

83 Fairview Avenue #N  
Jersey City, N.J. 07304  
January 12, 1989

Re: Right To Know

Dear Environmentalist:

With your support, I was appointed last May to represent you on the Right-to-Know Advisory Council. I have attended five of the seven meetings since then, in addition to an orientation by DEP staff. I participated in a right-to-know panel discussion at the League of Municipalities conference. And I attended several meetings of the Right-to-Know-and-Act Coalition.

My training is in environmental and occupational health, but I knew very little about the State and federal laws before I was appointed. During the past eight months, I have read a great deal and asked a lot of questions about Right to Know. I still do not claim to be an expert on the subject. But with the State planning to amend the law, mainly to raise more money for the program, it is time to share with you some of my findings and recommendations:

#### Finding #1

For environmentalists, reporting a chemical's mass-balance (how much of it enters and leaves a site) is the most important provision of both the State (NJSA 34:5A-3k, 4-12) and federal (SARA, Title III, Section 313) right-to-know laws, because this provision requires companies to estimate potential exposure to a few hundred chemicals (supposedly the most hazardous ones). Workers and residents may not know which process or pipe is responsible, but the information may alert them to previously unrecognized emissions, even if some of those emissions are permitted by law.

The rest of these laws requires companies to prepare various inventories of chemicals on site. According to DEP, thousands of compounds have been reported so far. Combined with proper training, these inventories should help emergency responders, workers and residents protect themselves when and if emissions of these chemicals occur.



The major disagreement between environmentalists and DEP has been the agency's decision to divide the environmental survey into two parts. In 1986 DEP sent Part II surveys of throughput and release information to only 258 firms--all in Middlesex and Camden counties where the Office of Science and Research was already doing research on air toxics and waste reduction. In other words, DEP interpreted the Part II survey as a research tool rather than an integral part of Right to Know. 197 firms returned the survey, whereas in the last two years some 18,000 companies have returned the (Part I) inventories of chemicals on site.

Although the intent of the law was clearly for employers to provide a range of information (including throughput and releases) about each regulated chemical, the law at 34:5A-6b also gave DEP the discretion to determine which of the regulated employers would receive environmental surveys. (DOH had to send its surveys to all regulated employers).

#### Recommendation #1

DEP should admit that, whatever its discretion to make policy, this policy was not very good. The agency should describe the rationale for dividing the survey and limiting distribution of Part IIs. It should clearly describe the criteria for use of Part IIs in the future. In turn environmentalists should focus on other issues, such as how to expand the federal law's new requirement for mass-balance information. According to the State law, funding of the program runs out in August 1989. As you will see from the findings and recommendations which follow, we should be selective about which improvements we request in the law at this time.

#### Finding #2

Section 313 of SARA, Title III requires more throughput and release information than the State law does in some instances; in other instances SARA requires less. DEP now asks companies for supplemental information about the missing pieces. Together EPA's "Form R" and DEP's "Supplemental Form" are more comprehensive than DEP's Part II survey. As of November 30, 1988, DEP had received 896 Form Rs and the corresponding supplements. Even if some of the companies which returned Part IIs are included, this is an important increase in mass-balance information from the major manufacturers in the state.

## Recommendation #2

Because mass-balance information is the most useful to residents and some workers, DEP should go beyond its present policy of providing to citizens on request paper copies of company surveys located in Trenton and in the future go beyond relying on EPA's Medline for access to computer data bases. In fact DEP's outreach to citizens should use Section 313 as the introduction to Right to Know. Learning of estimated emissions (which will become actual as measurements improve) will motivate citizens to learn about the other provisions of Right to Know rather than the reverse. Here are some suggestions for making Section 313 data accessible to more people:

- 1) Provide paper copies of Form Rs and supplementals to all county lead agencies;
- 2) Subsidize fees for Medline hookups by local emergency planning committees (LEPCs) and environmental groups;
- 3) Adapt the federal database to use by personal computers; and/or
- 4) Perform studies which aggregate the data by county (like PIRG's study of Bergen County).

DEP should meet with potential users of Section 313 data to discuss these and other proposals. Together they should determine the most cost-effective and useful methods. DEP should then use the best methods on a trial basis and obtain the necessary feedback to determine whether to continue these methods.

