in terms of reporting than any of the federal standards."

"She (Whitman) is being realistic about the number of the things on the list and some taken off were pure silliness concerning the kinds of things companies had to report," Manno maintained.

The postcard campaign was launched in February at around 75 workplaces in New Jersey as part of an effort to educate union members about the Right to Know Act.

*The fact sheets
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handling.*

Law since its passage in 1983, its sponsors said.

"We're going to prepare responses," said Kathleen O'Leary, director of occupational health service in the Health Department. "We've received requests routinely in the past but not through a postcard campaign."

"We have not yet looked at every postcard; they are requesting fact sheets which may also specify specific chemicals and we will provide those fact sheets," O'Leary added.

Sponsors of the mass filing said yesterday the campaign is aimed at persuading Gov. Christie Whitman to adequately fund and strengthen the Right to Know Act and the Health Department's responsibilities to enforce its provisions.

The state Industrial Union Council (IUC), a key sponsor, also called for completion of fact sheets for about 2,500 different chemicals in both English and Spanish as required under the act, passed during the administration

Star Helgen

5/5/95

150X

Chemicals at Lodi plant were cut off unsafe list

By DUNSTAN McNICHOL
and EMILY LABER
Staff Writers

Chemicals stored at the Lodi plant that exploded two weeks ago are among the 2,000 that Governor Whitman stashed last year from the state's list of hazardous substances, prompting emergency workers to resort to older disclosure forms to help guide their cleanup.

Napp Technologies Inc. listed 64 hazardous chemical in its 1994 report under the new, weaker regulations. By comparison, the company listed 339 substances in 1993.

Among the chemicals dropped from the state's reporting requirements were the three that triggered the April 21 explosion that killed five workers. Federal regulations required that the chemicals be reported to state and federal officials if more than 10,000 pounds were stored on site.

Workers struggling to clean up the burned-out site and identify the chemicals left there have found the 1994 report inadequate.

"The officers on site are using the 1993 data," Amy Collings, a spokeswoman for the state Department of Environmental Protection, said Thursday. "It's a more comprehensive list."

Whitman had insisted she was not allowing dangerous materials to go unreported when she trimmed the right-to-know list from 3,000 to 1,000. Chemicals used in quantities less than 500 pounds do not have to be reported.

The governor said the reduction would help businesses by eliminating "the requirement a company list Q-Tips and lipstick."

But critics say the Lodi explosion proves her wrong.

"Every time the governor says, 'We took off things that aren't really important, like Q-Tips,' she's trivializing the issue and obscuring the point that hazardous substances are no longer being called hazardous," said Jane Nogaki, a board member of the New Jersey Environmental Federation and a chairwoman of the state Right to Know Coalition.

Investigators say the Lodi explosion occurred when water accidentally mixed with a blend of

1,000 pounds of aluminum powder, 8,000 pounds of sodium hydrosulfite, and an unknown amount of benzaldehyde.

Although keeping the chemicals on the reportable list would not have prevented the explosion, Whitman's critics say it would have given more information — and protection — to workers fighting the blaze and cleaning up.

For instance, a state right-to-know fact sheet warns firefighters not to use water on an aluminum powder blaze, and the fact sheet for benzaldehyde warns that containers of the material may explode during a fire.

"If you want to reconstruct what really was there and what the potential hazards are, you need to have the complete list," said Mark Robson, executive director of the Environmental and Occupational Health Sciences Institute in Piscataway. "If you only have half the ingredients, you can't make the cake."

Although emergency workers at the Lodi site are able to use a more extensive list that is only two years old — as well as data from other sources — they won't have the same luxury handling a similar disaster five or 10 years down the road.

The Whitman administration "can't hide behind the rhetoric of regulatory reform when people are dying," said Curtis Fisher, attorney with New Jersey Public Interest Research Group.

Collings said the chemicals in the explosion were deleted because they were not considered highly flammable.

"Perhaps they were dropped because in and of themselves they were not dangerous, but put together in the wrong combination, they became volatile," said Carl Golden, Whitman's spokesman.

Lloyd Kaplan, a Napp spokesman, said the company had none of the chemicals in question on site in 1994, and would not have needed to report them even if Whitman had not changed the rules.

But Napp's report for 1993 lists two of the chemicals — benzaldehyde and sodium hydrosulfite — as being present in relatively small quantities. Sodium hydrosulfite appears on the 1993 report and on the old state right-to-know list under its synonymous name, sodium dithionite, according to the state Department of Health.

The day before the explosion, DEP Commissioner Robert C. Shinn Jr. downplayed the changes, telling the Senate Budget and Appropriations Committee that he saved \$113,000 by reducing the staff needed to review reports.

Whitman's proposed budget for the state fiscal year that begins July 1 would reduce the hours worked by right-to-know employees and cut funding for the program by at least \$232,000.

Hal Bozarth, executive director of the New Jersey Chemical Industry Association, said the Lodi tragedy shows that the right-to-know law needs to be overhauled to help head off disasters.

"I won't quibble as to whether it's on the list or off the list; that's a moot point," he said. "The real question is, Can we devise a system that really communicates the hazards?"

151X

The Record

Lodi blast leads to new look at state law

DATE MAY 6 1995

By DUNSTAN McNICHOL
Trenton Bureau

TRENTON — The fatal chemical explosion in Lodi has prompted Governor Whitman to take another look at which chemicals should be listed as hazardous under the state's Right to Know Act, but she denied that her decision to slash the list by two-thirds last year contributed to the tragedy.

"I want to make sure that everything that needs to be listed is listed," she said during a brief news conference Friday. "We have asked the Department of Environmental Protection to come together with the Department of Health and the Department of Labor to ensure we're all in sync with what chemicals are considered hazardous and what chemicals need to be listed."

Last year, Whitman trimmed 2,000 items from the list of chemicals that private firms must report to state officials and local emergency personnel.

Among the substances dropped were the three that triggered the April 21 explosion at Napp Technologies Inc., although federal regulations still required the firm to notify state and local officials

Right to Know deletions questioned

if more than 10,000 pounds were kept on site.

Smoke bombs, grenades with poison gas, and Mace also disappeared from the right-to-know list under Whitman's revisions.

Asked if the review could restore some of the materials to the list, Whitman said it was too soon to tell.

"There could be," she said. "We're looking to make sure that we have everything necessary listed."

Under the revised right-to-know rules, Napp this year reported only 64 chemicals on its Lodi site. A year earlier, Napp's report listed 339 substances, including two of the three cited as the cause of the explosion that killed five workers.

That has forced emergency workers cleaning up the ruined Napp site to rely on the firm's older, more extensive report to identify the chemicals still leaking from drums and pooling on concrete floors.

Along with the change in reporting requirements, Whitman's upcoming state

budget would reduce the hours worked by DEP employees in the right-to-know program and would cut the program's budget by at least \$200,000.

"Governor Whitman's reckless assault on New Jersey's right-to-know law continues to jeopardize public safety," Assemblyman Charles "Ken" Zisa, D-Hackensack, said in a statement issued Friday. "Instead of protecting emergency workers and residents, the change in the law created deadly loopholes."

Environmentalists said Friday that Whitman should forgo the multiagency review and simply reinstate the old right-to-know list.

"We would argue it [a comprehensive list] was already in place," said Bill Wolfe, policy research director of the New Jersey Environmental Federation. "She took steps to see it was reduced."

Whitman continued to defend last year's cuts to the program, which she has in the past called a business-friendly streamlining that eliminated "the require-

Panel advises state to keep court reporters

The Associated Press

TRENTON — New Jersey should not move quickly to replace court reporters with videotapes, as Governor Whitman's budget suggests, a state Supreme Court committee recommended Friday.

Whitman proposes cutting \$3.2 million from the state's court reporting services budget and replacing 58 court reporters with 58 video courtrooms.

"The committee has several concerns about the expansion of the use of video from 16 to 74 video courtrooms at too precipitous a rate," the report says. Instead, the state should expand in a "steady, orderly" manner.

The report, released Friday by the Supreme Court Committee on Record Technologies, has been forwarded to the Supreme Court for consideration.

Chief Justice Robert N. Wilentz appointed the committee in March to determine the effect of Whitman's proposed expansion of video courtrooms.

The Supreme Court is expected to issue its own recommendation based on the report's findings later this year.

Whitman spokeswoman Rita Manno said the governor sticks by her budget recommendation but that she will revisit the issue after the Legislature completes its budget review.

ment a company list Q-Tips and lipstick."

"I believe in this process the chemicals that have been removed are ones that have been appropriately removed," she said. "We went through a process of reducing the number of chemicals listed in order to focus on what is truly hazardous."

Whitman also insisted that "the Lodi explosion had absolutely nothing to do with what was listed or not."

"What happened there, unfortunately, is workers in the plant mixed chemicals incorrectly," she said. "They knew they had a problem, they failed to notify authorities, which is required in the handbook itself, with tragic consequences."

Those comments enraged a union leader, who said Whitman should await the results of an ongoing federal investigation into the episode before blaming workers.

"The governor's statements appear to be more ignorant than before the explosion," said Rick Engler, vice president of the New Jersey Industrial Union Council. "Maybe she ought to get out of her horse country and walk around a real chemical plant with real chemical workers."

152x

5/8/95

In Lodi, blast has residents at odds

Some are relieved that the chemical plant will be forced to close. But others fear they won't be able to find new jobs.

By Gwen Florio
INQUIRER STAFF WRITER

LODI — Four men are pictured on the warped piece of posterboard propped against a Main Street fence so their photographs — faded now, and a little blurry — look out on the blown-out bulk of the Napp Technologies plant.

There are red stickers on the poster, too. "Our Jobs Are Killing Us," they read.

The men, all Napp employees, were the first victims of the explosion and fire that injured nine other people, nearly leveled the chemical plant and coughed fumes into the homes and businesses surrounding it.

Since April 21, a fifth Napp worker has died of his injuries. Several stores that shared a building with Napp were destroyed, while owners of nearby businesses fear they will suffer for months to come. There are lingering concerns about toxic fumes in the area. And more than 100 Napp workers find themselves out of work for the foreseeable future.

"It's quite devastating, but we're dealing with it," said Philip Toronto, mayor of this Bergen County community whose 22,553 residents share 2 1/2 square miles with 14 chemical companies.

"We had 18 when I became mayor four years ago," said Toronto. "Now we're down to 14, so I put little notches in my belt."

Toronto has openly exulted in noting that new zoning regulations will prevent Napp, which manufactures pharmaceutical products, from reopening within Lodi's densely populated borders.

Not everyone shares those feelings.

Leo Santiago of Paterson is a shop steward for the American Clothing and Textile Workers Union (ACTWU) Local 7587, which represented about 70 of Napp's 120 employees. "The workers, they feel depressed," he said.

Those men are in mourning twice over, he said — saddened by the deaths of their coworkers, and also fearing the loss of their jobs. Toronto's dim view of the chemical industry

See Lodi on S4

Lodi struggling to come to grips with blast

LODI from S1
try is echoed around Lodi, and that stings.

"I know we caused a big disaster there," said Bobbie Jacobs, 49, of Elizabeth, a mechanic at the plant. "But at the same time, we also saved a lot of lives with the medicines we were making."

Jacobs was treated for anxiety immediately after the explosion, and shared an ambulance to the Hackensack Medical Center with Buster McKenzie, who was burned over 95 percent of his body and died last week. "We are all still in shock," said Jacobs, who found out about McKenzie's death when he saw it on the news Tuesday morning.

At the same time, Santiago said, workers are thinking: "What if we don't get jobs? How are we going to feed our families?"

Although Napp's insurance policy will allow the firm to pay workers' salaries for several weeks, the money will run out July 7.

"These people are better cared for than workers in some other types of manufacturing situations," said John Hudson, vice president of ACTWU's New York-New Jersey regional office in Manhattan. "But this is certainly not a windfall."

In Lodi, there is empathy for the workers' dilemma — to a point.

"I know some of the people who worked there, and I feel for them," said Amandio Santos, 31, who lives across the street from Napp Technologies. "But I hope this shows people how dangerous it is to live next to a chemical plant."

Napp's beige brick building is in the midst of a neighborhood targeted for redevelopment. Main Street is only two lanes wide there, and traffic frequently backs up near Napp, where stores, factories and homes crowd against each other.

It's that proximity that makes residents and borough officials so uneasy. "Southern Bergen County is just too densely populated," said Toronto, the mayor. Chemical firms are just too close and these things are too damn dangerous."

The fire at Napp began the evening of April 20, when water seeped into a mixture of 9,000 pounds of chemicals, causing a reaction. The fire apparently smoldered for 12 hours as workers tried to contain it, then blew up the next morning, sending

flames 1,000 feet into the air.

Acting Bergen County Prosecutor Charles Buckley said he did not expect criminal charges to be filed in the case. However, state Department of Environmental Protection (DEP) and the federal Occupational Safety and Health Administration (OSHA) are continuing their investigations.

If the cause of the blast is judged to be worker error, OSHA will become the lead agency handling the case. OSHA records show that in 1987, a worker was seriously injured at the plant.

Otherwise, however, the firm's history of violations is negligible. Since 1975, the plant has been cited for 16 "other than serious" violations, and two serious violations, both involving problems with machine guards. In the last 20 years, Napp paid a total of \$870 in fines to OSHA — an agency that frequently fines chemical companies many thousands of dollars on individual violations.

The DEP, meanwhile, has cited Napp five times in the last five years, all for minor air-quality violations. The firm was fined a total of \$11,600. DEP monitoring, which continues at the site, showed elevated levels of sulfur dioxide — which can cause skin and lung irritation — at the peak of the blast, said spokeswoman Elaine Makatura.

The company had complied with the state's right-to-know law, which requires businesses to list their chemicals, how those chemicals are stored, and what dangers they pose, she said. Environmental and labor groups have criticized Gov. Whitman's administration for slashing the number of chemicals on that list by nearly two-thirds.

Toronto said that Lodi has filed a claim with Napp, asking it to repay the borough's costs in fighting the fire. The borough is also urging anyone who was near the plant during the blaze to report to Hackensack Medical Center for checkups. At this point, he said, the borough doesn't plan to file any suits against Napp.

Ironically, he said, Napp recently sued the borough to prevent its site from being condemned under Lodi's new redevelopment plan. "Needless to say," he said, "they've withdrawn their lawsuit."

By default, the firm also is withdrawing from Lodi. The fire destroyed its building, and new regula-

tions prohibit such industries in the redevelopment area. While Lodi will lose the \$41,000 Napp pays yearly in taxes, the borough anticipates bringing in \$1.5 million from a new shopping center, Toronto said.

Lloyd Kaplan of Rubinstein Associates, the Manhattan firm handling inquiries about Napp, said the company is looking for another building where it can relocate.

By the time that happens, Napp's employees might have scattered. "You know, for people 55 years or older, it might be hard for them to build."

get jobs," said Santiago. "The average take-home pay was \$450 [at Napp]. Where are these people going to find jobs like that? Are they going to go Burger King?"

Toronto thinks that maybe the attitude is a little short-sighted. "Sympathize with them," he said. "He'd like the workers to keep something in mind when they criticize Lodi for not allowing Napp to build."

"They may have lost their jobs," said, "but we may have done something that saved their lives."



The Philadelphia Inquirer

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The Record

DATE MAY 6 1995

Lawmaker urges revival of cleanup tax

Businesses say they're wary

The Associated Press

TRENTON — It was a much-heralded compromise between business leaders and environmentalists that went terribly awry.

A special corporate tax surcharge to allow businesses to help fund the cleanup of hazardous waste sites raised \$220 million over five years, but none of this money was spent to clean contaminated sites. Instead, dollars were used by former Govs. Thomas H. Kean and Jim Florio to prop up five ailing state budgets.

Environmentalists were angry. Business leaders said they felt betrayed.

Now the sponsor of that law wants to revive the surcharge on businesses — but this time with a governor-proof constitutional amendment that would ensure the money is spent on cleaning hazardous waste sites.

"We should put it to the voters,

and let them make a decision," said Sen. John O. Bennett, R-Monmouth. "We should dedicate this to hazardous waste cleanup, including underground storage tanks. I don't think this would be so cumbersome."

