

# WOHRC FACT SHEET

WOMEN'S OCCUPATIONAL HEALTH RESOURCE CENTER



## What To Know About Right-To-Know

Cancer now strikes one in four U.S. citizens. According to the National Cancer Institute, 20 percent of cancers detected during the coming decades will be caused at least in part by workplace exposure. In 1980, a scientific committee reported to the President of the United States that 90 percent of all cancers are caused by a combination of environmental factors, including occupation, air pollution and smoking. These are some of the reasons behind recent state and local laws that give citizens and workers the right to know about chemicals used

in their daily environments.

Since 1980, as a result of persistent lobbying by community and labor groups, 13 states and 16 cities and other localities have passed right-to-know ordinances. These include the states of Alaska, California, Connecticut, Illinois, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New York, Rhode Island, West Virginia, Wisconsin, the cities of Philadelphia and Cincinnati, the county of San Diego, and 12 other California local governments.

Most of the state laws give workers the right to know about hazardous substances in their workplaces. But since Philadelphia passed its landmark law extending the right to the entire community, an increasing number of the ordinances have included citizens' right to know about such substances in the local environment. Most of the local laws include this right, as do the state laws of Connecticut and New Jersey.

### How the laws work

All the laws require businesses to disclose information about toxic substances they either use, emit or store. However, individual requirements vary greatly.

Most laws mandate that employers file an OSHA-designed information form called a Material Safety Data Sheet for each hazardous chemical used. Included is such information as product name, chemical name, trade name and manufacturer; hazardous ingredients; physical data such as appearance, boiling point and vapor density; fire and explosion hazard data, including flashpoint and special firefighting procedures; health hazard data, including effects of overexposure and emergency first aid procedures; information about materials with which the product is incompatible or other conditions that could cause it to react hazardously; spill or leak procedures, including clean-up and waste disposal methods; and special protective measures that should be taken when



Members of the Delaware Valley Toxics Coalition hold a demonstration during their successful campaign for a right-to-know law in Philadelphia.

handling the material.

Under worker right-to-know laws, Material Safety Data Sheets and other such material are generally required to be kept on file by the employer so that workers can see them. Community access laws usually require the information to be filed with a government agency, such as a health department.

Fire departments and firefighters' unions have been particularly interested in knowing about toxic substances they may encounter during fires. In Philadelphia, the fire department is planning to install computer terminals in every fire-

house to furnish such information.

Some right-to-know laws, such as those of West Virginia and Wisconsin, also require employers to post information in the workplace. Others, like New York's and California's, provide educational and training programs about toxics for workers.

Many laws include protection against employer retaliation for workers who request right-to-know information. Some, like those of New York and Connecticut, also give the worker the right to refuse to work with a substance suspected of being hazardous if the employer does not pro-

vide such information within a specified number of days.

A few laws go on to include some regulation of toxics. In Philadelphia, for instance, the fire department is given authority to regulate where and how they are stored, and the health department is empowered to limit their emission into the air.

### Labeling

A number of right-to-know laws require labeling of containers of toxic substances in the workplace. The New Jersey statute, the toughest and most comprehensive at this writing, requires this labeling of all containers, even if their contents are non-toxic. "Labeling that is not universal has an element of doubt," explained one of the activists who worked for the law. Now if it looks like water and pours like water, we'll know if it really is water."

Under the New Jersey law, the information on the label must include both the contents' chemical name and its Chemical Abstract Services number. The latter correlates with the information on the Material Safety Data Sheet, so that workers can look it up easily and know what they are dealing with.

Other laws are less stringent about labeling. Some require labeling only of containers above a specified size or weight. Not all require the Chemical Abstract Services number.

### Information required

The type of information requested from industries in the various laws includes chemicals used, manufactured and stored; and toxics released into the air, discharged into sewers and waterways, and disposed of as wastes. Local California laws require disclosure of the location of old dumpsites as well as present ones.

Almost all the laws rely upon particular lists of toxics that have been developed by specialized agencies such as OSHA (the U.S. Occupational Safety and Health Administration), NIOSH (the National Institute for Occupational Safety and Health) and the EPA (Environmental Protection Agency).

The most extensive list, covering about 57,000 substances, is the NIOSH Registry of Toxic Substances. This is the list most favored by community activists and is used in some states like New York. The shorter OSHA 1910 Subpart Z list of 378 workplace contaminants is used in

Wisconsin and Connecticut. Other lists, which are sometimes added to that of OSHA, include *Human and Animal Carcinogens* compiled by the International Agency for Research on Cancer, the *Second Annual Report on Carcinogens* by the U.S. Department of Health and Human Services, EPA Waste Stream Codes and lists of hazardous substances compiled by the U.S. Department of Transportation and the American Conference of Government Industrial Hygienists.

Since right-to-know laws are the results of political negotiations, the lists used generally represent a compromise and in some cases are expandable at a later date. The New Jersey law sets up an 11-member advisory council including representatives of environmental, public interest, labor and community groups which will advise the State Department of Health as to revisions of its list.

The New Jersey legislation also empowers the State Department of Environmental Protection to order companies to complete and make available to the public environmental surveys covering nearly 200 toxics. The surveys tell in what quantities these toxics are produced, how they are consumed, shipped, emitted into the air, discharged into water and disposed of as waste.

The New Jersey law is also noteworthy in requiring almost all information to be translated into Spanish, since Hispanic workers often have the dirtiest and most hazardous jobs.

### Who must comply

A right-to-know law may cover every business and government agency within its area, but many exempt small businesses or those handling small quantities of potentially hazardous materials. Even in such cases, however, the law may require reporting of well-known carcinogens.

The stringent New Jersey law ignores size and covers all firms that fall within specified Standard Industrial Classification codes.

Industry has often opposed right-to-know legislation on the grounds that revealing the ingredients of products will make companies less competitive. To meet this objection, most laws contain trade secret provisions. Many require that the information be revealed only to the enforcement agency, and/or that physicians have access to it.

In Cincinnati for an industry to receive

a trade secrets exemption, it must prove that the substance in question is unknown to a competitor and not discoverable by other means such as chemical analysis. In Connecticut, the substance is given a Trade Secret Registry Number, and the public may receive information about it without its name being revealed.

### Enforcement

Getting a law on the books is only the first step, say those who have worked for the right to know. How well the law is enforced will depend upon how easy or difficult it is to carry out, its funding and the level of citizen "watchdogging."

The strength of community interest in right to know has prompted the federal government recently to revive and revise a proposed OSHA right-to-know regulation that had been written under the last administration. The proposed OSHA rule would have nationwide coverage, specifically pre-empting local and state worker right-to-know laws. Many community activists are unhappy with this, claiming that local laws are stronger. If the OSHA regulation is passed, however, it will affect only workers, not community access laws, pressure for which is still growing. □

*Much of the above material is adapted with permission from **Winning the Right to Know: A Handbook for Toxics Activists**, by Caron Chess of the Delaware Valley Toxics Coalition which won the Philadelphia law. The 102-page handbook contains comprehensive information including histories of several campaigns, local and national contacts and resources, and chemical lists. It is available from the coalition at 1315 Walnut Street, Suite 1632, Philadelphia, Pa. 19107 (215) 735-7200. The price is \$7 for individuals and non-profit groups and \$20 for businesses. Add 10 percent handling charge for each.*

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