## Finding #3

Several provisions in the State and federal laws limit the applicability of Section 313. First DEP mailed 8,339 supplemental forms to New Jersey manufacturers (standard industrial codes 20-39) with 10 or more employees. Of the 5934 forms DEP received, 5038 were negative declarations. Although the threshold for the amount of a chemical on site at any one time from manufacturing will decline from 75,000 to 25,000 pounds over the next two years, I suspect that the current thresholds (of 75,000 pounds for manufacture and 10,000 pounds for use) contributed to so many companies not reporting any releases.

Next Section 313 only applies to manufacturers with 10 or more employees (N=8339). In theory DEP could have sent the Part II mass-balance survey to all employers covered by the State law. The number of small manufacturers (less than 10 workers) is roughly equivalent to the number of large ones. The State law also regulates approximately 9000 other private businesses and 6000 public employers.

Finally both parts of DEP's survey apply to its list of 154 environmental hazards whereas the EPA list consists of 328 chemicals. (According to DEP, EPA added Maryland's list to New Jersey's.)

#### Recommendation #3

Because I suspect that DEP feared computer overload as much as industry resistance if the agency had sent Part IIs to everyone, I suggest this time DEP gradually expand the program of Form Rs and supplements, without neglecting a complete outreach effort to make the existing data known. In a timely fashion, DEP should prepare assessments of the best ways, including their cost-effectiveness, to lower the reporting thresholds to zero, expand the program to all those employers covered in the New Jersey law and to adopt the EPA list as its own. The Advisory Council should determine the timeframe for expansion of Form Rs and supplements.

#### Finding #4

With court suits, regulatory trial and error (including three different surveys in four years) and passage of SARA Title III, it is little wonder that Right to Know has been a troubled program. From my newcomer's perspective, the program seems to be making some progress. The latest compliance manual for all those companies covered by SARA, Title III is a major step towards standardizing the operation. But whatever your opinion of Right to Know, it is obvious that the program faces its biggest challenge to date, i.e. expanding the inventories which include thousands of chemicals from the 30,000-40,000 employers regulated by the State community-right-to-know law to the approximately 190,000 private companies covered by SARA, Title III, Section 312.

By March 1, 1989, this new group of 160,000 non-manufacturers must return the DEQ 094 form which presently goes to all private employers covered by the State law. According to the latest court finding on OSHA's Hazard Communication Standard, the standard and therefore SARA Title III Section 312 which is based on it apply to all private employers (with the construction industry's suit still pending).



Incidentally DEP's management of the new Section 312 data should be a good test of its ability to expand Section 313.

#### Recommendation #4

Environmentalists should support the agency's effort to change the fee to include all employers in the state at \$2.00 per worker per year, even if the company has no regulated chemicals on site. According to DEP, the increase would fund extra data management due to Section 312, LEPCs, training of emergency responders and increased enforcement.

DEP has promised a Right-to-Know budget for next year that will be progressive not reactive. DEP should present a 5-year as well as a 2-year budget because environmentalists will need to know where the program is heading if they are to strongly support it.

To avoid returning to the legislature in the near future for fee changes, the amendments should give the commissioners of DEP, DOH and DOL or Treasury the authority to change fees as needed within a range based on the 5-year budget.

#### Finding #5

The burden of the original State law fell on DOH, which was allocated 40% of the funding: 20% to DEP, 15% to county health departments, 15% to DOL and 10% to Treasury. Given the preemption of much of DOH's role by OSHA and the expansion of DEP's responsibilities as a result of the federal law, this division of resources no longer seems functional.

#### Recommendation #5

Obviously any reallocation should be based on how effectively the agencies are doing their jobs as well as the future needs of the program. The fairest method would be for an outside organization to audit the program. If the program lacks the time and money for such an audit, the Right-to-Know Advisory Council should oversee self-evaluations by the participating departments.

## Finding #6

By the end of November, DEP had issued this year 696 notices of violation (NOVs), rescinded 43, assessed \$69,699 in penalties and collected \$22,900. Of the more than 10,000 surveys outstanding, 1550 were first mailed in the summer of 1987 and 8800 in February 1988. DEP mailed approximately 28,000 surveys in the past two years; 9250 to non-manufacturers and 18,850 to manufacturers. According to DOL, 4590 of the latter companies no longer exist--an amazing 24%.

Although the Advisory Council voted in August to recommend that DEP send NOVs to 5500 manufacturers who had ignored all DEP's efforts to obtain the surveys, the agency's NOV rate did not change from August (N=504 or 63 per month) through November (192 for 3 months or 64 per month).

