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TIM HUTCHINSON  
ARKANSAS



**United States Senate**

July 17, 2002

Mr. Nick Macchiarolo  
1113 Brookwood  
El Dorado, Arkansas 71730

Dear Mr. Macchiarolo:

I enjoyed visiting with you at the Lincoln Day Dinner last week. During our meeting you mentioned the "E-Plan" which I understand you are working on with the Environmental Protection Agency (EPA).

Since our meeting, I have been briefed on the "E-Plan" and think it is a great project. I will actively look for opportunities to promote this project.

Thank you for making me aware of this project. I hope you will continue to keep in touch.

With kind regards,

Sincerely,

A stylized handwritten signature consisting of a thick horizontal line above a vertical line and a short horizontal line.

Tim Hutchinson  
United States Senator

BLANCHE LAMBERT LINCOLN  
ARKANSAS

355 DIRKSEN SENATE OFFICE BUILDING  
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[www.senate.gov/~lincoln](http://www.senate.gov/~lincoln)  
<http://lincoln.senate.gov/html/webform.html>

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SPECIAL COMMITTEE ON AGING

# United States Senate

WASHINGTON, DC 20510

December 24, 2003

Dr. Doug Harris, Associate Dean  
Digital Forensics and Emergency Preparedness Institute  
University of Texas at Dallas  
P.O. Box 830688  
Mail Station EC-32  
Richardson, Texas 75083

James C. Staves, Director  
Center for Emergency Preparedness  
University of Texas at Dallas  
P.O. Box 830688  
Mail Station EC-32  
Richardson, Texas 75083

Nick Macchiarolo  
1113 Brookwood Drive  
El Dorado, AR 71730-3017

Dear Gentlemen:

Thank you for meeting with me to discuss E-Plan. I applaud your efforts to enhance the safety of first responders and citizens in the proximity of a hazardous waste accident.

E-Plan is a valuable tool which can save lives and protect property. I applaud your foresight in developing the system and I would be pleased to work with you to help publicize its availability. I would also like to pursue a public-private source of funding to provide training and maintenance of the system. I will be pleased to contact officials at the University of Arkansas in Fayetteville to help schedule meetings so that you might discuss your ideas of a satellite system there. As I mentioned to you, I think James Lee Witt could be a valuable resource for you and I will be happy to contact him by way of introduction.

I am pleased to have been able to assist you in the past and I look forward to working with you in the future. I urge you to keep me advised of your progress and please do not hesitate to contact me or my assistant, Donna Kay Yeagan, when I may be of assistance to you.

Sincerely,

  
Blanche L. Lincoln

BLL:dky

12 September 2005

James C. Staves, Director  
Center for Emergency Preparedness  
CyberSecurity and Emergency Preparedness Institute  
The University of Texas at Dallas  
P.O. Box 830688  
Mail Station EC-34  
Richardson, TX 75083-0688

Dear Jim:

As an E-Plan supporter, I know how useful E-Plan is to the First Responders at emergency events, be they police officers, fire fighters, or other emergency personnel. E-Plan provides multiple sources of information on specific chemicals at a facility when an emergency occurs or during a transportation accident. The tragic events that have occurred in the wake of Hurricane Katrina underscore the importance of efforts to create critical information systems such as E-Plan BEFORE disasters occur. Your recent up-grades to E-Plan to deal with hazardous materials released in Louisiana, Alabama and Mississippi were very timely and useful.

I am happy that you have all 4400 plus of the Arkansas Tier II facilities in your E-Plan database and that you have already trained several hundred First Responders in Arkansas to use E-Plan.

With over 22,000 chemicals and 40,000 facilities in the database, and instant links to DOT ER Guides, MSDS's, Chemical profiles, NFPA Diamond codes, Coast Guard CHRIS and weather data, E-Plan is becoming the one-stop information resource for our First Responders. Armed with this information, First Responders are better able to protect themselves, the people involved in the emergency, and the surrounding community.

I understand E-Plan is also a great help in pre-planning and fire inspection work, which further enhances the value E-Plan brings to the community in preventing emergencies.

Your continued improvements in E-Plan, such as online Registration and Training, online tier II form filing support, expanded local maps, etc., make E-Plan an invaluable tool for our First Responders, emergency managers, and regulated facilities.

E-Plan is vital to our communities and we urge that you continue to support and improve E-Plan for us.

