

WHAT'S COMING
NASTTPO – APRIL 2024

Timothy R Gablehouse
tgablehouse@gggle.com

1

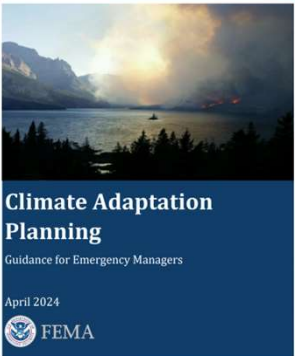
THE BIG TREND - FOCUS ON LEPCs

- Coordination in RMP, CWA and hazwaste regulations
 - ASTM E3241-20 Standard is recognized by EPA
- Civil Right to “adequate emergency planning” & EJ
 - Regardless of Federal Agencies, private enforcement/litigation is common
 - LEPCs key to “meaningful involvement” in planning
 - PHMSA/IAFC Hazmat Roundtable
 - LEPCs “foundational element” in community preparedness
 - Right-to-Know is key (community involvement & data)
- Climate change – extreme weather events

2

Climate Adaptation Planning

- systematic approach used to identify the threats and hazards that might impact a community given plausible future climatic conditions. The process involves assessing the risk posed by these threats or hazards and positioning the community to avoid or minimize the consequences of climate related disruptions.



Climate Adaptation Planning
Guidance for Emergency Managers
April 2024
FEMA

3

4.1. Step 1: Form a Collaborative Planning Team

The first step of the planning process is to form a collaborative planning team. This begins with identifying the core planning team members who are responsible for the bulk of the analysis and planning activities. Efforts are then expanded to identify the broader collaborative planning team members and processes to ensure whole community engagement.

Questions to Consider When Forming the Collaborative Planning Team

- How does the jurisdiction define a climate-resilient community?
- What does success look like for this effort, and what are possible barriers or challenges to achieving this success? What is the target timeframe for developing the plan?
- How can the planning team take advantage of existing planning and preparedness activities (such as hazard mitigation planning and community preparedness efforts) to inform the planning effort?
- What types of education, outreach, and advisory structures should be established to encourage awareness and participation in the planning effort?
- How will the products of this effort be used to inform community or governmental decision-making?

4

CWA – WORST CASE RESPONSE

- Response planning by facilities that have not previously been doing such detailed planning.
- Coordination and cooperation mandated.
- Information request is essentially the same as 303(d)3
- Petition to designate additional facilities?
 - SERCs can designate under EPCRA now

5

RISK MANAGEMENT PLANNING

- Public information access
 - LEPCs and SERCs need to be ahead of the public
- Exercises
 - Think twice before you decline to play
- Coordination and cooperation
- Facilities need LEPCs to satisfy the requirements
 - Corporate risk and liability management
 - Participating on an LEPC can avoid allegations of “reckless disregard”

6

OSHA

- Major changes to the Hazard Communication Standard
 - Classification of health and physical hazards, as well as classification of mixtures.
 - Labels to include a harmonized signal word, pictogram, and hazard statement
 - Precautionary statements must also be provided.
 - Safety Data Sheets will now have a specified 16-section format
- Employers are required to train workers.
- EPCRA 311/312 “linked” to OSHA’s standard
- EPA may modify 311/312 regulations

7

Don’t be a Mushroom

- NASTTPO working on new guidance for CWA worst case and RMP regulations
 - Existing guidance on public access to information and other topics
- Measure success – avoid the trap of 20/20 hindsight
 - Measure success by filling capability gaps
- Join the NASTTPO email list
 - Share the information
- Reach out for people that will come to your state, SERC or LEPC
- Ask questions - network

8

SERC/LEPC NUANCES

- SERCs may tell LEPCs not to prepared individual plans
 - Instead, participate in all-hazards planning (more relevant today)
 - EPCRA 301(a)
 - The State emergency response commission shall appoint local emergency planning committees under subsection (c) and shall supervise and coordinate the activities of such committees.
- No mechanism to sue an LEPC – However, LEPCs can sue
- Citizen suits against SERCs and Facilities
 - Very limited in scope and prior notice required
 - LEPCs are not required to give notice

9

LEPCs ARE VERY POWERFUL

- 303(d)3 - Any information necessary for emergency planning
- 311 (e) - (e) Availability of tier II information
 - Upon request by a State emergency response commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (d), to the person making the request.
- Federal Court enforcement of information requests
 - Don't let facilities ignore you. Many points of leverage.
- 312(f) - (f) Fire department access
 - Upon request to an owner or operator of a facility which files an inventory form under this section by the fire department with jurisdiction over the facility, the owner or operator of the facility shall allow the fire department to conduct an on-site inspection of the facility and shall provide to the fire department specific location information on hazardous chemicals at the facility.

10

QUESTIONS or JOIN NASTTPO EMAIL LIST

- TIM GABLEHOUSE
- tgablehouse@gcglc.com
- (303) 572-0050

11

11