## Recommendation #6

With the program's emphasis on data management, DEP ought to do a much better job of issuing NOVs. Of course DEP needs more money for enforcement and the ability to assess larger fines for not returning a survey (\$100 is the largest for a first offense.) Fines collected should be used by DEP for enforcement. In the meantime, DEP should target industries, chemicals or counties by sending lists of violators to county lead agencies, LEPCs, unions, environmental groups and trade associations.

In addition DEP should determine why manufacturers go out of business so rapidly while non-manufacturers apparently remain stable. Do these companies fail immediately or after several years? What does this turnover mean for the program's effectiveness?

## Finding #7

The original State law required employers to train their workers about Right to Know, but made no provision for either industry or DEP to train residents. Nor does SARA, Title III require LEPCs to train residents, although an LEPC must hold public meetings to discuss its emergency plan.

So far DEP has signed a \$100,000 contract with the Association of New Jersey Environmental Commissions (of which I am treasurer) for public education. (DEP has another contract for this purpose, but I do not know anything about it.) Considering that employers have paid millions of dollars in fees, not to mention the cost of training, they deserve an informed public. Otherwise the information will remain unused in computers and file drawers.

#### Recommendation #7

As already suggested by recommendation #2 about mass-balance information, DEP must spend a great deal more on public education. And if this meant feeding the computers with surveys at a slower rate, I would agree because what good is unused data.

Training the trainers, as the State Police has done with emergency responders, would be a good way to begin. Although I recognize that most environmental groups are not inviting DEP to speak about Right to Know, DEP is speaking enough to industry so that at least initially the agency could request to speak at environmental meetings. There are many fewer statewide environmental groups than there are trade associations.

If any part of the increase in fees needed to be dedicated, that part must be for public education. Part of the line item for public education should be for a small-grants program for environmental groups and LEPCs. But my guess is that environmentalists have a greater ability than LEPCs to reach the grassroots with Right to Know.

Finally with the input of the Advisory Council, DEP should prepare a plan for public education. DEP should also meet in small groups with interested environmentalists to determine their needs for public education.

#### Finding #8

Based on my five Advisory Council meetings and minutes of the two I missed, there seems to be a lull in activity at the Council. I understand that obtaining written reports from the agencies was a major accomplishment of the Council, but explanation of these reports now takes almost the entire meeting. I am partly to blame for this because I have not asked that we discuss other issues. And only at my last meeting in December did I begin to question DEP and DOH at length about their progress. However critiquing progress reports is not the same as setting aside time for in-depth discussion of certain issues.



## Recommendation #8

I should request that the Council's chairman and DEP/DOH staff put on the agenda issues of concern to the environmental community. I also think that public comment at the end of meetings and a regular meeting date would boost public attendance. In turn environmentalists must make known to me what are their priorities for Right to Know. They must also come to Council meetings to let the Council and agencies know that they care and to see for themselves what is happening.

I am sorry that this report is so long. I tried to discuss what I think are the most important points about Right to Know. Please let me know what you think of this and what direction I should take on the Right-to-Know Advisory Council. Call me at work (201) 547-4601, or home, (201) 435-6565.

Sincerely



Carl Blumenthal, Member  
Right-to-Know Advisory Council

CB:hm

cc: Right-to-Know Advisory Council  
Yves Mikol, DOH  
Jill Lipoti, DEP

New Jersey Right to Know & Act Coalition  
10 Rutgers Place  
Trenton, NJ 08618

January 28, 1989

Mr. Christopher Daggett, Acting Commissioner  
NJ Department of Environmental Protection  
Trenton, NJ 08625

Dear Mr. Daggett,

Many of the organizations that were part of the original effort to pass the New Jersey Right to Know (RTK) law have formally come together again as the New Jersey Right to Know and Act Coalition. Our goals are to support vigorous implementation of federal and state RTK laws, to encourage the use of the available information to meet the challenges ahead, and to gain additional rights to prevent hazards in the workplace and community.

As the Right to Know and Act coalition begins its programs for addressing New Jersey Community Right to Know, we would like to have a better understanding of the historical development of the current program.

Therefore, we respectfully submit the following list of questions that will help us understand the current program, how it evolved, and where it is going.

Your detailed responses to these questions will help us carry out our duties as citizens of New Jersey and it will help us understand the policies and programs of our government.

Here are our questions:

COVERAGE OF THE LAW

1) (i) What SIC codes does the DEP believe to be covered by NJ RTK law and the federal SARA law?

(ii) What is the statutory authority for this belief?

