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Federal regulations protect our communities

By Victor B. Flatt | April 22, 2013 | Updated: April 22, 2013 6:30pm

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In 1984, a deadly cloud of methyl isocyanate gas was released from the [Union Carbide](#) plant in Bhopal, India, killing more than 3,000 people and causing probably 15,000 more premature deaths and more than 500,000 injuries.

It was the worst industrial accident in terms of death that has ever occurred. It was also a warning. Indian citizens and the government of Modhya Pradesh State had no idea of the potential danger of the plant, and the gas release caused communities the world over to take a look at what was going on in their own back yards.

In the [U. S.](#), we created the Emergency Planning and Community Right to Know Act (EPCRA) in 1986. The law requires all purveyors of dangerous chemicals to alert the local emergency responders to the nature of any risk, and also requires them to report releases of chemicals into the environment.

The Emergency Planning aspect has proceeded apace and presumably has helped avoid disasters by alerting emergency responders to what dangers await them and communities when industrial accidents occur.

Not in West, Texas, however. The explosion that ripped through this small town on Wednesday, killing and injuring scores of people and wreaking widespread destruction, may have been caused directly by a fire, or by the local volunteer fire department using water to put out the fire.

While the investigation still is ongoing, it appears the volunteer firefighters had not been warned that huge amounts of ammonium nitrate in the plant (more than 100 times the amount that caused the Oklahoma City bombing) could create a massive and deadly explosion.

This tragedy could have been avoided by an emergency response plan that fully detailed the nature of the plant and risks from chemicals there; an emergency response plan required by law, but that was never filed. Instead, in 2011, after failing to provide earlier plans, the [West Texas Fertilizer Co.](#) filed an EPCRA plan that did not specify the nature of the chemicals at risk, leading to the tragic result. At this point, it is unclear whether this deadly mistake was purposeful misreporting or due to ignorance.

What is clear is that environmental, health and safety regulations are not merely annoying requirements burdening the private sector. Had the West Fertilizer Co. followed the EPCRA requirements, it is unlikely that this explosion would have occurred. Yet, in the current political climate, EPCRA and similar laws are under siege.

Over the years EPCRA has been much criticized by companies that have to report chemical releases because they claim their operations are not dangerous, and that public reporting and planning required by the act gives an unfair impression of the danger of their operations or makes them out to be polluters or bad citizens. Incredibly, in 2012, a trade association representing fertilizer blenders, such as the West Fertilizer Co., lobbied Congress to exempt such facilities from EPCRA, claiming their facilities posed no danger to the public and that EPCRA simply created burdensome regulation.

Can laws protecting the environment and health be inconvenient? Yes. Can they make a company "look bad?" Yes. But they exist for a reason.

In our country, and under common law, we have always preserved a person's right to protect herself and her property from the harm of others. The environmental, health and safety laws are designed to ensure that this

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principle is followed even in a complex world with many dangers.

Our environmental, health and safety laws represent an important principle that actors cannot simply do what they wish if it could cause harm to another. These laws are important parts of our social contract and help protect real lives and communities.

Instead of considering the elimination of laws that protect the public, we need to be sure that these laws are being adequately followed and enforced. EPCRA itself is an incredibly important law that could have prevented the West tragedy, had it been followed or had the EPA or the state sought to investigate compliance. You have a right to know.

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