But Bennett's call apparently does not sit well with Governor Whitman, who has pursued a business-friendly agenda. The Republican governor supports a \$150 million hazardous waste bond act proposed Wednesday by Assembly Speaker Chuck Haytaian, R-Warren. Haytaian wants the bond issue placed on the November ballot.

The bond act is being pushed by the Department of Environmental Protection, which says dollars set aside for cleanups will soon be depleted. Unless more money is raised, many projects could be halted and federal funds would be lost.

"The governor prefers the bond act as a way of dealing with cleanup problems for hazardous waste," said Rita Manno, Whitman's spokeswoman. "I think the governor would have major concerns about a constitutional amendment dedicating funds. She wants to reduce the corporate tax rates, not raise them."

Whitman does not have an official say in the passing of a constitutional amendment, but she is pushing the Assembly to go the bond issue route.

Bennett and other Republican senators, including Senate Budget Committee Chairman Robert E. Littel, are wary of adding new debt that will saddle taxpayers in the future. Senate leaders have also raised concerns about a proposed \$310 million Green Acres bond issue to raise money to preserve historic sites, purchase open space, and buy up land in flood-prone areas. That measure passed the Assembly on Monday.

The nonpartisan Office of Leg-

islative Services estimates that over the traditional 30-year payment schedules, the state pays about 2.5 to three times more than what it borrows in bond issues.

"We've got to get a handle on this debt," Bennett said. "You can't keep adding to it."

Bennett acknowledged that his law, which raised from \$37 million to \$50 million a year from businesses, did not work out. He said the surtax measure, which he will introduce next week, would provide a stable source of funding for hazardous cleanup without putting the state deeper into debt.

"That's why we need a constitutional amendment," he said. "That would make sure it's dedicated for this purpose. I don't have any problems with voters having that decision."

But it may be difficult getting business and environmentalists back to the table, especially without Whitman's support.

Bill Wolfe, policy research director for the New Jersey Environ-

mental Federation, said the group has not taken a position on the bond issue or Bennett's proposal.

"We do support the concept of dedicating a corporate surcharge under the concept of having the polluter pay," Wolfe said. "It allocates the burden to the polluters. In concept, that's the policy we'd prefer."

But businesses are not about to give up the money if they don't have to.

Chris Biddle, spokesman for the New Jersey Business and Industry Council, said reviving the surcharge would be a tough sell.

"Our member companies would be very reluctant at this point to support a bill of this nature when they've already been burned once," Biddle said. "The previous surcharge was not used for hazardous waste cleanup. It was used to balance the budget. We consider it to be a broken promise."

"We don't want to be raising a corporate tax while other states are lowering it," he said.

THURSDAY, MAY 11, 1995

BERGEN

Warehouse owners fined \$1,000 after fire

By MARAH SHUMAN
Staff Writer

The owners of a Hackensack warehouse destroyed in a fire in late March have been fined \$1,000 for allegedly storing chemicals on the site without a permit.

The owners of Causeway Warehouse and Distribution Transport Co., 55 DeVoe Place, stored about 126,000 pounds of flammable ammonium persulfate and sodium persulfate without obtaining a proper city permit, Deputy Fire Chief Richard Carucci said.

Under federal and state laws, warehouse owners must report how they store chemicals in quantities exceeding 500 pounds unless the material is destined for

Hackensack claims improper chemical storage prompt shipment.

"In this situation, I can only fine them \$1,000 under the state of New Jersey's uniform fire code," Carucci said.

The company has appealed the ruling to the city's Construction Board of Appeals, which is expected to review the matter next month, he said.

Attorney Susan-Gilbert of Woodbridge, who is representing Causeway, said her client has asked her not discuss details of the case.

The state Department of Environmental Protection plans no action against the company, spokeswoman Elaine Makatura said.

Carucci also said the Hackensack Fire Department has submitted a bill for its services at Causeway to state and federal authorities. He estimates that the cost of salaries, equipment, and medical services was \$10,000 to \$20,000, although he did not have immediate access to all of the figures. Local fire departments are permitted to submit bills for any fire involving hazardous materials, he said.

After a month of inaction, the warehouse owners were able to clean up the site, and now all that remains is a pile of drums, Carucci said.

Investigators from the Bergen County Prosecutor's Office determined that the blaze, which injured 26 people and forced the evacuation of about 100 surrounding residents, started when portions of two persulfates, stored in bags, spilled onto the floor and mixed with spools of thread and rope stored nearby. The fire was so intense that it melted steel beams in the building's roof.

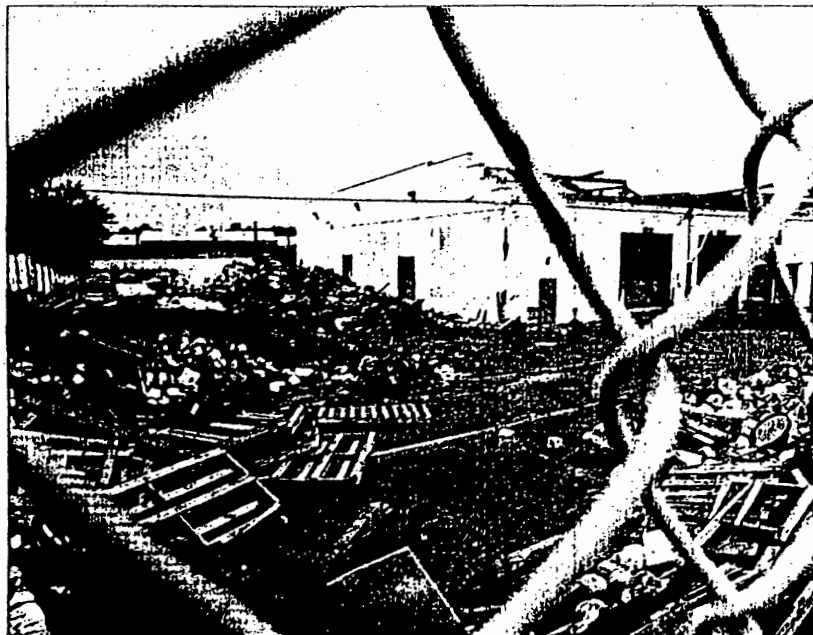
Investigators found that company employees had been hitting bags of chemicals with baseball bats, piñata-style, trying to granulate flammable chemicals that had

solidified during shipment. The chemicals were being prepared for shipment to Dow Chemical Co., which would not have accepted them in solidified form. Dow uses those chemicals to manufacture latex products, officials said.

Warehouse officials told investigators that Causeway was paid extra by Dow for ensuring that the chemicals were properly broken apart before being transported to unknown locations.

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CHEMICAL FIRE'S AFTERMATH



The heap outside this warehouse on DeVoe Place in Hackensack reignited after a fire in March.

KLAUS-PETER STEITZ/STAFF PHOTOGRAPHER

Cleanup lags

Agencies back off fining the company

By EMILY LABER
Staff Writer

A huge pile of garbage beside a burned-out Hackensack warehouse has not been removed, even though it has been nearly two months since fire gutted the building and almost a week since the heap itself reignited.

Furthermore, Bergen County officials, who complained after the most recent fire that the trucking company leasing the warehouse ignored repeated demands to move the rubbish, are backing away from their written threats to fine the company.

Penalties of up to \$500 a day that were to begin Friday would be suspended if the company, which placed part of the trash in two green Dumpsters on Wednesday afternoon, shows progress in the cleanup.

"If they continue to demonstrate to us they are going to comply within a few days, we would have no reason to cite them," said Jim Taradash, supervising environmental health specialist for the county Health Department.

Meanwhile, state Department of Environmental Protection officials have said all along that

"[The DEP is] making a fundamental shift away from a penalty focus to a cooperation focus... We've seen that without enforcement, the polluters violate and undermine environmental and public health and safety."

Bill Wolfe

New Jersey Environmental Federation

they would not impose fines on Causeway Warehouse and Distribution Transport Co., which leases the building at 55 DeVoe Place.

The only fine Causeway has received is from the Hackensack Fire Department, which penalized the company \$1,000 for storing chemicals without a permit.

Neither the DEP nor the county or city Health Departments issued any written orders to Cause-

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THE RECORD A-19

HEAP: After fire

From Page A-1

way or set any cleanup deadlines until April 26, a month after the fire.

Officials defended the month of lag time and said they acted as quickly as was reasonable.

"You have to give the responsible party an opportunity" to correct the situation, said Gary Allen, region chief of the DEP bureau of emergency response.

The DEP said the company removed chemicals when ordered to do so in writing. Those chemicals included 120,000 pounds of the ammonium persulfate and sodium persulfate that started the March 25 fire.

But Taradash said Causeway left several drums of unidentified chemicals outside until just a day or two ago, despite long-standing orders from state officials to lock them in the building.

Taradash said those drums, one of which was inadequately sealed, could have posed a public safety or health hazard.

But the DEP, not the county, has authority over hazardous-waste issues, and Allen insisted the drums posed no danger to the public.

Allen said the only potentially dangerous situation occurred April 7, when a tarp covering some of the persulfates, which were being stored outside the warehouse, came off in the wind and bits of the powdered chemical began flying around.

Allen said his department visited the site and ordered Causeway to move all the persulfates inside the damaged building. The company complied the same day, he said.

Bill Wolfe, policy research director for the New Jersey Environmental Federation, said the DEP has clearly backed away from enforcing state environmental law since Governor Whitman took office.

"They're making a fundamental shift away from a penalty focus to a cooperation focus," Wolfe said. "We just find that fundamentally wrong. ... We've seen that with-

out enforcement, the polluters violate and undermine environmental and public health and safety."

Both Whitman and Environmental Protection Commissioner Robert C. Shinn Jr., whom she appointed, have said they want to move away from a confrontational approach to environmental regulation and make New Jersey "open for business."

Recent policy initiatives at the agency include allowing companies to negotiate the terms of violations and penalties, a grace period of at least 30 days for environmental offenders, an amnesty program for companies that violate air-pollution regulations but turn themselves in, and an overall reduction of fines.

The Hackensack fire, which started after warehouse employees hit bags of persulfates with baseball bats to break up chunks that had solidified, injured 26 people, including a dozen city firefighters. The fire caused 100 people to be evacuated from their homes. Emergency workers suffered bloodshot eyes, swollen skin, and soreness.

In the first few weeks after the fire, the county Health Department — which had authority to order Causeway in writing to put the heap of damaged merchandise in containers — gave only verbal directives, not written orders. Taradash said the chemicals remaining on site at that time posed far greater risks.

"We wanted to make sure the imminent hazards were dealt with first," he said. "If you're dealing with limited resources or limited time frames, you want to go to the heart of the matter first."

Last week, a pile of rubbish that had been dragged from the ruined warehouse began smoldering. No one was injured, but one home was evacuated. DEP officials said the pile was not contaminated with chemicals.

Government officials blamed Causeway, saying the fire never would have occurred if the trash had been removed on schedule.

BR

Bergen Record

MAY 14, 1995

THE LODI FIRE STATUS REPORT

- from the N.J. Dept. of Environmental Protection

The New Jersey Department of Environmental Protection (DEP) understands the concerns of the residents of Lodi regarding the potential health impacts of the NAPP chemical fire and explosion. In response to several recent news reports regarding off-site impacts to the air, water and soil, the DEP is providing the following information on its monitoring activities and results.

Air monitoring teams from two counties and three DEP divisions, together with EPA teams, were dispatched throughout the surrounding community. Monitoring was performed using state-of-the-art equipment and continues to date. In addition to this constant monitoring, some 300 air samples were obtained and analyzed for the known products of combustion involved in the fire.

The EPA took multiple air samples in the fire's main plume. All analyses indicated that the majority of materials involved in the fire were consumed by the intense heat. This intense heat also helped keep the smoke and particulate matter aloft for many miles, reducing the chance of large concentrations of contaminants. At one point, a reading of 25 ppm of sulfur dioxide was obtained, but was not found in samples taken minutes later. Such elevated, short-term levels of products of combustion are common in such fires and are considered to pose no long-term health affects.

In addition to the many air samples taken, samples from the Saddle River were taken and showed elevated levels of phenol, which accounted for the fish kill and have dissipated. Continued monitoring of the river will be maintained, and analyses are expected to show that the river will return to its state prior to the fire. Local health officials will continue the ban on fishing until the river recovers.

Shortly after the fire, a meteorological station was installed and samples were taken, and continue to be taken at strategic points throughout the fire site to identify any off-site impact associated with the clean-up. To date, all analyses show no detectable levels of contaminants. The majority of the fire debris from the main building and most of the unaffected raw material have been transported off-site. Day-long monitoring will continue for the duration of the clean-up.

The DEP is awaiting additional air monitoring data as well as lab analyses from the Saddle River and various soil samples from around the fire site. Once received, the information will be shared and discussed with Bergen County Health Department and Hackensack Medical Center, as well as with state and federal health officials. They are expected to interpret the monitoring results and present them to the general public by late May. In the meantime, while the possibility of indoor contamination is remote, area residents with concerns may wish to wipe surfaces with normal household cleaning products to remove dust and particulates.

Individuals with health concerns believed to be related to the fire should call Jeanne Aversa for a physician referral at Hackensack Medical Center, 201-996-2020.

157X

Cleanup adds to anxiety in Lodi

Work expected to take months

By EMILY LABER
Staff Writer

The burned-out shell of the Napp Technologies factory in Lodi holds more than just the mangled remains of an explosion that killed five people. It's also a chaotic junkyard of chemicals, rubble, and contaminated runoff that continues to pose dangers to the neighborhood and its residents.

The pockmarked concrete floor has puddles that are glow-in-the-dark green. Chemicals leak from damaged drums. A tar-like goop coating much of the debris contains phenol, a cough-drop ingredient that can be fatal if absorbed through the skin or ingested in larger doses. Fish carcasses dot the nearby banks of the Saddle River, a reminder of the polluted runoff that flooded into the water after the blast and whose long-term effects are unknown.

Dozens of workers — their efforts hampered by continuing small explosions and fires — are racing the clock in a cleanup effort expected to last months.

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A-8 THE SUNDAY RECORD

FROM PAGE ONE

MAY 14, 1995

LODI: Concerned about factory cleanup

From Page A-1

One sign of the hazards: For only the third time in recent years in New Jersey, state emergency workers will remain on site to supervise the cleanup.

"We don't really know exactly what's there, and we have had enough little surprises," said Stan Delikat, chief of the state Department of Environmental Protection's Bureau of Emergency Response.

Several environmental experts said the cleanup workers — mostly contractors hired by Napp — are following such generally accepted practices as screening the site from neighbors, quickly disposing of undamaged chemicals, and monitoring air and water quality.

But many residents — who can only wait, watch, and worry — complained that workers aren't doing enough to protect them, or to tell them what's going on.

And at least one expert, a former DEP official who works as an environmental consultant, criticized officials for monitoring the air only one hour a day in two different spots, with test results not available until 24 hours later.

"Everybody's concerned. They're telling you whatever you ingest is not toxic, but how do you know down the road?" said Moira Cullen, who lives around the corner from the site. "I think they don't even know. They're soothing fears, is what they're doing."

To protect the neighborhood, workers have built an 8-foot, plastic-lined chain-link fence around the site, with the gates locked to keep out would-be trespassers. A dike was erected to prevent rain from washing chemicals into the river or nearby streets.

Officials insisted these measures isolate hazards at the site, where they affect only trained workers. But some residents said that whenever an excavating machine grabs rubble and deposits it in a Dumpster, irritating dust wafts over the fence.

John and Denise Lynch, newlyweds who live across Main Street from the devastated factory, said they have been suffering from headaches, coughing, snorting eyes, and burning throats since they returned home from a four-day evacuation following the explosion.

Lynch said his doctor prescribed an inhaler, which is generally prescribed for asthma or allergy sufferers. It's the first time Lynch has needed one.

"I'm not a scientist," he said, "but they shouldn't have us here."

DEP spokeswoman Amy Collings said air-monitoring readings have not shown a danger to residents.

But environmental consultant Richard Katz said, "Just one sample a day doesn't tell you what's going on."

He recommended testing the air quality as often as twice an hour

using equipment that would deliver less comprehensive but immediate results, allowing officials to sound a more timely alert if pollution rose to dangerous levels.