(iii) If the DEP's view of this has changed from 1983 to the present, please give a historical account of the changes that have occurred in the DEP's view of which chemicals were covered by the law(s). (iv) If different sections of the laws affect different chemicals, please clarify these relationships.

2) May we have a copy of all regulations that DEP presently believes form the legal basis for establishing those SIC codes [in Question 1, above] as the relevant ones?

3) We understand that the DEP believes there are about 40,000 companies doing business in NJ today whose operations fall within SIC codes covered by the state community right to know law and its relevant regulations. (i) What is the basis for this belief? Please give as much detail as possible as to what agency gathered what data on what dates to develop the DEP's current belief about which companies are covered by the law. (ii) Which companies are required to answer all the questions on the "Environmental Survey" as defined in section 3(k) of the law? (iii) What criteria were developed for deciding which companies are required to answer all the questions on the "Environmental Survey" as defined in Section 3(k) of the law? (iv) Who was involved in the decision-making regarding these criteria, and when was the decision made? Please send us a copy of all memoranda and meeting minutes relating to all decisions regarding the development of these criteria.

4) How does the DEP update its list of firms covered by RTK?

(i) When a new firm starts operating in NJ within SIC codes covered by the RTK law, how does the DEP learn about it?

(ii) What is the maximum, minimum, and mean elapsed time between the day a covered company begins operating in NJ and the day the DEP sends them a RTK form?

(iii) In (ii) above, what form does the company get first?

(iv) What is the basis for deciding what additional forms to send to someone who responds to the form referred to in (iii) above.

5) At any given moment, where could one get a current list of names and addresses of the companies covered by the law [see questions 1 and 4 above]? (i) How could one learn the date on which that list was last updated?

#### PAST SURVEYS

6) It is our understanding the following surveys have gone out in the past:

VRK001 in 1984; VRK002 in 1984; DEQ086 in 1986; DEQ094 in 1987; Form R accompanied by DEQ100 in 1988

If additional surveys have been undertaken besides those listed above, please tell us about them.

Please answer the following questions about all past surveys:

(a) how many survey forms of which types were sent to whom, by what units of DEP on what dates (or between what dates)? (i) Were they sent by third class mail, first class mail, or by some other form of delivery?

(b) Assuming that, in answer (a) above, we can identify "batches" of forms that were sent out between particular dates,



for each "batch" of forms, please provide answers to the following questions:

(i) how many forms were sent out? (ii) how many forms came back marked undeliverable? (iii) how many replies were received? (iv) how many replies contained a negative declaration? (v) how many replies contained actual data on one or more chemicals? (vi) what was done with the replies (did they go into a mainframe computer? did they go into a desktop computer? have they never been computerized? Please be specific about how many were handled by which method in what time periods; if these forms were computerized, please tell who has, or had, administrative control over the computer system). (vii) what quality control activities did the DEP undertake to check the validity of the data received from respondents? (viii) what quality control activities took place to check the quality of the data entry into the computer(s); (ix) what regulations were in force, at the time each batch was sent, regarding the obligation of recipients to respond? (x) how many follow-up letters were sent to people who did not respond? (xi) how many second follow-up letters were sent to people who did not respond to the first follow-up letter? (xii) how many fines were levied against recalcitrant non-responders? (xiii) how big were the fines? (xiv) how many fines have actually been collected?

In addition to the quantitative information requested above, as part of your answer to this section, please provide a narrative discussion of substantive activities undertaken by the program and problems encountered in implementing the community right to know program. Please start with the beginning of the program and bring us up to the present moment, giving as much detail as possible about any substantive activity within the overall program and the problems that were encountered in implementation. Please discuss emergency surveys, Part I surveys, Part II surveys, Form R surveys and Form R Supplemental surveys. Please include in this answer a discussion of funding, staffing, space, lawsuits, computer equipment, computer expertise, relations with other organizations within DEP, and relations with other organizations within state government, as well as any other matters that bear on the question, "Why is the program not further along today than it is?".

(xv) For each survey, please list all the places where citizens can get copies of the data.

7) In surveys that have been sent out in the past, what has been the smallest amount of a covered chemical that you considered to be reportable as greater than zero? In other words, how much of a covered chemical did a respondent have to have on the premises before they had to report to you that they had any at all?

8) On the computer tape that you sent Peter Montague on Jan. 4, 1988, there are 680 firms with an indication in the field called PART-II-SURV. In the presence of Jill Lipoti and Rich Dime on

April 19, Ruth Williams told Peter Montague this is an indication that a judgement has been made that these 680 firms should receive Part II Surveys. Our questions are:

(i) what criteria were used to determine that these 680 firms should receive Part II forms and what was the basis of those criteria?