I was especially impressed with the attached E-Plan Success Stories that are on the E-Plan News web site at <http://eplannews.utdallas.edu/home.htm>.

Please let me know if I can be of further assistance.

Sincerely,

Blanche L. Lincoln

cc: Debbie Dietrich  
U.S. EPA Emergency Prevention, Preparedness & Response  
1200 Pennsylvania Avenue, NW  
MC 5104A  
Washington, DC 20460

Governor Mike Huckabee  
State Capitol Building  
Little Rock, AR 72201

Nick Macchiarolo  
E-Plan Outreach Coordinator  
1113 Brookwood  
El Dorado, AR 71730

<http://www.schumer.senate.gov/Newsroom/record.cfm?id=336088>

FOR IMMEDIATE RELEASE: February 23, 2012

**SCHUMER: CONFUSION FOLLOWING RECENT WESTERN NY FACTORY FIRES DEMANDS MAJOR IMPROVEMENTS IN THE WAY WE LET FIRST RESPONDERS KNOW VITAL INFORMATION --INCLUDING WHICH CHEMICALS ARE BURNING**

*Local Residents Should Also Be Told Immediately After The Fire Which Potentially Harmful Toxins Are In The Air*

*Industrial Plants Are Supposed To File Forms Through The EPA To Show Which Chemicals Are On The Premises In The Event Of A Fire, But Process Is Complex And Filings Are Often Incomplete*

*Schumer Calls On EPA To Streamline Reporting Processes, And Make it More Accurate So First Responders And Area Residents Know Which Chemicals Are In The Air After A Fire*

Today, at the Erie County Emergency Services Training and Operations Center in Cheektowaga, U.S. Senator Charles E. Schumer called on the Environmental Protection Agency (EPA) to work with Western New York factories to ensure that area residents and first responders are better protected in the event of an industrial fire. Schumer urged the EPA to streamline and improve the reporting process under which industrial plants and businesses detail which chemicals are on their premises, so that local authorities and first responders are aware of risks in the event of a fire or other emergencies. By law, companies are required to provide, through the EPA, local officials and first responders with updated information about the types and quantities of hazardous materials they have on site. However, the process can be complex and the requirements are often unclear.

Schumer stated that the development of a straightforward EPA reporting process would make it easier for businesses to accurately, regularly and completely report the types and locations of chemicals within their facility, which would help first responders to develop the safest and most efficient strategies in the event of a fire at those facilities. Improving the system would also ensure that first responders can accurately assess the threat to area residents, so authorities can take proper precautions in the event of an emergency. Schumer's call comes after several industrial fires in Western New York in the past year. In the wake of these fires, first responders and area residents received limited and conflicting information about the potential environmental risks due to burning chemicals and other materials.

“Our brave first responders put their lives on the line each day while responding to emergency situations and fires, and we must make sure that they have every tool in the chest to ensure their own safety, and the safety of Western New York residents and workers,” said Schumer. “Several industrial fires in Western New York have shed light on the fact that first responders often don't have accurate information about the types, quantities and locations of hazardous materials that

these businesses have on site, which puts the safety of the firefighters, the business, its workers, and local residents at serious risk. That is why I'm calling on the Environmental Protection Agency to take a more hands-on approach when it comes to ensuring businesses accurately and completely comply with their chemical reporting requirements, and also to streamline that process, so that Western New York businesses and plants understand and fully comply with the reporting system before it is too late."

Schumer was joined by members of the Erie County Hazmat Team, Cheektowaga firefighters, representatives of the Buffalo Fire Department's Hazmat Team, and Fire Commissioner Garnell Whitfield as he announced his push to streamline the reporting requirements of chemicals in industrial plants. Schumer noted that without complete information it can be difficult for first responders to make proper scene assessments and critical time can be lost while fighting fires. Additionally, first responders need full and complete information in order to make sound decisions about evacuating residents or issuing orders for residents to stay inside.

The Emergency Planning and Community Right to Know Act requires facilities to submit an Emergency and Hazardous Chemical Inventory Form to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC) and the local fire department annually, listing which hazardous materials are stored on site. This requirement is implemented through the EPA, and companies must either provide a Tier I or Tier II form to meet these requirements.