"If they have no way of knowing what's happening at the moment, they really have no way of protecting the community," said Madelyn Hoffman, director of Grass Roots Environmental Organization, a New Jersey group. "By the time they find out there's a problem, the damage may have been done."

The Lynces keep their windows closed despite the spring temperatures and said officials have not told them how they should protect themselves.

In fact, no government agency is monitoring the health of residents. Mayor Philip V. Toronto said those who call borough offices are being advised to see their doctor and to file a claim with Napp's insurance agent. He said he did not know how many residents have called.

Katz called the lack of communication disappointing. "People should be told through a flier something like, 'If you smell anything, go inside and close the windows,'" he said.

Collings said there was no need for such communication because

the tests have not shown elevated pollution levels. But after news reports raised questions about the fire's effect on the neighborhood, the DEP decided to run a quarter-page ad in today's Record aimed at allaying community fears.

"Obviously, there still some concerns out there," Collings said. "It's a form of public outreach."

The ad, which appears in today's Sports section on Page S-20, describes the DEP's cleanup and monitoring efforts, saying there is only a "remote" chance that homes were contaminated but acknowledging that "residents may wish to wipe surfaces with normal household cleaning products to remove dust."

Meanwhile, cleanup workers are performing field tests or sending samples to labs to separate contaminated rubble from uncontaminated rubble and to identify the myriad of chemicals left on site. Some of the substances Napp used — such as acid and lye — could generate enough heat to start another fire if they were mixed accidentally.

There were a million pounds of more than 400 different chemicals at the Napp factory before the fire, said Gary Allen, region chief of the Bureau of Emergency Response.

Now the heart of the ruined factory — known as the "hot zone" — looks like the chemical equivalent of a giant food fight. Many substances heaped in the charred remains have yet to be identified or have taken on new, unpredictable properties because of fire and water damage.

Machinery, equipment, and other contaminated rubble — bricks have turned purple or orange from chemical exposure — are being sent to hazardous-waste dumps or incinerators. Undamaged chemicals — including tanks of methanol, hydrochloric acid, and isopropyl alcohol — are being removed to warehouses for eventual resale. Debris that is deemed uncontaminated is hauled off as regular solid waste.

Berms have been built around the ruined factory to contain runoff, but they partially failed during rainfall April 30, spilling green dye into the Saddle River and down Main Street, officials said.

The dye is not toxic, but future rains of more than 4 inches could cause the river to flood, at which point little could be done to keep more dangerous chemicals from entering the water.

Water from the initial firefighting efforts sent large amounts of toxic phenol and chlorobenzenes into the river.

"It killed everything in the river, from large fish like carp down to

minnows, plus all the worms and crustaceans in the mud," said Andy Willner, the New York-New Jersey baykeeper. "The river is essentially dead."

He said it could take anywhere from weeks to years for the river to regenerate.

Phenol, which Napp reported keeping in amounts of up to 50,000 pounds, is a poisonous and caustic substance; just half an ounce is considered a fatal dose for humans. Chlorobenzenes can cause liver damage when ingested.

Neither the Saddle River nor the part of the Passaic River into which it flows provides drinking water. Lodi residents get their water piped in from the relatively rural Highlands region miles away.

Officials also will test the soil at the Napp site for toxins, but that work won't begin in earnest until the area has been cleared. Tainted soil can seep into ground water, but residents do not get their water from wells, and state officials and outside experts said they wouldn't expect the dirt to travel to neighboring properties. If the weather is dry, soil on the site would be wetted.

"We have the concerns that stem from the hazards associated with all these chemicals," said Allen, who is heading the cleanup. "In this type of situation, there's always going to be some kind of danger."

158X

HN 5/17/95

Environmental group says state flubbed safety effort

The Associated Press

TRENTON — The New Jersey Environmental Federation yesterday claimed the Whitman administration had a chance to beef up a chemical-safety program but killed it to appease business interests.

Citing an internal state memo, the environmental group said experts within the Department of Environmental Protection had called for tougher monitoring of factories that use chemicals dangerous enough to pose a measurable risk to the community.

Bill Wolfe of the Environmental Federation, himself a former DEP staffer, said the Whitman administration did not act on what he called the "strongly worded" memo.

The DEP, in a statement, said the charges were "totally unjustified. We are in the process of improving our proposal, which was never shared with industry representatives. We will address any need for staffing increases at that time."

Had the program been expanded, Wolfe said it could have covered Napp Technologies' Lodi plant, where four workers were killed in a chemical explosion on April 21.

"We are not specifically saying this would have prevented the

Napp tragedy," Wolfe said, but it would have required risk assessments of the machinery and processes at the plant site where a lethal error in blending chemicals triggered a blast hours later.

"It is this kind of disaster that the program was designed to prevent," said Jane Nogaki, also an official with the Environmental Federation.

DEP Commissioner Robert Shinn and Assistant Commissioner Lewis Nagy, a longtime adviser to Shinn and author of the memo, did not return phone calls yesterday.

The law in question was prompted by the 1984 disaster in Bhopal, India, at which a malfunction of valve equipment at an American-owned plant caused a release of a cyanide-type gas that killed 3,800 people.

In New Jersey, the Toxic Catastrophe Prevention Act identified companies using these sorts of lethal chemicals in sufficient quantities to pose a risk.

Nogaki said that since the law took effect in 1986, the number of companies with lethal chemical stores dropped from over 600 to about 120. DEP spokeswoman Elaine Makatura was unable to verify that figure.

"This is a clear success story that needs to be talked about," Wolfe said.

The memo written by Nagy in July 1994 proposed adding 28 toxic chemicals, 52 flammable chemicals and 64 explosives to the list of materials monitored by the Toxic Catastrophe Prevention Act. Nagy said studies by staff showed these chemicals "if released in sufficient quantity could result in death or permanent disability beyond the property line."

FIRE. Residue of fear

Lodi blaze leaves residue of fear

By NEAL THOMPSON
and EMILY LABER
Staff Writers

Like many of the 350 firefighters and rescue workers who battled the deadly Lodi chemical blaze two weeks ago, Kevin Seitz has faced nagging worries about the chemical-laced flames, fumes, and smoke he confronted.

The volunteer Saddle Brook firefighter was treated at a hospital that day for high blood pressure, a sore throat, and a headache. He's since seen his own doctor twice for chest X-rays and blood tests, and to

check his lung capacity.

All of the test results have been normal. But still, there's the gnawing fear.

"I just worry about my lungs," said Seitz, who battled the inferno for 14 hours, breathing noxious fumes and caked in black, foul-smelling soot. "Who knows? Down the road, it could cause cancer or something."

Four employees of Napp Technologies Inc. died in the explosion, and a fifth died

10 days later.

In the two weeks since the blast, some fire and rescue workers — who were nearly as numerous as the residents evacuated from the downtown Lodi neighborhood — say they have been paying a price for their heroics: coughing, vomiting, nosebleeds, unexplained rashes, lack of sleep, and stress.

See FIRE Page A-10



"Why am I coughing and I can't get rid of this cough?"

Sam Garafolo
Lodi fire chief

From Page A-1

Simmering beneath those symptoms are even greater fears that exposure to the burning, bubbling, brewing chemicals could exact a far worse toll in the long run.

Those concerns are further aggravated by another persistent feeling — that maybe some things should have been done differently that day. Because the events of April 21 were so complex and chaotic, firefighters and fire officials say, some recommended procedures and precautions weren't precisely followed.

It took about 20 minutes before officials realized they were dealing with a chemical fire. Some firefighters neglected to always wear their breathing masks, which filter potentially toxic fumes. And efforts to decontaminate protective gear were not properly monitored, allowing some firefighters to leave the scene with potentially tainted gear, according to interviews with several firefighters.

In response, county health and environmental officials have begun a series of information sessions and medical screenings for those who fought on the front lines.

And some fire officials, including union leaders, have begun comparing the Lodi fire to a notorious 1980 blaze in Elizabeth. A number of firefighters exposed to burning chemicals in that fire — none of whom wore masks — have contracted cancer and a few have since died, although no link to the fire has ever been proved.

Firefighters now wear air tanks and safer protective gear than in 1980, but that hasn't completely eased their lingering fears.

"We really don't know exactly what we were exposed to," said Little Ferry Fire Chief Frank Fuchs. "Who knows, 10 or 20 years from now, what's going to happen? The firemen went in and did what they had to do. But I'm sure that everybody in the back of their minds is thinking, 'Gee, I wonder what this stuff is going to do to me in 10 years?'"

The scene that day, by most accounts, resembled a war zone. Four hundred residents were evacuated, only to be replaced by nearly as many fire and rescue workers from 40 towns, later joined by federal, state, and county environmental officers.

Fire crews at first thought they were responding to a roof fire and began deluging it with water, said Thomas Bischoff, the Bergen County fire marshal — an approach that other fire experts say isn't always the safest when dealing with chemicals.

Lodi Fire Chief Sam Garafolo blamed the mix-up on Napp employees who failed to tell him that chemicals were on fire. Napp attorneys have disputed that account.

Even when officials realized they were battling a chemical fire, they weren't sure what chemicals they were dealing with. At a crucial moment, a firefighter had to return to the Lodi firehouse for a printout that listed the chemicals reported to be stored inside the plant.

Christopher Sloma, a Saddle Brook volunteer firefighter, said he approached a health official at one point and asked about water runoff.

"I said, 'What's this stuff?'" Sloma recalled. "He said, 'Don't worry about it. The brown stuff is worse than the green.'"

Once officials established that hazardous chemicals were burning, repeated calls were broadcast over emergency radios warning all those in the so-called "hot zone" — a potentially contaminated area — to wear their air masks.

That was in line with the National Fire Prevention Association's guide for chemical fires, which recommends breathing apparatus "when the atmosphere at an incident is hazardous, suspected of being hazardous, or may rapidly become hazardous."

But there were times when firefighters in that volatile zone or on its fringes failed to follow the warning, partly because the 40-pound air tanks are cumbersome and provide only 15 to 30 minutes of air, meaning they cannot be worn continuously.

Bischoff said he saw "five or 10" firefighters who, in their zeal to help, disregarded their own safety by not wearing the air packs. Other firefighters interviewed agreed that air packs were not always worn.

"Anything from a fire is not good to breathe, especially over long periods of time," Bischoff said. "I guess some of them did breathe things they shouldn't have."

Sloma, who fought the blaze from his department's firetruck and, at times, in a cherry-picker rig called a snorkel, said he wore his air pack 80 percent of the time.

"Originally, we didn't know what we were dealing with," said Sloma, who was treated for vomiting at Hackensack Medical Center. "After we were told, everybody wore them."

Once the fire was controlled, two decontamination pools were set up to wash chemicals and residue off the equipment and firefighters' protective gear. But the operation, coordinated by the municipal fire departments, missed some people, resulting in an estimated \$350,000 of damage to equipment and gear, said Lodi Mayor Philip Toronto. Some firefighters said they were told by their superiors either to send their gear out to be professionally cleaned, or to take it home and clean it themselves.

"I cleaned it myself, but I still don't know if it's clean," Seitz said. "Who knows if [chemicals] absorbed through? I think this stuff should be thrown away and we should get new stuff."

George Browne, a Weehawken fire captain and statewide fire trainer who is considered an expert in handling hazardous materials, said decontamination at an operation with 350 firefighters is almost impossible to control.

"After a fire like that, they just want to go home to see their wife and kids and have dinner and a drink," Browne said.

Toronto said firefighters who were unsure whether their gear was properly decontaminated had been asked to drop it off this weekend in Lodi, where it was to be picked up by a company that would test the gear for chemical contamination and, if necessary, properly clean it.

Meanwhile, county and municipal fire and health officials are

See LODI on next page

taking steps to monitor those who fought the blaze. A meeting was scheduled Friday night to give firefighters some preliminary information from county health and hazardous materials officials on what they were exposed to. And local officials are hoping to schedule further meetings with state and federal health and environmental experts.

Arrangements also are being made by county and municipal officials to send firefighters for medical screenings by area doctors

and hospitals and, if needed, treatment for any ailments, Toronto said.

Toronto said municipal insurance policies will cover firefighters' medical costs, but he wants Napp ultimately to be responsible. He said that company officials have indicated a willingness to help with medical costs. Napp officials could not be reached for comment.

The company also is looking at the possibility of reimbursing fire departments for damage to their equipment and gear, a Napp company spokesman said after the blaze.

Although no one knows for sure

how many firefighters are feeling any aftereffects, word of stubborn ailments is beginning to spread. Garafolo, the Lodi chief, said that he can't stop coughing and that a number of his firefighters are complaining of persistent nosebleeds, nausea, and rashes. Fire chiefs in Rutherford and Little Ferry reported similar complaints from their members.

But it will be years, possibly decades, before any of the potential long-term effects of the Lodi blaze might begin to manifest themselves, if they manifest themselves at all, said Sandra Mohr of the Environmental and Occupational Health Sciences Institute in Pis-

cataway, who researches the effects on people exposed to chemical fumes.

"Occasionally, we see people who were exposed to large amounts of chemicals like this and develop cancer 20 years down the road," she said, noting that different chemicals can have different effects on people.

Federal regulators measured levels of sulfur dioxide that reached 25 parts per million during the fire. Mohr said a 15-minute exposure to air laced with five parts per million of sulfur dioxide is considered dangerous.

In the years since the 1980 Elizabeth fire, some of the nearly 300

firefighters who battled that blaze have reported long-term respiratory problems and others "aren't getting to enjoy their retirement because they're dying of cancer," said Elizabeth Fire Director Eddie Sisk.

Ben Levine, a Newark attorney, represented 32 fire and rescue workers in a lawsuit against companies that illegally dumped the chemicals that fueled that fire. He said "at least four or five" died from cancer.

The case never went to trial because the suit was settled for undisclosed terms. The company admitted no liability.

"It's scary," said Pat Tansey, president of the Firefighters Association of New Jersey. "You may not get severely ill in the beginning and you may just shrug it off, and then it incubates in your system."

So do the nagging fears. "We were there for a long time, and I want to find out what the short-term and long-term effects are going to be," Garafolo said.

"There was a definite odor there when it was burning. They're concerned. And I myself am concerned, too. Why am I coughing and I can't get rid of this cough?"

Staff Writer Geoffrey Dougherty contributed to this article.

160X

Chemical rules stalled, activists say

State swayed by industry lobbyists?

By **BILL SANDERSON**
Trenton Bureau

TRENTON — Efforts by state environmental officials to toughen rules for handling toxic, flammable, and explosive chemicals were stymied last year by industry lobbying and a zeal for curbing state regulations, an environmental group complained Tuesday.

Chemical industry and state officials denied that lobbying has stalled the new rules, and the Department of Environmental Protection said a new version of the proposed regulations will be made public next month.

"We are in the process of improving our proposal, which was never shared with industry representatives, and we fully intend to move ahead with it," the department said in a statement.

Memoranda released Tuesday by the New Jersey Environmental Federation showed that DEP officials proposed expanding the Toxic Catastrophe Prevention Act program last July to cover more than 550 companies. Only 123 companies were covered in the original act.

Federation officials said the Napp Technologies plant in Lodi would have been among those companies falling under the tougher act. But they said there's no way to be sure expanding the regulations would have prevented the April 21 explosion there that killed five people.

"This is irrespective of Napp," said Bill Wolfe, the federation's policy research director. "But Napp shed light on the way we think of chemical risk in New Jersey."

One of the memos, written by Lewis J. Nagy, a DEP assistant commissioner, said that New Jersey needed to adopt more stringent standards than the federal government's for handling dangerous chemicals.

Bergen Record
May 17 '95

Federal standards "are not technically justifiable in an area as densely populated as New Jersey where substances are generally handled on small sites," Nagy wrote.

Nagy also said that the amount of chemicals the federal rules left unregulated "would correlate with a significant increase in the number of potential fatalities."

But Nagy's proposal never made it into the New Jersey Register, where proposed rules are published before they are adopted. The Environmental Federation claims chemical industry lobbying stymied the proposal, although it offered no proof.

However, businesses have been pressuring state agencies and the Legislature to simplify its regulations, and Governor Whitman has dramatically cut the staff and budget for enforcement of anti-pollution rules.