(ii) who developed the criteria?

(iii) may we please have copies of all memoranda and meeting minutes related to the development of these criteria?

(iv) was the Right to Know Advisory Council involved in this decision?

(v) do minutes of their meetings reflect their involvement? If the answer is yes, may we have copies of those minutes? If the answer is "no," may we have an explanation why?

9) On what date was discussion opened within DEP regarding the possibility of substituting Form R for the Part II forms? (i) On what date was the decision made to start using Form R instead of the old Part II survey forms?

(ii) Who made this decision?

(iii) What was the complete basis of the decision?

(iv) May we have copies of all memoranda and all meeting minutes related to this decision?

(v) Did the RTK Advisory Council participate in this decision?

(vi) Do their meeting minutes reflect this participation and if the answer is "yes," may we please have copies of any minutes that reflect this participation?

(vii) If they did not participate in this decision, why did they not participate?

(viii) On what date was the Advisory Council told the decision had been made?

(ix) May we have a copy of the document(s) that served to announce to the Advisory Council that this decision had been made?

(x) May we have meeting minutes of the Advisory Council showing their discussions of this change?

10) For a 14-month period, the Right to Know Advisory Council did not have a member representing the environmental community because Governor Kean did not appoint one after Mr. Lanard resigned his position. (i) At any time during this period, did the DEP take any cognizance whatever of the absence of such representation on the Council? (ii) If the answer is yes, may we have copies of any memos or other documents that mention this situation? If the answer is No, could you please explain why? (iii) If, during this period, the DEP attempted to involve the environmental community in its decisions, would you please provide details on these efforts, being as specific as possible?

FUTURE SURVEYS

11) Please describe your plans and programs regarding future surveys [so-called DEQ094 surveys, combining Emergency Surveys and Part I Surveys and Workplace Surveys and Sara 312 surveys] for

- (i) this year,
- (ii) next year,
- (iii) the next five years?

Please be as specific as possible, including plans for (a) finding out who should receive a survey; (b) sending out surveys; (c) receiving surveys back and computerizing them in mainframes, and/or desktop computers; (d) checking the quality of the data that respondents provide; (e) checking the quality of the data entry into the computer; (f) taking enforcement action against those who should provide data but initially don't; (g) making the data available to people, including those who request the entire computerized database on magnetic tape or diskette.

Please be as specific as possible about these matters, including personnel requirements for each of the items listed above and budgetary requirements.

12) Please describe your plans and programs regarding Part II surveys for

- (i) this year, (ii) next year, (iii) the next five years?

Please be as specific as possible, including plans for (a) finding out who should receive a survey; (b) sending out surveys; (c) receiving surveys back and computerizing them in mainframes, and/or desktop computers; (d) checking the quality of the data that respondents provide; (e) checking the quality of the data entry into the computer; (f) taking enforcement action against those who should provide data but initially don't; (g) making the data available to people, including those who request the entire computerized database on magnetic tape or diskette.

Please be as specific as possible about these matters, including personnel requirements for each of the items listed above and budgetary requirements.

13) When you send out Part II forms in the future, what is the smallest amount of a covered chemical that you will consider to be reportable as greater than zero? In other words, how much of a covered chemical will a respondent have to purchase, manufacture, emit from the stack, emit fugitively, etc., before they will have to report to you that they purchase, manufacture, etc., any at all?

14) What are your plans and programs regarding Form R Surveys (including the Form R Supplemental surveys [DEQ100 surveys]) for

- (i) this year, (ii) next year, (iii) the next five years?

Please be as specific as possible, including plans for (a) finding out who should receive a survey; (b) sending out surveys; (c) receiving surveys back and computerizing them in mainframes,



and/or desktop computers; (d) taking enforcement action against those who should provide data but initially don't; (e) checking the quality of the data that respondents provide; (f) checking the quality of the data entry into the computer; (g) making the data available to people, including those who request the entire computerized database on magnetic tape or diskette.

Please be as specific as possible about these matters, including personnel requirements for each of the items listed above and budgetary requirements.

15) We believe the DEP holds the opinion that state government has no authority to try to enforce the SARA Title III, Section 313, right to know provisions. (a) What is the basis for the state's opinion? (b) May we please have copies of any memos that discuss this question?

#### OTHER FUTURE MATTERS

16) What plans do you have for expanding the list of chemicals covered by the New Jersey RTK law?