Over the past three years, New York State has gone to an E-Plan system, in which companies can file their forms online and first responders, the LEPC and the EPA can have access. Schumer noted that in many instances in Western New York, first responders are met with sudden emergency situation at businesses and industrial facilities, often to find that the most recent Tier II form is unavailable, or not up-to-date on the E-Plan system. One such reason for this is that the guidelines and manner in which these companies must file these forms is often unclear and complicated. For example, only certain facilities are required to file a Tier II form instead of a Tier I form, and that decision is based on the quantity and type of materials that facility has within its plant and may also be dependent upon regional reporting requirements. Therefore, there can be confusion and discrepancy as to which facilities are required to file which forms, and often industrial plants and businesses are not aware of this reporting process until it is too late when a fire begins on site. As a result, during several fires in Western New York, first responders have not had a full list of all of the potentially hazardous chemicals on site, and in other cases they have known which chemicals are on the plants premises but have not known exactly where they are. Schumer noted that first responders have told his office that a full and accurate list of chemicals and their locations is a deciding factor in how they approach a fire situation. Given the impact on first responders and local residents' health and safety, Schumer called on the EPA to take a lead role in improving the reporting system to ensure first responders are properly prepared when a fire strikes.

Schumer highlighted several instances in which first responders received conflicting or limited information during industrial fires in Western New York in the past year. One such fire occurred on July 17, 2011 at Niagara Lubricants. When first responders arrived on the scene at Niagara Lubricants, they did not have a complete picture of the potentially hazardous materials inside,

and firefighters spent 17 hours pouring water and foam on the fire, which sent heavy black smoke and noxious fumes into the air. The EPA initiated a prompt investigation, and since that time Schumer has pushed the EPA to release the results of their investigation into the blaze, so that the community and local officials can understand where information was lacking and what precautions can be taken to ensure that firefighters have all of the information they need to most effectively battle a fire. Schumer also called on the EPA to use the lessons learned from the Niagara Lubricants fire to make improvements to the reporting system. First responders also told Schumer's office that more information was needed to fight the Goldman Titanium fire that occurred last year.

Schumer stressed that improvements to this system are especially important in Western New York – where often times industrial facilities and residential neighborhoods are in close proximity to one another. In the summer of 2011, Stollberg Inc., in Niagara and Salerno Paint & Paper in Buffalo all experienced large fires, in addition to the fires at Niagara Lubricants and Goldman Titanium. While the Local Emergency Planning Committee and the fire fighters are making every effort to ensure the system is kept up to date, federal oversight is needed to strengthen and complete the effort. Schumer is urging the EPA to play a more active role in addressing the gaps in this information by providing a streamlined reporting process for companies, so that they have the tools they need to clearly understand the reporting system and its requirements. Schumer also noted the benefit of an annual EPA-hosted seminar ahead of the March 1<sup>st</sup> filing deadline for Tier II forms, and suggested that the agency send representatives to Western New York factories to ensure that those businesses are meeting safety requirements. Schumer also noted that it is important for the EPA to work with first responders to ensure that their forms provide the best and most useful information for their life-saving work. This will help ensure the safety of local residents, employees, first responders, and property.

A copy of Senator Schumer's letter to Administrator Jackson appears below:

Dear Administrator Jackson

I write to express my concern regarding the confusion following recent western New York industrial facility fires as to hazardous materials on scene. I urge the Environmental Protection Agency (EPA) to work with industrial facilities, in coordination with emergency responders and local authorities, to streamline and improve the reporting of hazardous materials to ensure that our first responders always have the best information available to them when they respond to the scene of an accident.

As you are aware, the Emergency Planning and Community Right to Know Act require facilities to maintain material safety data documenting any hazardous material used or stored on site. This law clearly requires facilities to provide this inventory through the State Emergency Response Commissions, Local Emergency Planning Committee, and local fire department through the EPA's reporting requirements. In western New York, there have been chemical fires, which have brought to light alarming gaps in communication between industry and local emergency managers about the chemical contents at facilities. I am appreciative of the EPA's work in investigating and respond to the Niagara Lubricant fire, however, it is imperative that we take the lessons learned from this incident to improve the system of reporting. I urge the Environmental

Protection Agency to work with chemical and industrial facilities, in coordination with emergency responders, to help streamline and improve the reporting process under which industrial plants and businesses detail, which chemicals are on their premises in the event of a fire or other emergencies.