"She's putting existing programs on the line, and making them unable to perform their duties," said Jane Nogacki, an Environmental Federation board member.

Amy Collings, a DEP spokeswoman, called the criticisms "totally unjustified," and said the original proposal contained some serious flaws. She said the new proposal to be released next month will be more stringent than federal rules — and that, as under Nagy's original proposal, hundreds more companies would be added to the list.

Hal Bozarth, a spokesman for the Chemical Industry Council of New Jersey, said he is concerned that businesses will have a harder time complying with the state's proposal than with federal rules.

"The federal program is more goal-oriented — it asks, 'How can we improve performance?'" Bozarth said. "New Jersey says every time you change a widget, you need a permit."

Whitman stirs chemical reaction

By PETER PAGE
Staff Writer

3/17/95

Environmental group raps proposed TCPA funding cut

TRENTON — The Whitman administration is pushing a 42 percent funding cut for the Toxic Catastrophe Prevention Act (TCPA) program, although a top Department of Environmental Protection official had urged expansion of the program, according to documents released by an environmental group yesterday.

Representatives of the New Jersey Environmental Federation blamed industry influence for the administration's decision but DEP officials said the rule is simply being rewritten to correct errors in the draft rule and to conform with revisions to federal regulations.

"We argue this particular proposal was killed by the administration because it would have increased fees on the chemical industry and would have increased the regulatory burden on the industry," said Bill Wolfe, policy research director for the federation. "The Chemical Industry Council and the (New Jersey) Business and Industry Association intervened to kill this proposal."

The DEP released a statement calling the accusations "totally unjustified." The DEP defended the 42 percent funding cut, arguing that the TCPA staff workload will not increase until 1999, when new regulations bring more facilities into the program.

Wolfe argued that TCPA staff can now only inspect 80 percent of the regulated facilities once per year, although the law requires annual inspections. The funding cuts will al-

low inspections of only half the regulated facilities each year, he said.

THE FEDERATION released a memo written last summer from Assistant DEP Commissioner Lewis Nagy to Commissioner Robert Shinn encouraging regulation to include in the TCPA program 144 chemicals recently listed by the federal Environmental Protection Agency (EPA) as toxic, flammable or explosive.

The TCPA program, which was instituted in 1986, focuses on chemicals stored and used in facilities near residential areas. It was developed in the wake of the chemical catastrophe at the Union Carbide plant in Bhopal, India, which killed about 7,000 people.

The Clean Air Act requires state regulation of the chemicals listed by EPA but federal guidelines only address facilities storing much larger quantities of chemicals than DEP staff believe safe in New Jersey, Nagy wrote.

"Industry (e.g., CIC and NJBIA) would obviously prefer backing off to the EPA thresholds," he wrote.

Nagy argued that state regulations should address far smaller quantities because New Jersey is home to many relatively small chemical plants located in residential areas. Adopting the looser federal guidelines "would correlate with a significant increase in the number of potential fatalities" if an explosion, spill or fire occurred, Nagy wrote.

Jane Nogaki, a member of the En-

vironmental Federation board of directors, noted that Napp Technologies in Lodi, where an explosion last month killed four workers, would have been included in the expanded TCPA program outlined in Nagy's memo.

"This is the type of disaster the TCPA was designed to prevent. Napp was not covered by the TCPA but it would have been covered by the expanded program," she said.

NOGAKI CONCEDED there was no proof that including the firm in the TCPA program would have prevented the tragedy.

The DEP statement denied any industry involvement in the decision to withdraw the proposed rule and said whatever rule is eventually adopted will be tougher than federal regulations.

"Our program should be — and is — more restrictive due to the high density of chemical firms and population," read the statement.

Officials for both the BIA and CIC denied using influence to kill the proposed rule. The administration knew the industry's point of view because industry representatives served on a task force that struggled to meld the TCPA program with two similar federal programs, said BIA spokesman Chris Biddle.

"On the face of it, they (the Environmental Federation) have taken information out of context and twisted it," said Biddle.

Hal Bozarth, executive director of

the CIC, said the state TCPA program is now duplicated by the federal Occupational Safety and Health Administration and the EPA. The task force that worked until last summer to "meld" compliance with the three programs included representatives of unions and environmental groups, he said.

"The process was inclusive of them and that is not something you heard at their press conference," Bozarth said.

INDUSTRY OPPOSES regulating sites with small quantities of chemicals because it simply encourages management to order small deliveries of chemicals more frequently, Bozarth said.

"It's crazy to force people to have more and more material sent over the road to avoid exceeding the reporting threshold," he said.

Jim Sinclair, a vice president of the BIA who served on the TCPA task force, said the program could be privatized by requiring industry to have liability bonds.

"The TCPA program staff are probably the best qualified people in the department," he said. "They have a high level of expertise both in government and industry but they could just as well work for a consulting firm and certify these programs."

Sinclair said the task force met for the last time last summer but never reached agreement on a new direction for the TCPA program.

Zoning violation at scene of fire?

Ordinance bans chemical storage

By GEOFF DOUGHERTY
Staff Writer

The Hackensack official who wields one of the toughest laws against hazardous materials has not enforced it against a trucking company where chemicals sparked a fire in March.

While dangerous chemicals remain at the fire scene, zoning officer Larry Manning said he won't issue summonses for violation of Hackensack's ban on hazardous materials.

The prohibition against storing hazardous materials — for any length, in any quantity — has been on the books since 1978. Manning said he had not thought about enforcing it until six weeks after the fire, when a reporter brought it up.

He said he was surprised to hear that City Attorney Richard E. Salkin and Deputy Mayor Mark A. Stein were looking into the potential violation.

"This is news to me. No one has ever said to me this is a zoning violation," Manning said.

Mayor John F. "Jack" Zisa said the violations are clear.

"It's our contention that the storage of those chemicals was in violation of the present ordinance. What they were storing was not permitted to be stored anywhere in [the] City of Hackensack," Zisa said. "I can't say Mr. Manning should be fining those people right now. They are

NJ-12 THE RECORD

ZONING: Bans storage of hazardous materials

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in the process of removing the chemicals."

The March 25 chemical fire gutted the warehouse at 55 DeVoe Place leased by Causeway Warehouse and Distribution Transport Co., and sent several firefighters and neighbors to the hospital. In the aftermath, more than 120,000 pounds of chemicals were found in the building.

Causeway's spokesman could not be reached for comment on the zoning issue Wednesday.

Manning did not go to the scene on the day of the fire, and did not consider citing Causeway for storing the chemicals.

"I just didn't think of it," he said.

Any violation that occurred is now unenforceable, Manning said, because zoning citations must be issued while the problem is ongoing.

"How can I pursue something that doesn't exist today?" he asked.

Easily, said Joseph Doyle, executive director of the New Jersey Planning Officials, which provides training for zoning and planning officers.

"If you've got an ordinance that clearly says no storage of chemicals, and chemicals are found, it sounds like you probably could issue a violation. I wonder why the guy wasn't on top of it," he said.

Manning visited the warehouse after the fire but did not attend a recent on-site meeting about the cleanup. If he had, he might have learned that some chemicals are still there.

"Yes, there are chemicals that remain on the site. Some of them are dangerous," said Jim Taradash, supervising environmental health specialist at the Bergen County Health Department.

Causeway has removed the vast majority of chemicals from the site, including 120,000 pounds of the ammonium persulfate and sodium persulfate that caused the original blaze, as well as containers of butyl alcohol. Fewer than a dozen drums of chemicals remain, officials said.

Among them is methyltetrahydrophthalic anhydride, a powder that irritates the skin, produces toxic fumes if burned, and reacts with the oxidizers that originally started the fire.

Manning wasn't aware Wednesday that chemicals remained on the site, but he said he won't revisit to check on possible violations.

"That's not my job," he said.

Asked about Manning's actions, Zisa said, "I can't verify that he has or hasn't been at meetings. I would hope he is attending everything he needs to attend. I can't

Putting zoning laws in effect and then letting them go unenforced can be dangerous, said Doyle.

"Zoning ordinances are put into place to protect everyone. Everyone's interest is served by enforcement," he said.

The Hackensack ordinance prohibits "storage of chemicals having a flammable, explosive, or toxic base, or which have an odor," and allows fines of up to \$500.

The City Council soon will begin looking into whether that law should be strengthened in light of the fire. Higher fines, markings for buildings with hazardous materials storage, and more frequent inspections are on the table, Zisa said.

Manning said he is skeptical about the effect changes will have.

"You can adopt an ordinance, but the enforcement has to be car-

5/18/95

NORTH JERSEY

12 Lodi shops still shuttered

By TOM TOPOUSIS
Staff Writer

Bergen Record 5/20/95

LODI — As a sense of normalcy slowly returns to Lodi one month after a fatal fire at Napp Technologies Inc., owners of a dozen businesses in a building next door to the chemical plant are watching their livelihoods slip away.

On Friday morning, about six tenants tried to get their first look inside their shops to assess the damage, but were turned away by Napp officials because of concerns about the safety of the damaged building.

"Everything I worked for is hanging in thin air," said Fong-Wai Lee, owner of Keystone Frames, a wholesale picture frame business. "I'm a nervous wreck. I am afraid I will lose all my customers."

Lee, and several other tenants of the two-story commercial building on Main Street, said they need to know how much of their equipment, stock, and records can be salvaged in order to begin rebuilding their businesses.

Avedis Kherlopian, a chocolate importer, lost his stock and the busy Mother's Day trade. John Seuk, who moved his custom jewelry business into the Lodi shop four months ago, was shut out of the spring jewelry shows.

Haythan Muheisen, whose family owns and operates Jersey Poly, a plastics manufacturer, said he has no information about the extent of damage to his equipment, records, or supplies.

Meanwhile, the building's tenants say they are watching their savings dwindle while bills mount.

"It's frustrating to have your livelihood cut off while you still have to pay mortgages and bills," said Michael Farhi, an attorney representing about eight of the building's tenants.

Farhi said he had hoped the tenants could get a look inside the shops Friday. But he said only adjusters for insurance companies were given access.

"Napp has access to the site, but the shop owners who will be making claims against Napp don't,"

Farhi said. "We have to assess individually what our losses are in order to have a basis for a claim."

John Holt, a spokesman for Napp, said tenants were denied access because of concerns about chemical contamination and the structural safety of the building that was damaged by the explosion and fire at Napp.

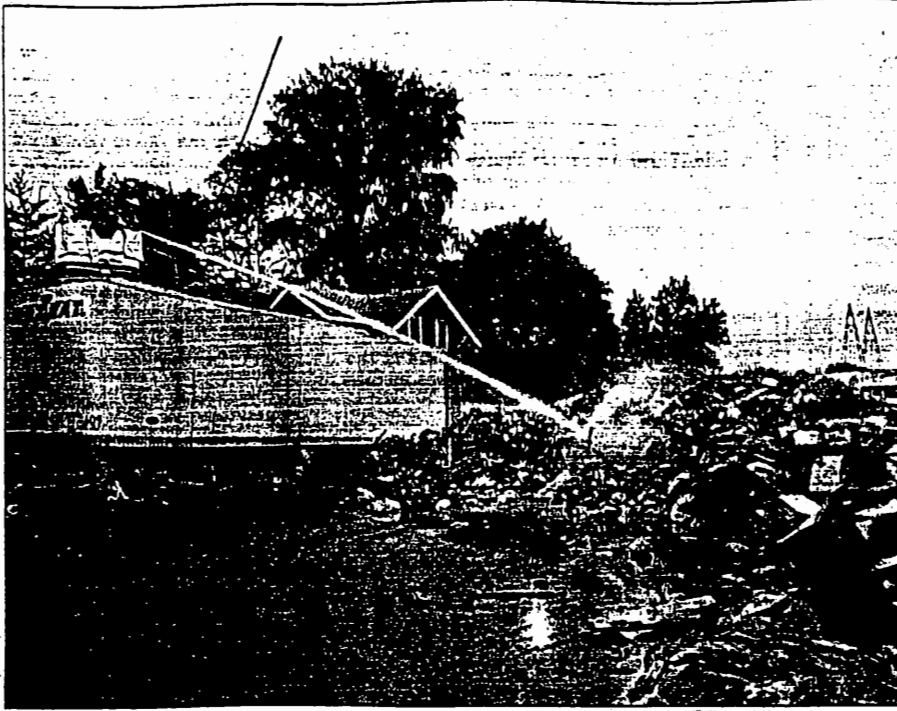
Napp has hired engineers to study and oversee the building. The work is being monitored by the state Department of Environmental Protection.

"The company is trying to move as expeditiously as it can, but it takes time," Holt said, adding that Napp is working on a plan to remove equipment needed by the tenants to reestablish their businesses.

The impact of the fire on businesses will be discussed Tuesday during a special hearing in Hackensack of the state Assembly Labor, Business, and Industry Committee, said Assemblyman Patrick J. Roma, R-Palisades Park.

Legislative Services Library

'EVERY FRIDAY NOW'



Firefighters wetting down a rubbish pile that smoldered Friday at 55 DeVoe Place in Hackensack. MICHAEL J. COPPOLA

Rubbish ignites again

Bergen Record 5/22/95

Hackensack critical of warehouse cleanup

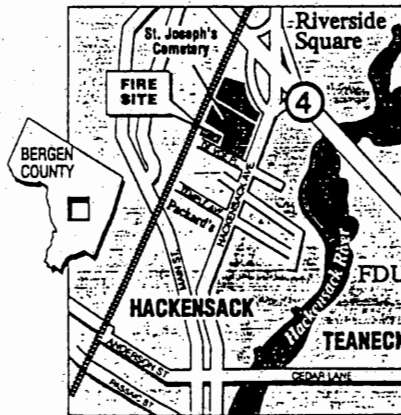
By EMILY LABER
Staff Writer

A 10-foot-high pile of blackened rubbish that has been sitting outside a Hackensack warehouse since a chemical fire gutted the building two months ago caught fire Friday for the second time in a week — just a day after the company that leases the building was issued a summons for not cleaning up the mess.

"This is crazy. It's every Friday now," said Ron Pezzillo, an inspector with the Hackensack Fire Department's prevention bureau. "Common sense would dictate that one of these agencies would have taken the bull by the horns and made sure they got this stuff out of here. It's been laying here creating a nuisance and a hazard."

State, county, and local officials have complained that cleanup at the site has taken too long, but no

See RUBBISH Page A-4



been told to keep the trash spread out. A telephone call to Causeway's attorney was not returned Friday.

The original fire on March 25 injured almost two dozen firefighters and forced the evacuation of 100 homes. It began when warehouse employees hung bags of persulfates from the ceiling and hit them with baseball bats to break up chunks that had solidified. Bits of the chemicals spilled onto the floor and mixed with spools of yarn, igniting the blaze.

The Hackensack Fire Department has fined Causeway \$1,000 for storing chemicals without a permit.

In addition to the pile of trash, Causeway has yet to remove about 20 drums of chemicals inside the warehouse, said Jim Taradash, supervising environmental health

specialist with the county Health Department. The drums contain Schaeffer's acid, a potentially toxic substance used in dyes, and urea, which is found in urine and other bodily fluids.

The 120,000 pounds of the ammonium persulfate and sodium persulfate that triggered the fire lingered on site until April 28. In the meantime, a tarp covering some of the persulfates, which were being stored outside the warehouse, was dislodged by the wind on April 7 and bits of the powdered chemical began flying around.

Persulfates — which are used in plastics, photography solvents, dyes, and bleaches — are oxidizers, meaning that their presence causes other materials to become more flammable.

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agency issued a written order to the company, set a deadline, or threatened a fine until April 26 — a month after the blaze.

The Hackensack Health Department issued a summons Thursday carrying a maximum penalty of \$500 a day.

But officials at the Bergen County Health Department — who also had threatened to fine Causeway Warehouse and Distribution Transport Co. beginning Friday — said after the latest fire that they would extend their deadline at least until Tuesday.

The state Department of Environmental Protection has said all along that it won't fine the company.

The smoldering fire Friday was noticed at 9:30 a.m. by someone working next to the warehouse

at 55 DeVoe Place; the fire burned throughmost of the day. Light-colored smoke rose from the heap of ruined merchandise, which included spools of white yarn, bits of machinery, and other items that Causeway had been transporting. As with last week's fire, there were no flames.