17) May we have a copy of the current compliance plan? (i) May we have a copy of any compliance plans that pre-date the current one?

18) May we have a copy of the request for proposals that has been sent, or will be sent, to computer consultants, asking them to bid for the job of designing a computer system for the NJ right to know program?

19) May we have copies of all proposals, when you receive any, from computer consultants bidding for the job of designing a computer system for the right to know program?

20) Many of us had been led to believe by former Commissioner Dewling that the data tape that Mr. Montague received from Rich Dime Jan. 4, 1988, contained all of the state's right to know data. Yet that tape has no entry for several major firms in New Jersey, including the Tom's River Plant of Ciba-Geigy, the DuPont Company's Deepwater Plant, the Monsanto Chemical plant in Bridgeport, Princeton University in Princeton, and GAF in Linden; many thousands of other covered companies are missing as well. Since we know the DEP has some Emergency Survey data and/or Part I survey data and/or Part II data for some of these firms, we have several questions about this:

(d) what was the basis on which data for certain firms was omitted from (i) the tape given to Mr. Montague, or (ii) from the computerized database from which the tape was derived;

(e) in future, does the DEP intend, as a matter of policy, to omit selected data from the computerized database and, if so,

what will be the criteria for the exclusion?

(e) In future, does the DEP intend, as a matter of policy, to omit certain data when fulfilling requests, such as Mr. Montague's, for "a computer tape containing all the data you have (including every record that contains data in any field whatsoever, excluding only those fields that contain trade secret-exempt data]" gathered under the community right to know program? (i) If the answer is "yes," what will be the criteria by which such an exclusion will be made?

#### CURRENT MATTERS

21) Please describe in detail the DEP's current programs for making right to know data available to the general public, including programs for getting the information into the hands of county government officials, municipal officials, and any and all other representatives of the public, including unaffiliated individual citizens. Please include in this answer a specific discussion of all methods contemplated for getting the data into peoples' hands in electronic (machine-readable) form as well as any other form.

22) May we please have a copy of any contracts between the DEP and private or public organizations external to the DEP who are participating in the DEP's outreach program? (i) May we have copies of all DEP memoranda related to the letting of these contracts?

23) For each external organization with which the DEP has a contract related to RTK outreach, please provide the following information:

(i) What is the earliest date when a contract with the organization was first discussed within DEP?

(ii) Did the DEP initiate the discussions or did the external organization?

(iii) Was the project for which the external organization received a contract subject to the public bidding process? If the answer is yes, may we please have copies of all bids that were received? If the answer is No, would you please explain why competitive bidding was not used?

(iv) What are the DEP's plans for future contracts with external organizations?

24) Please describe the record-keeping system that the DEP maintains to record how many people have requested right to know information, what the information was, how quickly the

information has been provided, and in what form. Please describe this system as fully as possible, including any ways in which the DEP learns about requests for RTK information that go to non-DEP sources of RTK information (e.g., county governments). Please discuss funding and staffing of this program from its inception.

25) Please describe in detail the DEP's internal outreach program(s) that the DEP has undertaken to let the public know about the existence of the community right to know program and the data that is available through the program. Please start with 1983 and end with the current moment.

26) Please describe the DEP's plans for future outreach programs to tell communities about the existence of the state RTK program and the data that have been gathered under the program.

27) The opening paragraphs of the law say that the law was intended to provide a "comprehensive program for the disclosure of information about hazardous substances in the workplace and the community" because "individuals have an inherent right to know the full range of the risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions." In what sense does the DEP believe that its current community right to know program meets this requirement for a "comprehensive program"?

28) What is the status of the SARA Section 312 database?

(i) Is it in a computer somewhere and, if the answer is yes, what computer is it in?

(ii) What is the significance and/or utility, if any, of this database from the viewpoint of the NJ Community RTK program?

29) What is the status of the SARA Section 313 database?

(i) Is it in a computer somewhere and, if the answer is yes, what computer is it in?

(ii) How can citizens of New Jersey get access to this data and what will such access cost?

(iii) If it is not in a computer now, does the DEP or any other organization have plans for putting it into a computer? Please discuss those plans in detail, including details of access to the data by members of the NJ public, including those members of the public who would like to receive 100% of the data in electronic (machine-readable) form.

(iv) What is the significance and/or utility, if any, of this database from the viewpoint of the NJ Community RTK program?

