


NASTTPO 2024 – SERCs
Focus, Functions, Measuring Success and Avoiding Liability



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1

HOW DID WE GET HERE?
WHY SHOULD YOU CARE?
WHAT DOES IT MEAN TODAY?

- ▶ It is important to understand the answers to these questions.
- ▶ But first, Bhopal
 - ▶ It defines where we started and why

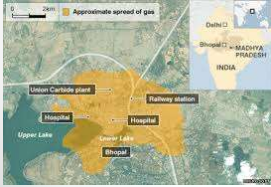
2

WHY WAS BHOPAL SUCH A BIG DEAL?

- ▶ Certainly not the first major industrial accident
- ▶ It was the largest loss of life by two orders of magnitude
- ▶ Growing political concern over the impact of developed countries on developing countries
- ▶ “Toxic chemical” killed innocents as they slept imagery

3

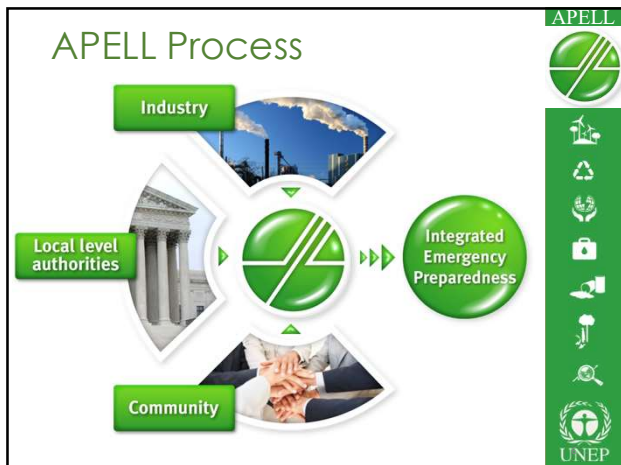
- Bhopal India 1984
- At least 15,000 killed/hundreds of thousands injured



4

- ▶ THE UNITED NATIONS ENVIRONMENT PROGRAM CREATED APELL
- ▶ ALL-HAZARDS, COMMUNITY BASED AWARENESS AND PLANNING
- ▶ MANY COUNTRIES HAVE THEIR OWN PROGRAMS BASED ON APELL
- ▶ US REACTED LATE AND ONLY AFTER A MAJOR RELEASE IN WEST VIRGINIA
 - ▶ Emergency Planning and Community Right-to-Know Act (EPCRA)

5



6

Expected APELL results

- **Enhanced** local knowledge of industrial and natural hazards
- **Informed** community about the risks they are exposed to
- **Educated** community on their responsibilities to react to accidents/disasters
- **Promotion** of co-ordination between representatives from the industry, local institutions and the public
- **Preparation** of an integrated plan for improving community preparedness for all-hazards


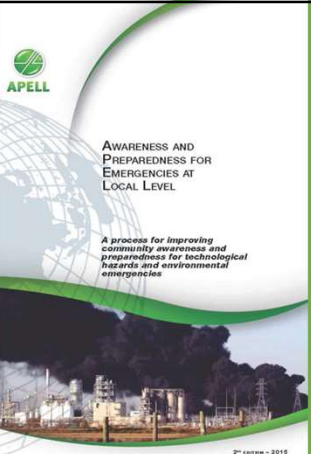



7

AWARENESS AND PREPAREDNESS FOR EMERGENCIES AT LOCAL LEVEL

A process for improving community awareness and preparedness for technological hazards and environmental emergencies

The latest handbook is available at:
<https://eecentre.org/resources/un-environment-apell-handbook/>
<https://www.sia-toolbox.net/file/230/download?token=KYhccxym>


8

TODAY MANY RELATED PROGRAMS

- EPCRA – Emergency Planning & Community Right to Know
- HAZMAT Transportation:
 - PHMSA - Placards/Routes/ERG
 - State Route Designation
- CERCLA – Comprehensive Environmental Response, Compensation and Liability Act
- CAA 112r – Clean Air Act’s Risk Management Planning (RMP)
- CWA Worst Case Scenario Planning
- Americans with Disabilities Act & Civil Rights
- Guidance Documents – CPG 101; Continuity; Hazmat Planning; APELL

9

CPG 101 Ver. 3.0



“In the nation’s system of emergency management, the **local government acts first to address the public’s emergency needs.** ... **At a minimum,** these measures include priorities such as warning, emergency public information, evacuation, shelter, security, emergency medical care and tactical communications.”


“**The elected leaders in each jurisdiction are legally responsible for ensuring that ... actions are taken to protect people ...**”

“State and local governments **must comply with Title II** of the Americans with Disabilities Act (ADA) in emergency- and disaster-related programs, services and activities.”