Fire officials attributed the fire, like last week's, to spontaneous combustion — a phenomenon that occurs when materials such as cotton or wool become damp and compressed, creating heat as the core of the pile begins to dry out.

No one was injured and no homes were evacuated. Officials tested the trash heap for hazardous chemicals and said they found none.

Firefighters doused the smoldering rubbish and a contractor hired by Causeway hauled about

half of it away in 30-cubic-yard containers, said a Causeway employee at the scene who would not give his name. He said the trash was bound for an incinerator or dump in Delaware.

Officials said the rubbish that remained could still reignite.

"Unfortunately, until it's completely removed, I can't say to you there can't be a problem tomorrow," said Deputy Chief Rick Yannelli of the Hackensack Fire Department.

After last week's fire, firefighters had spread out the garbage to try to avoid a recurrence. But when they arrived Friday, the junk had been pushed into a heap about 10 feet tall.

The Causeway employee at the scene said the company had never

165X

Chemical plant tragedy prompts call for review of safety programs

By TERRI P. GUESS

Union leaders for displaced workers at the former Napp Technologies in Lodi yesterday urged state officials to examine safety management programs at all chemical plants in New Jersey.

Maintaining employees should not be blamed for the chemical accident that led to an explosion which claimed the lives of five workers and destroyed the factory, the labor representatives joined affected employees, firefighters and members of the New Jersey Right to Know and Act Coalition in calling for stronger laws governing hazardous material storage and handling.

"The first step that can be taken to assure safer workplaces and to prevent tragedies like the Napp explosion from happening again is for Gov. Whitman and state and federal

were unaware of what chemicals were stored on site. And, union personnel and some elected officials have noted the three chemicals involved in the Lodi explosion had been deleted from the states Right to Know Law.

Eric Scherzer, vice president of the union, asked that officials recommend to President Clinton that funding be given to the Chemical Safety and Accident Investigation Board for evaluations of safety procedures at chemical plants.

Scherzer added he was disturbed the Governor said the Lodi explosion occurred after employees incorrectly mixed chemicals, although there was no supporting evidence. He said authorities should wait for the results of investigations by the federal Occupational Safety and Health Administration before blaming the workers.

"It's far too easy to blame the victims when the management systems must be in place to control hazardous operations," he said.

"Since people are human, errors sometimes occur. But even when errors are made proper management systems are designed to catch errors. Proper management systems have controls to prevent errors from causing explosions. Proper management systems prevent death and destruction.

"We should let OSHA complete a thorough investigation of all the factors that might be potentially involved in a chemical accident, including plant design, mechanical integrity, maintenance, operating procedures and training."

An OSHA spokesman said an agency investigation could take months to complete, but noted law requires it to conclude within six months from an incident.

Thomas Canzanella, vice president of the Professional Fire Fighter Association, said it is imperative that members of the state Legislature "stop the administration from dismantling occupational and safety and health protections."

"We need a way of knowing what chemicals are stored in warehouses," added Hackensack Fire Chief Richard Johnson. "We need strong Right to Know legislation. Rather than weakening Right-to-Know, we need to encourage private industry with incentives to install better fire protection measures and programs to train workers," he said.

Roma said the disasters in Bergen County have brought to light serious problems in the workplace that need to be addressed, and that the committee is seeking ideas on how to improve the states' efforts in promoting workplace safety and health.

Also attending the hearing were Assemblywoman Loretta Weinberg (D-Bergen), Assemblyman Robert Smith (D-Middlesex), Assemblywoman Rose Heck (R-Bergen) and state Sen. Byron Baer (D-Bergen).

'The Governor should stop gutting the chemical Right to Know and Toxic Catastrophe laws through draconian budget cuts.'

— Bill Kane,
union official

legislatures to stop all attacks on current health and safety laws," Bill Kane, president of the New Jersey Industrial Union Council, said during a hearing of the Assembly Labor, Business and Industry Committee in Hackensack.

"The Governor should stop gutting the chemical Right to Know and Toxic Catastrophe laws through draconian budget cuts," he charged.

The chemical explosion at Napp Technologies in April and a chemical fire at the Causeway Warehouse and Distribution Corp. in Hackensack in March prompted Assemblyman Patrick Roma (R-Bergen) to call the hearing.

At the session, the state commissioners of labor, commerce, health and environmental protection discussed preventive measures, and detailed assistance they are offering to victims of the accidents. In both incidents firefighters

ALLX

PANEL: Hears testimony on chemicals

From Page NJ-1

merce, and labor officials, focused on recent revisions to the state's right-to-know laws, which mandate reporting of hazardous chemical storage.

"In recent years we have heard a lot of complaints from the business community about excessive regulation and related paperwork. Some say it drives away jobs," said Roma, committee chairman.

"But situations like the Hackensack and Lodi fires highlight the legitimate need for public action to protect the health and safety of the people, even if it may seem inconvenient to some."

Five workers were killed and more than 400 residents were evacuated from their homes a month ago when an explosion and

fire destroyed the Napp Technologies Inc. chemical plant in Lodi.

On March 25, a chemical fire at the Causeway Warehouse and Distribution Transport Co. in Hackensack raged for a full day, sending 24 firefighters to hospitals for treatment due to exposure to noxious smoke.

Under the state's right-to-know regulations, Napp Technologies was not required to report two of the three chemicals believed to have caused the Lodi explosion. And state right-to-know laws don't apply to warehouses.

Governor Whitman trimmed the right-to-know list in 1994 from 3,000 to 1,000 chemicals in quantities of 500 pounds or more. The reduction was aimed at easing regulations on business.

"Reporting of the chemical inventory at a plant cannot prevent all accidents," testified Gerald Nichols, director of the Department of Environmental Protection's division for environmental safety, health, and analytical programs.

Nichols said the DEP backed the move to reduce the list of chemicals that must be reported.

Before the change in the right-to-know law, the DEP faced criticism that it required companies to "report inconsequential amounts" of chemicals on site, Nichols said.

But Assemblywoman Loretta Weinberg, D-Teaneck, said the fires underscore the need for tougher laws. "We cannot afford to ease our regulatory laws for business while putting the safety of our residents at risk," she said.

Hackensack Fire Chief Richard Johnson told the committee that current laws left his department in the dark about what it was facing at the warehouse fire. He urged passage of legislation to toughen reporting requirements.

"An hour or so into the fire, we realized we had a more serious incident," Johnson said. "This fire was scary. It reminded us of the Ford fire in 1988 when five firefighters died."

The committee, which also includes Assemblywoman Rose Marie Heck, R-Hasbrouck Heights, and Stephen A. Mikulak, R-Middlesex County, will meet again in several weeks to continue hearing testimony. The committee can propose legislation based on its findings.

Toughen rules on chemicals, lawmakers told 'The lives of residents and firemen are at risk'

By TOM TOPOUSIS

Staff Writer

Firefighters, industrial workers, and several state lawmakers called for tougher regulation of the storage of hazardous chemicals Tuesday during an Assembly hearing to investigate chemical fires in Lodi and Hackensack.

The Assembly Labor, Business, and Industry Committee hearing in Hackensack was called to investigate the effectiveness of state workplace safety programs, said Assemblyman Patrick J. Roma, R-Palisades Park.

"The lives of residents and firemen are at risk when we fail to aggressively monitor the state's chemical plants," said Assemblyman Robert G. Smith, D-Middlesex County.

Smith, along with union officials, firefighters, and several state lawmakers, criticized recent efforts to reduce the state's reporting requirements for chemical companies.

"If we want to prevent future disasters we must ensure proper regulation," said Eric Scherzer of the Oil, Chemical, and Atomic workers union. "It's too late for the five who died in Lodi, but let's hope programs that come out of this committee will prevent future Lodis," Scherzer said.

The hearing, which included testimony from state health, environment, com-

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BR 5/24/95

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Spark blamed for toxic fume-spewing fire

By PETER PAGE
Staff Writer

FALLS, Pa. — Investigators believe a single spark caused the burst of flame that critically burned a worker at the Rhone-Poulenc plant Monday night but they don't know what caused the spark.

The fire caused the release of a plume of toxic smoke from the burning chemical, phosphorus pentasulfide, that crossed the Delaware River, prompting police and firefighters in Trenton to block streets and consider an evacuation of the neighborhood around Waterfront Park. A shift in the wind that sent the plume of smoke further downriver made the evacuation unnecessary, according to fire officials.

Falls Fire Marshal Ray Forestal said the incident could have been far worse. If water had mixed with the phosphorus pentasulfide it would have created hydrogen sulfide, a potentially lethal gas.

"If the water got loose up there, we would have been releasing a poison gas,"

Forestal said. He said they still are checking whether any water actually came in contact with the chemicals.

The injured worker, Steven Rule, 30, was wearing a respirator and fire retardant clothing when the fire erupted, Forestal said, but the intense heat seared through the garment.

"There is nothing left of the clothing," Forestal said.

Rule was listed in critical condition last night at Crozer Chester Medical Center in Upland, Pa., according to a hospital spokeswoman.

The plant, located on the bank of the Delaware River and employing 63, produces bulk quantities of phosphoric acids used in motor oil, pharmaceuticals, agricultural chemicals, household cleaners and various other products, said plant manager Dennis Myers.

"Our best guess right now is that this was a flash fire," Myers said.

THE MATERIAL safety data sheet that details the hazards of phosphorus pentasul-

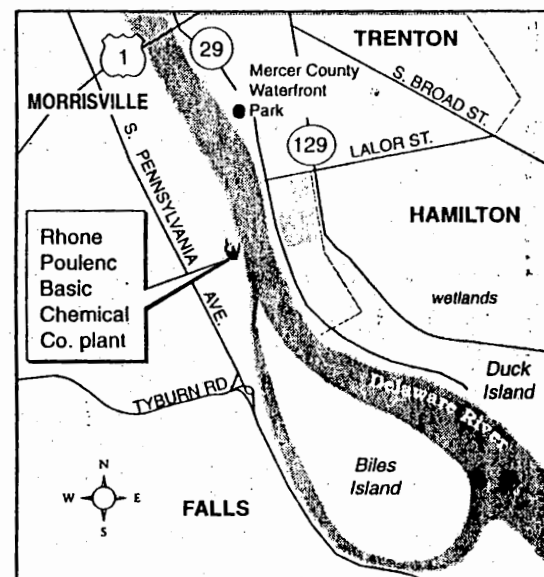
fide notes the chemical is flammable and ignites easily. Workers are warned to handle the chemical gingerly because a spark will cause ignition, especially when the chemical is in dust form. Rule was cleaning the machine, called a "flaker," when the accident occurred.

"That is one of the suspect items right now because they had a lot of dust," Forestal said. "That machine is cleaned on a regular basis but this was the first time this has happened, so we have to know what caused the fire."

Rhone-Poulenc acquired the Falls chemical plant in 1987 when it purchased Stouffer Chemicals. Forestal said the company has a sound safety record.

"We've had one lost-time accident in 12 years," Myers said. "This is the second."

Firefighters had to haul fire extinguishers to battle the blaze, since water would have caused a toxic reaction. Forestal said the company will be asked to install a hose system connected to a central dry chemical extinguisher so firefighters can reach any part of the plant.



Times graphic by Laura Sommerville

168X

The elements of a tragedy

On April 21, a massive blast rocked Lodi and environs when a mixing process at a chemical plant owned by Napp Technologies Inc. went awry. Five workers died, 400 area residents were evacuated, and dozens of firefighters and others were treated for injuries ranging from smoke inhalation to serious burns. Acting Bergen County Prosecutor Charles Buckley has investigated the incident and has preliminarily determined that nothing criminal happened.

Napp officials have repeatedly declined to answer questions relating to the cause of the explosion.

But in the weeks since the blast, Record staffers Michael Moore and Debra Lynn Vial have conducted interviews with scores of Napp workers, reviewed public documents, and talked with company spokesmen, industry experts, and regulatory officials in an attempt to determine what happened at the plant that Friday morning. This is what they found:

Lodi chemical blast had many facets

By DEBRA LYNN VIAL
and MICHAEL MOORE
Staff Writers

The shipment arrived early in the week and was stored in a corner room: 20 steel drums marked "Flammable" and "Dangerous when wet."

For several days, the employees of the Napp Technologies Inc. plant gave those drums a wide berth. A few even refused to go near the area.

Dave Oliveira remembers thinking how odd it was that men experienced in handling hazardous chemicals could be so

skittish. But he also knew those drums contained 1,000 pounds of aluminum powder and 8,000 pounds of sodium hydrosulfite, each capable of causing a deadly explosion.

"We weren't used to having so

much dangerous chemicals around," said Oliveira, a unit leader on the night shift. "They didn't want to touch this."

"Nobody wanted to get this job started, because they knew this was dangerous," he said. "Everyone was waiting for someone else to do it."

But the job had to be done. The contract called for the chemicals to be blended and shipped by the end of the week. The plant was shutting down for renovations, and most employees had been working six and seven days a week to get these last orders finished.

"They were pushing to get the work out before we shut down," said James Gannon, who had worked as a chemical operator at the plant for 10 years. "There was a lot of pressure."

On the morning of April 20, a Thursday, Napp's 50,000-square-foot plant, nestled in a residential neighborhood of Lodi, was indeed a pressured place.

The looming shutdown was

critical to the economic health of the company. Napp officials were hoping the work that would begin Monday and continue for two weeks would boost their chances of passing a critical inspection by the federal Food and Drug Administration (FDA).

But not all of the pressures facing Napp and its 110 employees were due to the shutdown. Not as acute but just as much at play were market forces, in the form of competition from other chemical manufacturers, chiefly foreign companies that enjoyed vastly lower labor costs and fewer regulatory demands.

In recent years, those pressures had prompted Napp officials to transform the company. Like many important players in the chemical industry, Napp had increasingly embraced "custom manufacturing" — processing chemicals for the giants of the industry who were cutting costs by outsourcing the production of their wares.

To remain competitive in that multimillion-dollar business, Napp had to stay lean and nimble: It had to be prepared to take on business from any and all corners, acquaint workers with different chemical processes, and deliver a finished product quickly.

In 1993, Napp itself downsized, in the form of a restructuring that emphasized the company's lower-tech mixing operations at the expense of the more complicated and volatile reactive-chemical manufacturing. The effort was by all measures successful: 50 percent of the company's estimated 270 clients in 1995 were custom-manufacturing accounts, up from just 20 percent three years before.

But the layoffs and forced retirements had cost the company the talents of some key, high-paid personnel. Now, it no longer had a chemist on site around the clock, even though its emphasis on custom manufacturing meant that workers and supervisors found themselves working at times with

unfamiliar chemicals.

Until that fateful morning, those business decisions had paid dividends.

During an interview conducted soon after the blast, Napp President Hans Peter Kirchaessner acknowledged that the nature of the business forced the company to weather a host of pressures. But he maintained that Napp never engaged in "shortcuts" to safety.

"We have our methods of operating and a clearly defined scope of work, and we follow that," he said.

Kirchaessner declined to comment on those methods. And, like other Napp officials, he has declined to discuss the specific events surrounding the explosion.

On Thursday afternoon, Napp issued the following response to a series of questions posed to the company through its public-relations consultant, Holt & Ross Inc. of Far Hills:

"Your questions go directly to the substance of the current investigations that are underway, and we don't think that it is appropriate to respond to them at this time, because all the facts are not in yet. As soon as the investigations are complete, we will be in a position to respond to these and other questions based on the facts."

Nervousness replaced traditional light mood

It was a tradition among the weary workers of the graveyard shift: Employees would spend the last couple of hours playing pranks and telling tales as they worked. It made the time go faster.

But at dawn on this Thursday morning, there were no jokes.

The men were nervous.

Dave Oliveira inspected the mixing vat one last time — checking for drops of water left from the cleaning crew — and ordered his men to begin loading the aluminum powder, sodium hydrosulfite.

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and a small amount of potassium carbonate.

He stood on a catwalk and watched the silvery white powder settle into the vat, a massive, V-shaped steel machine nearly two-stories tall. He usually didn't hover over his crew, but he thought it would comfort the worried men to know someone was watching for signs of trouble.

"I didn't want anything to happen," he said.