Thank you for your attention to this important matter and if you are in need of any additional information please feel free to contact my Washington Office at [202-224-6542](tel:202-224-6542).



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**APR 19 2012**

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Charles E. Schumer  
United States Senate  
Washington, DC 20510

Dear Senator Schumer:

Thank you for your February 23, 2012, letter to Administrator Lisa P. Jackson in which you expressed concerns about incomplete or inaccurate reporting of industrial facilities' inventories of hazardous materials and that emergency responders and local authorities need this information to respond to fires or other emergencies. I am pleased to respond on Administrator Jackson's behalf.

You referenced western New York industrial facility fires occurring in 2011 at facilities that did not file Material Safety Data Sheets (MSDS) and Hazardous Chemical Inventory (Tier II) forms with the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC) and the local fire department as required under the Emergency Planning Community Right-to-Know Act (EPCRA). You urged the EPA to work with chemical and industrial facilities in coordination with local emergency responders to improve the reporting process.

As noted in your letter, the EPA Region 2 assisted with the response to the July 13, 2011, fire at Niagara Lubricant in Buffalo, NY which destroyed the facility. The EPA has an ongoing investigation with Niagara Lubricant at their new location to determine what chemicals or materials are covered under the EPCRA reporting regulations.

The Goldman Titanium fire on July 17, 2011, in Buffalo, NY is being investigated by the EPA for possible violations of the General Duty Clause (GDC) under Clean Air Act Section 112(r)(1). The GDC requires facilities that have regulated and other extremely hazardous substances take responsibility for ensuring that their chemicals are managed safely. Goldman Titanium has now submitted Tier II Hazardous Chemical Inventory forms for covered chemicals at their site. These reports are posted in E-Plan, an online database available to emergency responders at <https://erplan.net>.

Another fire occurred on September 11, 2011, at Stollberg Inc. in Niagara Falls, NY. The EPA was not involved in the emergency response but did an assessment at the facility for regulatory compliance. Stollberg is now reporting their on-site hazardous materials in the E-Plan database. A fire at the Salerno Paint and Paper, a commercial and residential painting company, occurred in Buffalo, NY on June 21, 2011. This company has not reported Tier II information because substances such as paint, that are in products packaged in a similar form and concentration as is distributed and used by the general public (even if used for commercial purposes), are exempt from the MSDS and Hazardous Chemical Inventory reporting requirements under EPCRA § 311(e)(3).



New York is one of the 37 states with their facilities' Tier II inventory data reported in E-Plan. New York requires facilities to file Tier II forms (chemical specific amounts), not the Tier I forms (amounts by hazard category). Erie County NY has 382 facilities reporting Tier II information. Facilities can easily report their MSDS and Tier II data online at the E-Plan website. As provided in EPCRA § 312, the Tier II forms are filed with state and local emergency responders, not the EPA.

Both the EPA and New York State agencies have provided outreach for Tier II reporting in the past at the local level as well as on Websites, in Webinars and at public meetings. For example, the New York State Emergency Management Office has done outreach and helped develop Web based training seminars for E-Plan reporting in 2009. The EPA Region 2 gave a presentation on EPCRA Section 311-312, Risk Management Plan, and general duty clause requirements at April 2007 and March 2010 conferences in Buffalo, NY attended by industry, first responders, the local Office of Emergency Management and LEPC members. The LEPC presented a demonstration of the E-Plan and provided a website to assist regulated facilities (see [http://www.erie.gov/depts/lepc/filing\\_instructions.asp](http://www.erie.gov/depts/lepc/filing_instructions.asp)).

After the fires in 2011, the EPA worked with the local response community in Buffalo, NY to help industrial facilities comply with EPCRA reporting requirements. For example, the EPA prepared an EPCRA reporting factsheet that fire departments can provide to facilities when a fire inspection is made.

The EPA Region 2 has contacted the fire commissioner in Erie County to continue efforts with the local planning committee to reach out to facilities who may not be in compliance. We are soliciting feedback from emergency responders on how the Tier II reporting process may be improved. We are also considering additional opportunities to conduct outreach at upcoming emergency planning/response conferences or meetings being held in western NY. More about EPCRA is available at <http://www.epa.gov/emergencies/content/epcra/index.htm>.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in the EPA's Office of Congressional and Intergovernmental Relations, at 202-564-9586.

Sincerely,



Mathy Stanislaus  
Assistant Administrator