“In addition to the ADA, planners **must comply with Title VI of the Civil Rights Act of 1964, Executive Order 13166, Section 504 of the Rehabilitation Act** and other federal, state or local laws, to include anti-discrimination laws.”

10

LOCAL OFFICIALS GUIDE



From planning ... to responding and recovering ... senior officials have the responsibility to develop and maintain partnerships with those most affected by disasters.

Individuals with disabilities are protected by the ... (ADA)
...[S]ervices and activities provided by state and local governments, as well as those provided through third parties ... , must be accessible

A “One-Size-Fits-All” approach to emergency management planning, resourcing and information dissemination does not work Actions ... include:

- **Establishing a core planning team with ... representatives from among people with access and functional needs;**
- **Integrating people with access and functional needs through public outreach in local and regional plans, trainings and exercises;**

Key Message:

Support equitable and comprehensive disaster preparedness, response and recovery.

11

WHY THIS IS IMPORTANT

- **Liability In Emergency Planning Is Real**
 - There is a “Civil Right” to an adequate **planning process**
- **CRT Makes EPCRA Important in addressing EJ and Civil Rights**
 - Community access and involvement requires knowledge and education about risks and capabilities
- **Citizens much less willing to rely on Government**
 - People are empowered to take action.
 - They sue to protect their rights
 - Setup their own monitoring programs
 - Demand prosecutions

12

LIABILITY IN THE PLANNING PROCESS

- **CIVIL RIGHTS LAWSUITS**
 - KATRINA CASES & SUPER STORM SANDY
 - AMERICAN'S WITH DISABILITIES ACT
- **THE FACTORS THAT CREATE LIABILITY**
 - EVALUATED IN 20/20 HINDSIGHT
 - RESPONSE FOCUS INSTEAD OF PREPAREDNESS
 - NO SENSE OF RESPONSIBILITY FOR PREPAREDNESS
 - Public and small business get a "pass" – expectations
 - REGULATORY COMPLIANCE IS MEANINGLESS
 - Chemical lists and thresholds do not correlate to risk
 - All risks matter



13

WHAT IS THE LEPC ROLE?

- **UNIQUE LEGAL AUTHORITIES**
- **FORUM FOR DISCUSSION AND COMMUNICATION**
- **COMMUNITY-BASED ASSESSMENT OF RISKS AND CAPABILITIES**
- **ESTABLISH PRIORITIES IN FILLING CAPABILITY GAPS**
- **FILLING GAPS IS HOW WE WILL MEASURE SUCCESS IN THE PLANNING PROCESS**



14

Path Forward

Measure success of the planning process

That process is:

- *What are the risks?*
 - Different than hazards
- *What are the current community capabilities*
 - Response is not the point – broad view of preparedness
- *Match risks with capabilities – (public and private).*
- *Leads to identification of gaps in current preparedness*

15

COMMUNITY-BASED STRATEGIC PLAN

- "Vision of Success" is the community's ideal level of preparedness
- Create strategic plan to prioritize & close capability gaps
 - *Step-wise approach to reach vision of success*
- Prioritization is necessary, but must be community-based
- Requires broad involvement across the entire community
- High expectations of public and business preparedness

16

MEASURE SUCCESS

- Progress & success are demonstrated by measurable results
- Pick projects designed to close gaps from the strategic plan
 - *Meaningful & relevant*
 - *Why commodity flow studies? Why train and what for?*
- Actually measure and evaluate
 - *Exercises*

17

GOLDEN RULES FOR SERCs

- CATCH UP
 - *The world is passing us by – EPCRA is not enough*
 - *Paternalistic approaches do not work*
 - *Are we preventing accidents?*
 - *Are we demanding consequences and punishment*
- HONOR DEMANDS FOR INDEPENDENCE
 - *Meaningful involvement and active participation*
- CREATE APPROPRIATE EXPECTATIONS
- REMEMBERING OUR CUSTOMER
 - *Hint: It's not EPA/FEMA/PHMSA*
- LEPCs ARE TOOLS
 - *Are we keeping them "sharp"*

18

GOLDEN RULES for LEPCs

- Know the risks/capabilities in your community.
 - *What are risks? (Manmade and natural)*
 - *What are the response capabilities?*
 - *What are the public capabilities?*
 - *Strategically plan to fill gaps*
 - *Have a vision of success and measure progress*

- Educate public and business
 - *What can happen to you?*
 - *Create realistic expectations?*
 - Describe what emergency services will not exist.
 - *What are their preparedness obligations?*
 - *Anticipate and use current skills & resources.*

- Create participation and cooperation
 - *Engage the public, authorities & industry*
 - *Have high expectations & be persistent*

19

QUESTIONS

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20

20