In the factory's 10 other mixing and blending rooms, workers were finishing up batches of denture adhesive or other less hazardous jobs.

Oliveira and his crew were starting to load the chemicals into the vat to give the day shift a head start on the mixing procedure. Since the downsizing, Napp had chemists and more experienced workers on staff only during the day, and they usually handled the most dangerous mixing jobs.

"You'd never do this kind of job except on the day shift," said Gannon, 42, of Lodi. He has put in 20 years working for area chemical plants. It seemed a natural career choice for a hometown boy raised among the factories that dot the neighborhoods in this working-class town. He had spent many of his childhood summers throwing rocks off Napp's roof into the Saddle River.

"You want the best people working on these jobs," he said. "You don't want to take chances."

Napp's workers were handling new — and hazardous — chemicals more often these days, as the company's custom-blending business grew. Although employees were always told at the beginning of each shift what they were working with and what safety precautions were needed, they weren't always familiar enough with the chemicals to recognize a problem. Or know how to solve it, they said.

"When you deal with chemicals, you can't tell what will happen," said Ishmael Foxworth, a chemical operator who had worked at Napp for 11 years.

Kirchgaessner said: "Everybody is trained under the same conditions. We had experienced people at the site when this occurred."

Oliveira and his crew were glad to leave that morning.

"By the time we got back that night, these chemicals would be gone," he said. "That was fine with us."

Their shift was to be the last before the plant closed Saturday morning. If everything went according to schedule, they would have just one contract left when they returned.

Plant was cited by FDA in March 1994

In the keenly competitive pharmaceutical game, the FDA is the referee. A favorable call — certifying a facility to process certain chemicals — can be a gateway to riches. A bad inspection can spell economic disaster.

Napp had plenty on the line with the FDA, enough to warrant an unprecedented two-week spring shutdown.

The plant needed major repairs

to fix problems the FDA had cited in an inspection a year earlier. The factory also needed to be upgraded, because Napp was seeking FDA certification to manufacture two drugs entering clinical trials — business that could produce a steady, reliable source of income.

In a March 1994 inspection, the FDA cited Napp for failing to clean one of its massive mixing machines properly, a problem that raised FDA concerns about contamination. Napp was also criticized for being unable to detect and prevent impurities while processing bulk pharmaceuticals, according to an FDA official who declined to be identified.

Kirchgaessner acknowledged that his company had received a warning letter from the FDA, but he said the inspectors had found only minor paperwork and administrative problems. He declined The Record's request to review Napp's copies of FDA records.

To satisfy these FDA requirements, Napp needed to paint, repair machines, install new airtight doors, dust controls, and walls, upgrade flooring, and make other improvements.

And it couldn't wait until its normal August shutdown to do the work: A field team from the Center for Drug Evaluation and Research at FDA headquarters in Rockville, Md., would be arriving soon. Although FDA inspections are unannounced, Napp officials correctly anticipated the visit was looming.

"Napp was due for an inspection, and it was coming up shortly," said the FDA representative.

Kirchgaessner acknowledged that the two-week closing was prompted primarily by the FDA's visit. But he maintained that the work would also improve the plant's appearance for inspections by clients.

Pharmaceutical companies that use Napp for custom work often dispatch specialists to the site to evaluate the company and verify that Napp can meet the client's standards.

A negative inspection can mean a loss of business.

"The place has to look nice," Kirchgaessner said. "They want to see a well-run facility."

Evening crew 'didn't want to do this job'

The day shift didn't get the job done.

A pipe that was supposed to feed benzaldehyde — a liquid that helps the chemicals blend — clogged, and the maintenance workers couldn't fix it. This mixing vat was old, and some of its worn valves and pipes were stubborn. The unit was due for an overhaul during the shutdown, employees said.

At their daily afternoon meeting, Napp officials decided the evening crew would have to unclog the pipe and complete the mixture. The officials — along with the company's chemist and chemical

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engineer — then went home.

"They wanted to get this running," said Roman Gebolys, a maintenance mechanic on the evening shift.

The bosses' decision didn't sit well with the evening shift. It was an unusual assignment, since the most dangerous jobs were usually done by the day crew.

"We didn't want to do this job," said an employee on the evening shift who asked not to be identified.

Most of the work in the other mixing rooms had been finished, and the workers were cleaning up for Monday's arrival of the construction workers.

At 8 p.m. Thursday, Gebolys was trying to fix the mixing vat. The maintenance mechanic has biceps as thick as other men's thighs, but he couldn't get the pipe to budge.

Suddenly it popped off, and he was splashed with benzaldehyde. It felt sticky and cold as it soaked his heavy work pants. And then it began to burn.

"My legs were on fire," he said. Another worker applied some neutralizer to the wound, and Gebolys ran upstairs to shower. The chemicals washed off, but the shower floor was slippery with the residue of a batch of denture adhesive that a previous shift had mixed, according to the Bergen County Prosecutor's Office. Gebolys fell and broke three ribs. He spent the rest of the evening in a Clifton clinic.

Napp salesmen insisted on volume of chemicals

The five tons of chemicals in the vat were indeed treacherous. But they were also essential in the production of everyday items containing gold — from wedding rings and other jewelry to the electroplated circuitry boards inside computers and stereos.

The 10,000 pounds of aluminum powder, sodium hydrosulfite, benzaldehyde, and potassium carbonate were being mixed for Technic Inc., a Rhode Island-based manufacturer of industrial chemicals and electroplating equipment with annual sales of roughly \$100 million.

The concoction, when mixed properly, becomes Technic Gold Precipitator. Though volatile, it is favored by large companies as an especially effective way to recover gold from electroplating solutions.

According to Technic Vice President David Weisberg, Napp had mixed the chemicals for Technic just once before, in 1992. But the amount then was much smaller, about 2,000 pounds. This time, Technic again requested a small batch, but Napp salesmen insisted on a larger volume.

"They weren't interested in making 100 pounds," said Weisberg. "They said they can only make money if they do this stuff in larger volumes."

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Technic shipped the raw chemicals to Lodi and planned to warehouse the finished gold precipitant once it was delivered.

Weisberg said he and other Technic officials were in the dark about what "went terribly

haywire." A month after the explosion, Napp had yet to contact its customer, he said.

"It's not a dangerous product when used properly, and I'm not being a Monday morning quarterback here, but it's not a dangerous product when it's blended properly, too," said Weisberg, who predicted that his company will face civil litigation in the wake of the events at Napp.

Still, he said, Technic is considering dropping the gold precipitant from its product line.

"I don't think we're going to ask anybody to blend this again," he said. "I think people will be a little spooked. I mean, you look at what happened and ask yourself, 'Is it really worth it?'"

Napp stood to make \$5,100 from the contract.

Water acted as catalyst for the deadly reaction

The deadly mistake occurred about 8:30 p.m. on Thursday: Somehow, water got into the mixing vat.

It was only a few cups — a gallon, at most — but it would soon cost five men their lives.

It was the one thing the plant's chemical operators knew must not happen. They had been warned about the dangers of water with these chemicals. Signs posted in the room cautioned: "Do not use water inside or near the room."

Sodium hydrosulfite reacts violently when wet. In this case, those 8,000 pounds of dampened sodium hydrosulfite started a chain reaction that eventually would set off 1,000 pounds of aluminum powder, a chemical so explosive it has been used in bombs and some rocket fuels.

"Everyone knew about the water," said Leo Santiago, a shop steward who had been with the company for 15 years. "We were very careful."

But it happened anyway, minutes after Gebolys broke his ribs.

Just how water got into the machine is the subject of an investigation by the federal Occupational Safety and Health Administration.

Most employees who were there that night told the same story. Their account of how the chemicals got wet matches the findings of an investigation conducted by Charles Buckley, the acting Bergen County prosecutor.

Two maintenance workers, who took over attempting to fix the vat after Gebolys' accident, flushed the clogged pipe with water. Employees contend that, unlike the chemical operators, the maintenance workers had not been warned about the dangers of water.

Employees also have told Buckley's investigators that the two men sprayed water outside the vat to wash off some of the benzalde-

hyde that splashed when Gebolys dropped the pipe. Water could have seeped in through an open valve.

"There was a lot of water everywhere," said a worker who declined to be identified. The two maintenance workers could not be

reached, despite repeated attempts to contact them to discuss the incident.

Privately, OSHA officials concede that Buckley's hypothesis is the most likely. But last week, OSHA revealed that it is following another lead: A vacuum tube designed to suck up errant dust may have leaked water back into the vat when the vacuum system was shut off while Gebolys and his crew attempted to fix the clogged pipe.

OSHA officials also are pursuing several other theories: that the chemicals were contaminated with water before they arrived at the plant or while they were sitting in the warehouse; that water was in whatever was clogging the benzaldehyde pipe; and that the cooling unit on this vat malfunctioned, causing water droplets to form inside the machine. Investigators also are questioning the crew that cleaned the vat just before the chemicals were added about whether the vat had been flushed with acetone or some other chemical to dry any remaining drops of water.

Many employees dismiss OSHA's alternative theories. The powder was dry when they opened the drums, and the head of the crew that loaded the chemicals, Dave Oliveira, maintains that there was no water in the vat.

"Even a drop of water was a terrible mistake," said Jay A. Young, an industrial chemist and chemical safety expert based in Silver Spring, Md., who has written books on chemical safety. "Whoever was on duty and responsible for safety didn't do their job. This should not happen."

Young described the ensuing reaction: Water causes sodium hydrosulfite to break down into sulfur, sodium sulfate, sulfur trioxide, and other substances. As it decomposes, it generates heat, which produces steam that reacts with the aluminum powder to create hydrogen gas. The potassium carbonate turns the water alkaline, which makes the aluminum powder react more readily.

"This has all the makings of a hydrogen explosion," said Hugh Thompson, a Rutgers University chemist.

The employees knew immediately that water had gotten inside the vat. They smelled a rotten-egg odor. Even the greenest chemical worker recognizes that smell: wet sulfur, most likely hydrogen sulfite. In high concentrations, it is more poisonous than cyanide gas.

Word raced throughout the plant, into the other rooms where the rest of the night crew was working.

Plant managers opened a valve on top of the vat to allow the hydrogen gas to escape, Buckley said. They told the employees to leave the vat alone and set them to work

in other sections of the plant. They said everything was fine, the employees recall.

The mixing vat went unchecked for hours, according to both employees and the prosecutor's office.

"They knew there was a problem, but the vat literally sat in the corner of the room and nobody paid any attention to it," Buckley said. "The company did nothing to stop this until it was too late."

During those hours, the temperature and pressure gauges on that vat slowly crept up: The managers had not opened the valve sufficiently to allow enough gas to escape.

Had they responded quickly — opening more valves, or starting then to empty the vat and storing the chemicals in containers that were loosely closed — they could have kept the pressure inside the vat within safe levels, Young said.

They didn't, and as Thursday night became Friday morning, the pressure continued to build.

"This building," according to Young, "was becoming a time bomb waiting to explode."

Corrective efforts proved unsuccessful

Buster McKenzie gave his sleeping son a playful nudge just before leaving his Paterson apartment about 5 a.m. "I'll see you when I get home," Brian, 16, remembers his 44-year-old father saying. They were going to work on the car, a shiny black Cadillac, after dinner.

Sixty miles away in West Long Branch, Thomas Furlong scribbled a note to his wife. He apologized for working so much lately.

Susan Furlong threw it in the trash. She wasn't angry. The 38-year-old production supervisor and father of three had been putting in 70-hour weeks lately because he was one of those responsible for getting the last jobs finished. She was hoping they'd have some time together while the plant was closed. They had taken only two vacations she could remember.

Meanwhile, Calixto Rivera was thinking about calling in sick. It was cold and rainy, and the 37-year-old chemical operator and fa-

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ther of three wanted to stay in his warm bed in Newark. He telephoned a co-worker, who persuaded him to get up.

"It's only an eight-hour shift, Papo," she said, using his childhood nickname. "Just get through the next eight hours, and you'll have two weeks to stay in bed."

In his tiny office at Napp, Glenn Terraneo was also on the phone. The heavy rotten-egg odor had engulfed the factory.

Terraneo knew this was serious trouble. The 33-year-old night-shift production supervisor called Joseph Zirlis, the plant manager, who is also a chemical engineer, according to Napp.

According to Oliveira, after the call, Terraneo said he had been told to add nitrogen to the vat. He and two workers entered the mixing room and opened a valve. Smoke poured from the vat, and the stench knocked them back a few steps.

Adding the nitrogen was another misstep, Young said. With many other chemicals, nitrogen will stop the chemical reaction by displacing oxygen, smothering chemical reactions and fires. But nitrogen won't soothe this particular mix this late in the chemical reaction.

"Anyone with any training would have known better," Young said. "They were dealing with chemicals that have a nasty reputation for killing workers."

"The one thing they did to rectify this problem was the wrong thing," he said.

Company officials have repeatedly declined to comment about details regarding events that took place at the factory that night.

No calls were placed to the local firehouse — just 100 yards away — even though local fire officials require notification whenever an unusual chemical reaction takes place, according to Lodi Fire Chief Sam Garofalo.

"They never notify us. We've had other incidents there. They never notified us when there was a fire," Garofalo said. "They always tried to put it out themselves before calling us."

In addition, it is standard practice in the industry that before any new procedure, chemists will plot out any possible mishap that could occur and how to handle the emergency, Young said. Napp's chemical experts had emergency plans — but while they warned against getting water into the mixture, the plans did not say what to do should that occur, employees said.

"We didn't know what to do," said one employee. "We're not chemists. We do as we're told."

By 6 a.m., the poisonous stench was overwhelming. The plant was evacuated.

"You could smell it from outside," said Gannon, who was just arriving for work. "It was coming out of the vents in the roof."

On their way out, the employees grabbed Wallace Burdick, a chemical operator. He didn't smell anything unusual and didn't know there was a problem. After a lifetime in the chemical industry, "my

sense of smell isn't good," said the 67-year-old Washington Township resident.

The workers shivered in the cold morning drizzle at the factory gate. Some were grumbling, because they had left their coats in their lockers.

Inside, Terraneo made one last phone call. The Clifton father of three told his wife there was a problem "with an odor" at the plant. His shift was over, but he wanted to stay and help Zirlis, who arrived at roughly 6 a.m.

Zirlis was now in charge at the plant.

At 7 a.m., it was decided that the company's fire brigade would return to the building and bring the chemicals under control. Members of the brigade were told to unload the smoldering chemicals into drums, Gannon said.

That might cool down the vat or slow the chemical reaction by releasing some of the pressure, they thought. More important, say the employees who waited outside, they were told that they would be setting these chemicals aside so they could move on to the final job.

"They wanted to save as much of this stuff as they could," said one employee.

It is unclear whether Zirlis telephoned the company's chemists or whether he consulted any other Napp officials before the decision was made to send workers inside to load the drums. Zirlis has declined to comment.

Fifty minutes later, it would

prove to be a fatal mistake. The reaction had already gone too far. The pressure inside the vat was building so quickly that it almost immediately filled the space left by the removed chemicals.

"If they were going to try to take out the chemicals, it should have been 12 hours earlier," Young said. "This was much too late. It didn't cause the explosion, but it put lives in danger. They shouldn't have been in there."

Several employees refused to return to the plant.

"I wouldn't go near anything like that," said Foxworth, the chemical operator. "You don't mess with these things."

One of the seven men chosen for the job was nearly 70, and Rivera thought his friend was too old to risk breathing those fumes and said a younger man should go in his place.

Rivera became that younger man. As he walked to the door, he asked a co-worker, Jose Milan, to go to a nearby deli and buy him a cup of coffee.

A dozen employees who stood outside that morning say the men were ordered into the mixing room. Buckley, whose arson division investigated the incident, has heard those allegations and says they are unfounded.

Seven men went into that building wearing masks with carbon filters to protect them from the fumes: Gannon, Rivera, Furlong, Terraneo, and McKenzie, along with James Wilbur Gourdine, a 55-year-old Irvington resident, and Joseph Carson, a 31-year-old Ro-

selles resident. None was a chemist. The man who was told to supervise the work inside, Gourdine, was the company's maintenance supervisor.

Workers say those in charge that morning didn't act as if this problem was particularly dangerous. Certainly, those who were inside never thought there would be a massive explosion, Gannon said.