30) The DEP has a display, which it puts up at various public and private functions. A photograph of a portion of this display appears in the DEP's publication, Environmental News July/August, 1988, pg. 4. The display contains text statements about the various purposes that the Bureau of Hazardous Substances



Information believes the RTK program serves: (a) To assist in research; (b) to aid in the development of regulations, guidelines and standards. Text statements listing other purposes are obvious in the photograph but are not legible in the photograph. For example, one begins, "Collect data from all c....". Would you give us the complete text of all of the statements that appear on that display?

31) In the publication referred to in question 30 (above), pg. 4, the DEP says that it has "developed a comprehensive database on chemicals used or stored at 12,000 facilities throughout the state". Our questions are: (i) What is meant by the words "comprehensive database" on chemicals at 12,000 facilities? (ii) does the DEP consider a snapshot inventory, provided by Part I surveys, to be "comprehensive information" as intended in the NJ RTK law? (iii) how much of the data from these 12,000 firms is computerized? (iv) how many of these 12,000 firms reported using zero amount of all covered chemicals (a negative declaration)? (v) of the firms in question iii above, how many did the DEP actually check to see if they really are using zero amount of the covered chemicals?

32) How is the Department currently using the right to know data? If the data presently has been integrated into the Department's pollution control and/or enforcement programs, could you please provide a description of this integration?

33) In a letter dated July 25, 1988, Dr. Rich Dime agreed to provide a 9-track computer tape containing all of the right-to-know information held in the DEP's mainframe computer. He said it would cost \$4.50 per CPU second of computer time. He did not say how much computer time would be involved. Reminded of this pledge on October 11, 1988, in a formal meeting with members of the Coalition, Dr. Jill Lipoti told us that she would promptly provide Ken Brown, our Coalition's representative, with the price that the DEP would charge for such a computer tape. Mr. Dime was reminded of this request once again during December, 1988. Dr. Dime and Ms. Lipoti have not yet provided this information. Could you please convey to Ms. Lipoti and to Mr. Dime that we are very troubled by the Department's disregard of this important matter? We find it inconceivable that such a simple request should take 180 days to fulfill if the request were being taken seriously. We are at a loss to explain why such a commitment by Mr. Dime should not be followed through on.

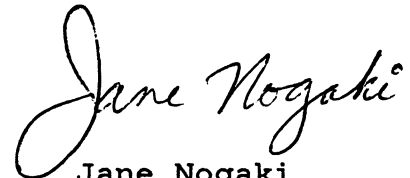
Thank you for your attention to these urgent matters. The Coalition's representative, Ken Brown, will phone Jean Mroczko to discuss the time-frame in which we can expect to receive answers to our questions. Ms. Mroczko was named our liaison for such matters by Commissioner Dewling before he left office; if some other formal line of communication between the DEP and the

Coalition seems desirable from your point of view, Mr. Brown will be pleased to discuss such arrangements with you or with Ms. Mroczko. Mr. Brown's phone number is (201) 846-4224. Please direct all communications to Mr. Brown.

Sincerely yours,



Eric Scherzer  
Co-chair



Jane Nogaki  
Co-chair

For the members of the coalition, including:

Allied Citizens Opposing Pollution  
Aluminum, Brick & Glass Workers, Local 514  
Amalgamated Clothing and Textile Workers Union, #1298  
American Federation of State, County and Municipal Employees,  
Council 1  
American Federation of State, County and Municipal Employees,  
#1761  
Bergen County Central Trades and Labor Council  
Borg's Woods Preservation Coalition  
CATA  
Central and South Jersey Joint Board, ACTWU  
Central Jersey Environmental Task Force  
Citizens Commission on Bhopal  
Coalition Against Toxics  
Committee on Interns and Residents  
Communications Workers of America, District #1  
Communications Workers of America, Locals 1001, 1031, 1032, 1033,  
1037, 1040, 1058, 1060, 1080, 1081, 1082, 1085  
Cornucopia Network of New Jersey, Inc.  
Council of NJ State College Locals, AFT  
Delaware Valley Clean Air Council  
Delaware Valley Toxics Coalition  
Environmental Research Foundation  
Food & water, Inc.  
Grass Roots Environmental Organization  
Gray Panthers of South Jersey  
Hometowns Against Shutdowns