"At worst, I thought we might have a small fire," Gannon said.

"We had Gourdine in there, and he was very safety-conscious," he said. "If he had thought anything would happen, if he had been told there was danger, he wouldn't have let us go in. But he wouldn't have known. That wasn't his job."

Inside the mixing room of the eerily quiet plant, the men unloaded more than 1,000 pounds of smoldering chemicals into four barrels.

Meanwhile, Gourdine told Gannon to set out a fire hose in the corridor about 30 feet from the mixing room, but not to turn on the water, Gannon said.

"It would have set off an alarm at the fire department," he said. "They didn't want the alarms to go off. They wanted to handle this themselves."

Gannon kept his eyes on Gourdine, waiting for the signal to turn on the water. But Gourdine seemed calm as he leaned against a wall in the corridor and watched the men inside the mixing room fill the drums.

Suddenly, Gourdine stiffened. He took a step toward the room.

"He looked terrified," Gannon said. "Something had gone wrong, and he knew it."

Gannon was still holding the fire hose when he heard a loud hissing.

Hydrogen gas was leaking from that vat.

It was going to explode.

21 union workers lost their jobs in 1993

That day back in August 1993 when most of Napp's 138 employees reluctantly elbowed into a company meeting was grim by any workingman's standards. The news could not be good: they realized Napp's profits were being pinched.

Within minutes, 21 rank-and-file union workers and four managers lost their jobs. The others were told that if sales didn't pick up, they could be next.

Holbrook Bugbee, then Napp's president, informed his troops that chemical companies in Asia and India were undercutting Napp by as much as 70 percent in the production of raw chemicals.

"They're killing us," workers recall the president's saying. Bugbee then laid out the future of the company.

No longer would Napp primarily manufacture bulk pharmaceuticals and raw chemicals for its parent company, Purdue Frederick Co. in Norwalk, Conn. Now, Napp was embracing custom manufacturing.

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Most of the seasoned veterans in Napp's production department, including two of the company's top chemical minds, would no longer be needed.

With sales totaling \$50 million in 1993, Napp had primarily been a key piece of Purdue Frederick's international pharmaceutical empire. Both companies are owned by the families of brothers Mortimer, Raymond, and Arthur Sackler, all noted American tycoons and philanthropists. Purdue is a big player in the multibillion-dollar drug industry, with yearly sales of about \$400 million.

But Napp's leadership recognized that the giants of the indus-

try — Johnson & Johnson and Merck & Co., both Napp customers — were selling production facilities and contracting with independent chemical makers to cut costs.

Napp officials considered custom manufacturing to be safer, too, because workers were merely mixing or grinding compounds, not handling the often-dangerous reactions common to traditional production of raw chemicals.

But with the change in business strategy came intense pressure, a hallmark of the custom industry. Before, Napp could produce finished materials on its own schedule, warehousing the products until Purdue Frederick or its other regular customers called.

But in custom manufacturing, it's the client's deadlines, mandates, and specifications that rule.

"The customer calls the shots ... they pay the bills, anyway," Kirchgaessner said. "If they feel you service them well and are a reliable partner, that's really what counts."

Company president got call about odor at plant

Nothing could have prepared Kirchgaessner for the morning of April 21. Not his 35 years in the chemical industry. Not his education and training. Not his success as a corporate executive.

Nothing.

Napp's broad-shouldered and intense 53-year-old president was informed that something was wrong at the plant when Zirlis called him shortly after 6 a.m. at his home in Westchester County.

"They said there was a smell, an odor through the plant," Kirchgaessner said. "I don't recall them saying there was a problem; I remember just the smell."

But Kirchgaessner realized this was not merely a harmless stench. After all, Napp officials wouldn't contact the company president at home and at such an hour unless it was important. He told Zirlis to make sure that the office workers were told to stay home.

Forty-five minutes later, Kirchgaessner was out the door of his Rye Brook home and beginning the 22-mile drive to Lodi.

Kirchgaessner's life changed moments before he crossed the Hudson River. A radio newscast described a fierce explosion in Lodi and a thick, black plume of

noxious smoke pouring into the air.

It was Napp.

"When I saw the cloud of smoke from the George Washington Bridge," he said, "it was one of the worst moments of my life."

He was too late. And he feared the worst: Workers might be trapped inside a chemical inferno.

Hissing noise gave way to silence, then a boom

The hissing lasted seven seconds. Those who lived to tell about it say it was the loudest, angriest noise they had ever heard.

Then there was silence.

"It was a fraction of a second, but it was so quiet it lasted a lifetime," Gannon said.

Someone screamed "Run!"

Joe Carson bolted out of the room. Buster McKenzie followed.

Four men closest to the machine never had time to take a single step.

The hydrogen rushing from the vat ignited, possibly from a spark created by a static electrical charge or from pieces of steel rubbing against each other as the tank broke up under the pressure. The fire and the tremendous pressure that had been building up inside the mixing vat for 12 hours burst the 11,000-pound steel machine like an overinflated balloon. The top of the vat blew apart, rocketing pieces through the roof.

In less than a hundredth of a second, the 1,000 pounds of aluminum powder burst into a massive fireball. The firestorm blew through the factory. Waves of fire forced open fire doors and raced down corridors.

"It looked like I was looking at the sun with my eyes closed," said Gannon, who was thrown 30 feet and smashed against a concrete wall. He remembers feeling strangely calm during this awful moment. "I just accepted my fate," he said.

Carson got 15 feet out of the room before he tripped, landing on his face in the corridor. A fireball flashed over him, singeing his back and neck and taking a strip of hair off the back of his head. Had he been standing, he would have been consumed by those flames.

The blast tore most of the roof off the building, sending chemical-laden black smoke 2,000 feet into the sky. Chemical drums, pieces of steel, and bricks whizzed through the air.

Much of the 23-ton machine — including the vat and the concrete and steel blocks that supported it — was hurled 48 feet through a cinder-block wall. The vat's lid blew clear across Route 46. A pipe from the machine was later found 200 feet away, while chunks of the roof went as far as 600 feet.

Charred pieces of the factory rained down on the roofs of nearby

homes and businesses. To residents nearby, it seemed like an earthquake. Gary Angelosi, who lived across the street from the factory, was having a nightmare about a giant tidal wave when the blast threw him from his bed.

"I looked out the window and saw fire and smoke rising in the air like a mushroom cloud from old movies of nuclear explosions," he said.

The dozen or more day-shift workers standing outside waiting to start their workday were hit by broken glass, flying bricks, and cinders. Milan, just returning with Rivera's coffee, was thrown to the ground and scraped his arm.

The stunned employees stood there choking in the black smoke.

"We didn't know what to do," Milan said. "We felt helpless."

Inside, Gannon was on fire. He rolled on the floor. Burning chunks of ceiling began falling down on him. He couldn't see. The air was thick with the white dust left behind after aluminum powder burns.

He crept toward the room to search for his four friends, but he couldn't get past the flames and the heat. Aluminum powder produces a fire hotter than almost any other. White hot. Gannon's skin felt as if it was melting away.

The roof — the same roof he played on as a child — was giving way. If he was going to live, he would have to get out fast. The hardest decision of his life was abandoning his friends.

"I knew there was nothing I could do to help," he said. "If they weren't out of there by then, I knew they were dead."

He does not tell his story willingly. He answers each question bluntly and will not continue unless pressed.

"I thought I was going to die," he said.

Split-second explosion shattered lives forever

The explosion lasted just a split second. The inferno raged for six hours.

Firefighters were never called. They heard the blast. When they arrived, they were told the roof was on fire. It was 15 minutes before they discovered there had been a chemical explosion. That could have been disastrous. The fire could have reached a corner of the building where other volatile materials were stored and "blown up a quarter of our town," Garofalo said.

But the fire chief concedes that Napp's delay probably saved lives.

"If they had called us when they evacuated, we would have been in that plant when it exploded," he said. "I would have been in there."

When firefighters finally were able to get to that mixing room 12 hours later, they found four bodies so badly burned they had to be identified through dental records and tattoos.

Terraneo was buried under pieces of concrete; a steel beam had crushed his skull.

Rivera's skull was crushed by the force of the blast, and both his legs and arms were broken, according to the medical examiner's report.

Furlong died from smoke inhalation and respiratory burns.

Gourdine was killed by a combination of smoke inhalation and burns.

The blast blew off their wedding rings, even one man's dentures. Rescue workers never found the St. Christopher medal Furlong had been wearing around his neck.

Jose Rivera got a call at work an hour after the explosion. "Your brother is dead," his father told him. "Go there and don't leave until they bring his body out."

He searched for his brother amid the black smoke and rush of rescue workers, but couldn't find him. His name wasn't on the list of wounded.

No one would tell him — or the relatives of the others who perished — that the men were definitely missing. All day and most of the evening, they sat in Borough Hall, waiting for the news. Occasionally, someone would sneak through the yellow police tape and try to get near the burning building. Others would call the hospital, praying that someone by the name of Rivera, Gourdine, Terraneo, or Furlong had been admitted.

"They brought them out at 10 p.m.," Rivera said. "We had a priest waiting to give my brother his last rites."

In the days that followed, Calixto Rivera's 4-year-old son, Tony, would snatch his father's picture, hide under his bed, and beg: "Mommy, can you call God and get my daddy?"

Furlong's 3-year-old son, Kevin, would ask his mother if his daddy was still wearing the same clothes he had on when he left for work that morning. The little boy cried as she was about to leave for a memorial service at the Napp plant, because he thought his mother would also die there.

"I was in church the other day and I was sad and crying, then I got angry," Susan Furlong said. "It's terrible to be angry in church, but I couldn't help it."

Gannon made it out alive, burned over 10 to 15 percent of his body. Carson stumbled outside just after the blast, suffering burns to 10 percent of his body.

Minutes after the explosion, rescue workers found Buster McKenzie wandering in a daze near the doorway of the factory. The fire had burned off most of his clothes, and he was covered with smoldering chemicals. As firefighters splashed him with water, the chemicals popped and crackled

over his skin. He was so badly burned, he didn't seem to feel it.

McKenzie clung to life for 11 days at Hackensack Medical Center, communicating to his family by nodding or wiggling his foot, before becoming the fifth fatality of the explosion.

The 44-year-old high school dropout from South Carolina had joined Napp in 1973, earning \$5 an hour as a machine operator. Twenty-two years later, he was supervising 10 workers at \$15 an hour. He led the prayers at the company Christmas party. A half-dozen family members worked by

his side.

McKenzie had been looking forward to a trip to Virginia Beach to spend some time with his son Chauncey, a 26-year-old rhythm-and-blues singer who had just recorded his first CD.

"It was his counseling time," said his widow, Ada McKenzie, who is known as "Minnie" to the family. "He wanted to go down and advise Chauncey on dangers in the music business. That's the way he was. He looked out for you."

Last week, Minnie McKenzie left for Virginia Beach all alone.

RECEIVED

LODI'S GROUND ZERO

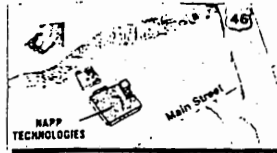
Friday, April 21

What was where

Exterior chemical storage area surrounded by chain-link fence. If flames had reached this area, a third of the town could have been destroyed

Loading dock

Room where 11-foot tall chemical mixer exploded



Area where chemicals that exploded in the mixer had been stored

Area where steel drums filled with chemicals to be shipped or to be mixed were warehoused

Main Street

Who was where

Four in the mixing room:

Glenn Terraneo

33-year-old night-shift production supervisor and father of three stayed after his shift to help the day crew solve the problem. Just before the explosion, he called his wife to tell her there was a problem "with an odor" at the plant.

Killed

Thomas Furlong

38-year-old production supervisor and father of three wrote a note to his wife apologizing for working so much before he left for the plant Friday morning. He had joined Napp six months earlier.

Killed

Buster McKenzie

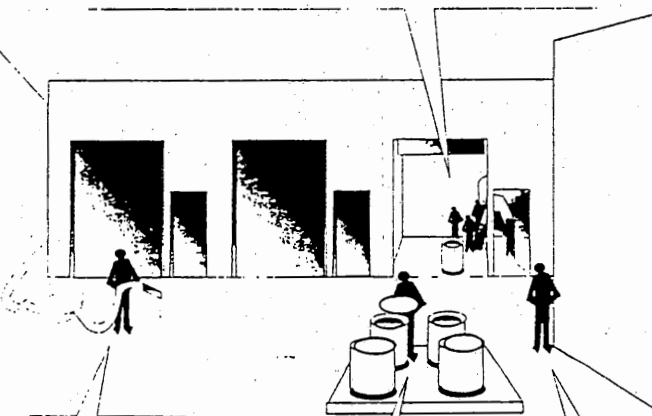
44-year-old father of five who supervised 10 machine operators. He escaped from the factory, but had been burned over 95 percent of his body.

Died 11 days later

Joseph Carson

31, ran from the mixing room when he heard the hissing. Because he tripped in the hallway, a fireball passed over him. Had he been standing, he would have been engulfed in flames.

Survived with serious burns to 10 percent of his body



Unrolling fire hose:

James Gannon

42-year-old chemical operator was unrolling a fire hose in the hallway when the explosion occurred. The blast knocked him back 30 feet, smashing him against a concrete wall.

Survived suffering burns to 10 to 15 percent of his body.

Standing on a pallet, putting lids on barrels:

Calixto Rivera

37-year-old chemical operator and father of three. Had agreed to go into the building in place of an older worker.

Killed

Supervising the work:

James Wilbur Gourdine

55-year-old maintenance supervisor and father of two. He had improved many of the company's safety practices since joining Napp three years earlier.

Killed

These details were sketched out by interviews with acting Bergen County Prosecutor Charles Buckley, Lodi fire officials and scores of Napp workers.

KEVIN O'NEIL / STAFF ARTIST

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G. Williams

Asthma symptoms surge in area of Lodi blast

By EMILY LABER
Staff Writer

Nearly 90 people have complained to state and local officials about health problems since the deadly explosion at a Lodi chemical plant last month, and one doctor estimates that a third of them are suffering from asthma.

Though some of those people have had bouts of asthma in the past, others are experiencing respiratory problems for the first time, said Dr. Hormoz Ashtyani, chief of pulmonary medicine at Hackensack Medical Center.

Most of the cases have been mild to moderate, Ashtyani said.

Meanwhile, researchers at the Environmental and Occupational Health Sciences Institute in Piscataway are expanding their study of a little-known but persistent type of lung disease to see whether any plant workers, firefighters, or Lodi residents who inhaled the fire's toxic fumes have contracted that illness.

The researchers said the April 21 blast at the Napp Technologies pharmaceutical factory was just the sort of incident that could provoke reactive airways dysfunction syndrome (RADS), an asthma-like disease that is caused by a single intense exposure to irritating gas or smoke.

RADS Reactive Airways Dysfunction Syndrome

Little is known about this illness, which was first identified 10 years ago and is still unfamiliar to many doctors.

SYMPTOMS

The disease's symptoms are identical to those of asthma:

- bouts of wheezing
- coughing
- shortness of breath
- feeling of tightness in the chest.

WHO IT AFFECTS

Although asthma usually comes on gradually as a result of allergies, RADS appears suddenly in people with no previous lung problems. It sometimes goes away, but can often linger for years.

Thousands of irritating substances could cause RADS, including the sulfur dioxide, nitrogen dioxide, and formaldehyde that were detected in the air at elevated levels immediately following the Lodi blast.

The disease usually affects people exposed to industrial accidents, but people have gotten it at home, too, by mixing such chemicals as ammonia and chlorine bleach or applying paint strippers without adequate ventilation.

IMPACT

About 50 to 100 cases of RADS have been described in medical journals, but doctors say it is hard to know how many other cases are out there because there is no formal reporting system and it is often misdiagnosed.

"People might [have gotten RADS] if they were present within a few blocks of the fire, especially if they were downwind and felt they were choking," said Dr. Charles Stimler, a senior resident at the institute. "Workers at the

plant might have gotten it, because they were very exposed."

The Napp explosion and fire killed five people and cast a lingering shadow of illness and fear over hundreds more. Such symptoms as coughing, skin rashes, and

bloody noses continue to plague some of the firefighters who battled the deadly blaze, the plant workers who fled the collapsing building, and the Lodi residents who awoke that morning to a searing flash of light and heat.

Eighty to 90 people have been referred by state and local officials to Hackensack Medical Center. About 30 of those — mostly firefighters and police officers who suffered the most prolonged exposure to the fumes — are "coming down with asthma," Ashtyani said.

Those patients may be just the tip of the iceberg. Other people who could be suffering from chemical-related problems such as headaches or fatigue may have seen their doctors without recognizing the link to the explosion.

"I think you're probably talking about significant numbers of people," said Mary Lamielle, director of the National Center for Environmental Health Strategies in Voorhees, in Camden County.

Mayor Philip V. Toronto said Napp's insurer, Royal Insurance of Charlotte, N.C., has promptly reimbursed residents for their medical expenses and that he expects the company to reimburse Lodi and other municipalities for emergency workers' medical bills.

Fred Dabney, a spokesman for Royal Insurance, confirmed that the company has paid medical claims related to the fire, but said he did not know how many.

Five to 12 percent of Americans suffer from asthma, a chronic inflammation of the airways. Some cases are mild, causing only minor wheezing; others are marked by bouts of severe breathing difficulties and can be fatal.

The symptoms of RADS are identical to those of asthma. But unlike asthma, which usually comes on gradually, often as the result of allergies, RADS appears suddenly in people with no previous lung problems. Both illnesses can be treated with medication, steroids, and inhalers.

Little is known about RADS, which was first identified 10 years ago and is still unfamiliar to many doctors. Up to 100 cases of RADS have been described in medical journals, but there is no formal reporting system and the disease often is misdiagnosed.

The \$30,000 New Jersey study, funded by the American Lung Association, hopes to determine whether RADS is a type of asthma or an entirely different disease; how much exposure can trigger RADS; whether some people are especially susceptible, and how to

predict who will get better.

Researchers hope to examine 30 to 40 people who were exposed to the Lodi fumes, then reexamine them a year later. If funding permits, they would track them longer. No treatment would be offered.

The RADS researchers — who are affiliated with the University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School — said they expanded their research after the Lodi tragedy because it presented them with a chance to follow a group of people exposed to the same fumes at the same time.

For John Lynch, a Lodi resident who has been unable to get rid of a cough, burning eyes, and sore throat since the explosion, news of the medical study prompted relief — tempered by dread.

"It's good news and bad news to me," Lynch said. "Good news that there's somebody out there that knows what I'm going through, but I'm also a little scared. Part of me doesn't want to know ... what's going to happen to us down the road."

People who are suffering health problems that they think are related to the Lodi fire can call Hackensack Medical Center at 908-2020. People who want to participate in the RADS study can call the Environmental and Occupational Health Sciences Institute at (908) 445-0123.

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NORTH JERSEY

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THURSDAY, JUNE 1, 1995

SECTION NJ

Chemical plant blast spurs suit

By THOMAS ZAMBITO
and EMILY LABER
Staff Writers

Class action would encompass others' claims, too

A neighbor of the Lodi chemical factory that exploded in April, killing five workers, has filed a class-action lawsuit against Napp Technologies Inc., making her the first of many others expected to pursue similar claims.

Kathy Christiano says she has been treated by a physician for an unspecified ailment that arose after she inhaled toxic fumes caused by the April 21 blast, said her attorney, Martis Ann Brachtl.

Christiano's lawsuit, filed in Superior Court in Hackensack, is a proposed class

action seeking to represent everyone who either suffered injuries or property damage in the blast. The day of the explosion, some 40 people — mostly firefighters and Napp workers — went to hospitals with complaints ranging from mild respiratory problems to serious burns.

The blast also prompted the evacuation of 400 residents.

The lawsuit says that Napp either knew or should have known that the combination of certain chemicals in a mixing vat would create an explosive brew.

Napp officials are aware of the lawsuit and have hired a law firm to represent them. But through a spokeswoman Wednesday, they declined to comment.

A judge has yet to rule on whether to accept the lawsuit as representing an entire class of people who might have claims for monetary damages against Napp. It is unclear how many people would be included, although one estimate has placed the number in the thousands.

Others with claims, including families of the five people who died, could opt not

to sign on to the class action and file their own separate lawsuits.

In April, a report by the Bergen County Prosecutor's Office found that the explosion was an accident and that Napp had done nothing criminal. However, acting Bergen County Prosecutor Charles R. Buckley was critical of Napp employees for not moving more swiftly to head off the explosion once a problem arose.

He said workers allowed a volatile mix-

See LAWSUIT Page NJ-5

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LAWSUIT: Chemical blast spawns a class action

From Page NJ-1

ture to smolder for 12 hours before taking any action to prevent the chemical reaction that followed.

People who live in the area have complained of headaches, dizziness, and respiratory problems since the blast, attorneys say.

"We have heard reports of respiratory problems, skin problems, and people suffering from anxiety," said Brachtl. She would not give the specifics of her client's condition.

The lawsuit alleges that Napp "inflicted severe emotional distress on [Christiano] and the class by creating great fear, fright, and anxiety [and] that [Christiano] and the class would be subjected to great bodily harm based upon their exposure to chemical substances."

Brachtl said Christiano hired the New York City firm of Goodkind Labaton Rudoff and Sucharow five days after the explosion. The firm specializes in class actions, including complex product-liability litigation.

Several people who live in the area have already contacted attorneys and are planning to sue Napp on their own. Hasbrouck Heights

“There are a lot of people out there interviewing attorneys. I think there's going to be a hell of a lot of lawsuits coming out of this.”

Lawyer Marianne Auriemma

attorney Marianne Auriemma said she has been contacted by several people seeking to sue Napp, and that colleagues have told her of receiving similar calls.

"There are a lot of people out there interviewing attorneys," she said. "I think there's going to be a hell of a lot of lawsuits coming out of this."

One of Auriemma's clients is John Lynch, who lives across the street from the Napp factory. The explosion damaged his car and his wife's, as well as some expensive china the newlyweds had received as wedding gifts.

Lynch estimates the property damage at \$5,000 or more, but that's the least of his worries. He has been suffering from a sore throat, cough, and headaches since

the incident.

"From everything I know, that explosion could have been a death sentence for me. I don't know," he said. "They could throw all the money they want at me, but my concern is five years down the road."

Auriemma hasn't yet filed Lynch's suit and said she will hold off at least two months because she wants to keep an eye on her client's health problems.

"We don't have even enough of a sense right now of how much he's been harmed to put a dollar amount on it," she said.

Lynch said he had no interest in joining a class-action lawsuit because his impression is they tend to benefit lawyers more than plaintiffs.

Lynch's landlord, Robert Chiodo, has hired his own lawyer to prepare a suit against Napp. Chiodo, who also lives in the building at 210 N. Main St., said the explosion damaged his roof, broke windows, and cracked the house's foundation. He also lost a freezer full of meat and ice cream because the electricity was off for two days.

Chiodo said that when he went to see Napp's insurer at the Lodi borough offices soon after the explosion, he was offered \$750 to cover his damages, as long as he agreed to sign a waiver agreeing not to sue in the future.

Chiodo refused the money. He said he felt the insurance agent was trying to take advantage of him. The estimate for his roof work alone is \$1,000, and the explosion has caused his property to decrease in value, he said.

"Even if I wanted to sell my house, I couldn't now," he said.

Kevin Seitz, a volunteer Saddle Brook firefighter who was treated at the hospital for high blood pressure, a sore throat, and a headache after the Napp blaze, said he's given a lot of thought to a lawsuit and would be interested in learning more about the class-action suit.

His health is back to normal now, but he worries about the future.

"It's just the fear of catching something down the road," he said.

The existence of the lawsuit surprised Hackensack attorney Anthony L. Argo Jr., who on Wednesday had planned to file his own class-action lawsuit against Napp on behalf of Beatrice Garrone, who lives on nearby Corabelle Avenue.

Argo was forced to withdraw his filing when he learned of the Christiano suit. The courts generally recognize the first proposed class-action lawsuit filed unless it can be shown that the firm handling the case is incapable of that job.

Because the Christiano lawsuit was filed first, Argo said, his client will likely join the class action. Garrone has complained of respiratory problems since the explosion, Argo said.

Her lawsuit alleges that representatives of Napp's insurance carrier have contacted neighbors of the factory attempting to settle any claims they might have before they hire attorneys.

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The lessons from Lodi

Avoiding future chemical catastrophes

BUSTER McKenzie, Thomas Furlong, Calixto Rivera, Glenn Terraneo, and James Wilbur Gour-dine had two things in common.

All five worked for Napp Technologies in Lodi, and all five died needlessly in an inferno at the chemical-processing plant six weeks ago.

In The Sunday Record last week, Staff Writers Debra Lynn Vial and Michael Moore reconstructed the chain of events that led to the cataclysm. From scores of interviews with Napp workers, company spokesmen, industry experts, and regulators came a portrait of a tragedy that killed the five men, injured dozens, forced 400 residents to evacuate, and shook this central Bergen County borough to its foundations.

The inescapable conclusion one gets from the article is this chemical explosion never should have occurred — and the five men who died should never have been in the building at the time.

A preliminary investigation by Acting Bergen County Prosecutor Charles Buckley has determined that nothing criminal happened on that breezy April morning. Nevertheless, it is now clear that Napp Technologies was totally unprepared when a 10,000-pound mixture of aluminum powder, sodium hydrosulfite, benzaldehyde, and potassium carbonate turned into a time bomb.

The Record found that:

- Increased competition, chiefly from overseas, forced Napp to specialize in "custom manufacturing" — processing an ever-changing array of chemicals on tight deadlines. In 1993, Napp reduced staff from 138 employees to 113 and lost some key technical personnel. A chemist was no longer on site at all times, as a safeguard in case of an emergency.

- Although chemical operators were always told at the beginning of each shift what mixtures they'd be working with and what precautions to take, they weren't always familiar enough with the various chemicals to detect a problem or know how to solve it.

In the instance of the lethal mixture — described by one expert as "chemicals that have a nasty reputation for killing workers" — operators had been warned to make sure no water entered the mixing vat. But maintenance crews apparently had not been warned. And when they unwittingly allowed water to come into contact with the mixture while unclogging a pipe, no one knew how to defuse the time bomb that was created.

"Even a drop of water was a terrible mistake," says Jay Young, a nationally recognized chemical-safety expert. "Whoever was on duty and responsible for safety didn't do their job. This should not happen."

- In order to turn an adequate profit on the fateful batch of chemicals, Napp convinced the client, Technic Inc. of Rhode Island, to increase the amount to be mixed. According to Technic Vice President David Weisberg, Napp had mixed the chemicals once before, in 1992. The order had been for 2,000 pounds. When Technic requested another small batch, Napp salesmen insisted on a larger

amount. The new order was for 10,000 pounds — an increase that made the mixture that much more difficult to contain when it went out of control.

- Once the lethal chemical reaction was set into motion, the vat went unchecked for hours. The readings on the temperature and pressure gauges crept higher, but nobody bothered to monitor them.

- At about 5 a.m., the plant began to smell like rotten eggs, alerting workers that a problem was brewing in the vat. They phoned the plant manager, who is also a chemical engineer. He told them to add nitrogen to the mixture — a worthless move. It wasted time and lulled workers into thinking the problem was being remedied until it was too late to set things straight.

- By 6 a.m., the odor was so overpowering that the plant was evacuated. Nonetheless, the fire department, 100 yards down Main Street, still had not been notified.

- At 7 a.m., it was decided that the company's fire brigade should return to the building and bring the chemicals under control. Of all the mistakes that occurred, this was the biggest because it put lives at risk. The mixture was beyond control. All that could have been done — and should have been done — was to sound the alarm and evacuate the area. Instead, seven workers went back inside. Soon after, the vat exploded with such force that the lid was hurled across Route 46, three blocks away.

Two of the workers, though badly burned, survived. Four died instantly. The other died 11 days later.

State and federal officials still need to resolve many questions, beginning with why those men were ever allowed to go back into the building.

Beyond that central question, the focus must be on what can be done to prevent similar tragedies.

When problems arise, at what point must firefighters and emergency personnel be notified, and the surrounding neighborhood be evacuated?

Should companies be required to have an experienced chemist on hand whenever they mix dangerous chemicals?

What can be done to make sure companies have comprehensive safety plans?

Did Napp follow all the safety rules? And are additional safeguards needed?

These are not subjects for idle speculation. Chemical manufacturing is the state's largest industry. New Jersey, the nation's most densely populated state, has 15,000 chemical plants.

For the sake of the workers who process these chemicals, for the sake of everyone who lives or works near one of these plants, for the sake of all New Jerseyans, fundamental safety precautions must never be sacrificed for the sake of the bottom line.

If lives are ultimately saved because of the painful lessons learned in Lodi, then Buster McKenzie, Thomas Furlong, Calixto Rivera, Glenn Terraneo, and James Wilbur Gour-dine did not die in vain.

Whitman is taking chances with environmental safety

It has become embarrassingly clear that Gov. Whitman has an irresponsible blind spot when it comes to environmental policy and regulation. In the name of "business-friendly government," Whitman has given the chemical industry a virtual free ride when it comes to how much they should report about the potentially explosive substances they handle.

According to the National Environmental Law Center, New Jersey produces more toxins than any state except Texas.



**STEVE
ADUBATO**

From 1988 to 1992, 857 chemical accidents occurred in the Garden State.

Our most recent deadly chemical accident happened April 21 at Napp Technologies in Lodi, where five people were

killed and 40 injured after an immense explosion. Four hundred residents near the plant were evacuated and businesses in the neighborhood had their inventories destroyed. Toxins ran off into the Saddle River. Luckily, a school located one block from the plant was closed to take advantage of an unused snow day.

What does the Napp tragedy have to do with Whitman? Ignoring the pleas of environmentalists, last year Whitman cut 2,000 items from the list of 3,000 potentially hazardous chemicals that private companies had to report to the state Department of Environmental Protection and local emergency officials under the Right to Know Act.

At the time, Whitman said she wanted to do away with regulations that "require a company to list Q-Tips and lipstick ... We went through a process of reducing the number of chemicals listed in order to focus on what is truly hazardous."

Nice sound bite. There's one problem, though: Three of the substances eliminated were the ones that produced the deadly Napp explosion — aluminum powder, sodium hydrosulfite and benzaldehyde. Last year, Napp was required to report 339 substances. Under Whitman's new regulations, they had to report only 64. When firefighters arrived at Napp on April 21, they didn't have a clue what

chemicals they were spraying with water. That's potentially deadly.

I'm not saying that Whitman's gutting of important hazardous reporting requirements caused the Napp tragedy. I'm not even saying that if she left the regulations alone, this tragedy could definitely have been avoided.

Sure, I think her "business-friendly" environmental approach stinks. But what smells even worse is the pathetic reaction of the governor and her chemical-industry friends to the Napp explosion.

Whitman insisted, "The Lodi explosion had absolutely nothing to do with what was listed or not." What about the three substances that she removed that produced the explosion? Not a word.

What's worse, Whitman put the entire blame for the explosion on the workers at Napp. "What happened there, unfortunately, is that workers in the plant mixed the chemicals incorrectly. They knew they had a problem and failed to notify authorities ..."

How does Whitman know for sure that's what happened? As for any responsibility on the state's part, she said not a word.

And why has she called for a 42 percent reduction in the DEP staff that enforces the Right to Know Law and monitors the chemical industry?

Further, Whitman has chosen to ignore a July 1994 internal memo by a top DEP official proposing the inclusion of more than 120 toxic, flammable and explosive chemicals that "if released in sufficient quantity, could result in death or permanent disability."

C'mon Governor. Stop your lipstick and Q-Tip rhetoric. You know a 42-percent cut in this area is dead wrong. And while your two agencies conduct their review, why not put those 2,000 chemicals you removed back on the list of potentially hazardous substances? They can be removed after they are found to be safe.

I know, your friends at the Chemical Industry Council will say it's unnecessary and that it would be downright "unfriendly to business." But why not try a novel approach with these guys?

For once, just say no.

□ Steve Aduato Jr. is an instructor of public administration and mass media at Rutgers University, a television commentator and former legislator.

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