Independent Laboratory Employees' Union, Inc.  
 International Association of Machinists, Lodges 329, 677, 1455  
 International Brotherhood of Electrical Workers, Locals 327, 827  
 International Chemical Workers' Union, Region 3  
 International Chemical Workers' Union, Locals 155, 527  
 I.F.P.T.E., Local 195  
 International Ladies' Garment Workers Union, AFL-CIO  
 International Ladies' Garment Workers Union, Bergen/Hudson  
     District Council  
 International Ladies' Garment Workers Union, Essex/Central  
     District Council  
 International Union of Electronics Workers, Locals 134, 401, 417  
 IUE Local 76B, Furniture Workers Division  
 Ironbound Committee Against Toxic Wastes  
 Jersey City State Federation of College Teachers, AFT #1839  
 JNESO  
 LEGAL - Lawyers Encouraging Government and Law  
 Mercer County Central Labor Council, AFL-CIO  
 New Jersey Citizen Action  
 New Jersey Education Association  
 New Jersey Environmental Federation  
 New Jersey Environmental Lobby  
 New Jersey Industrial Union Council, AFL-CIO  
 New Jersey State Federation of Teachers, AFT, AFL-CIO  
 New Jersey State Police Benevolent Association  
 Occupational Health Division, Robert Wood Johnson Medical School  
 Ocean County Citizens for Clean Water  
 Office & Professional Employees International Union, Local 32  
 Oil, Chemical and Atomic Workers International Union, District  
     #8 Council  
 Oil, Chemical and Atomic Workers International Union, Locals  
     8-149 and 8-5570  
 People United for a Klean Environment (PUKE)  
 Philadelphia Area Project on Occupational Safety and Health  
 Residents for Environmental Preservation and Protection (REPP)  
 Retail, Wholesale & Department Store Union, Local 108  
 Rutgers Council of AAUP Chapters  
 Save-the-Hawk  
 Service Employees International Union, Local 455  
 Stop the RocAjet Incinerator Project (STRIP)  
 United Auto Workers Region 9  
 United Electrical, Radio and Machine Workers, District 1  
 Utility Co-Workers' Association  
 White Lung Association

cc:

Jean Mroczko

All members of the Right to Know Advisory Council

Senator Dan Dalton

INTERDEPARTMENTAL MEMORANDUM  
CITY OF JERSEY CITY  
DEPARTMENT OF HOUSING AND ECONOMIC DEVELOPMENT

DATE: February 1, 1989  
TO: Environmentalists  
FROM: Carl Blumenthal *CB*  
SUBJ: Right-to-know Legislation

Enclosed is the revised report I submitted to the Right-to-Know Advisory Council. I received comments from Ken Brown, Rich Schiafo, Caron Chess, Hilary Horn, Nancy Hedinger and Lincoln Borman. If you called after January 6, I had already submitted the report, which the Council discussed at its January 20 meeting.

You can still give me comments because DEP/DOH will present a bill and budget at the Council's Friday, February 24 meeting, 10:00 a.m., which will probably take place in DEP's 7th floor conference room at 401 East State Street, Trenton (check with me if you plan to attend.)

The reaction:

-DEP, DOH and the Council were pleased that they now have a clearer idea of where environmentalists stand.

-Richard Dime did not like the "antagonistic" tone in some parts, but he and Jill Lipoti said (privately) that they agreed with most of my recommendations. Richard Willinger (DOH) liked (privately) all the recommendations except the one that would cut DOH's budget.

-Five Council members criticized the report's recommendations. The gist of their concern: The State is not on top of the program now. Any new tasks will be impractical politically as well as administratively. One member expressed support and four others were silent.

CB:hm





State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DONALD A. DEIESO, Ph.D.  
ASSISTANT COMMISSIONER  
FOR ENVIRONMENTAL MANAGEMENT AND CONTROL  
CN 402  
Trenton, NJ 08625  
609 - 292 - 8058

New Jersey Right to Know & Act Coalition  
10 Rutgers Place  
Trenton, New Jersey 08618

Dear Ms. Nogaki and Mr. Scherzer:

Your recent letter to Acting Commissioner Daggett regarding the history of the implementation of the New Jersey Community Right to Know program has been referred to me for response. The letter contains a number of questions which require in-depth research. Several of the questions require review by the Division of Regulatory Affairs, and others need significant staff time to assemble the answers. We have tried to answer those questions that we can in the time frame which you require to formulate your testimony at the annual Right to Know public hearing. Answers are provided in the same order as your questions.

#### COVERAGE OF THE LAW

1) The Standard Classification Codes (SIC) of businesses covered by the NJ Worker and Community Right to Know Act are contained in N.J.S.A. 34:5A-3(h). These SIC codes are in Attachment A. As noted, PL 1985, c. 543; N.J.S.A. 34:5A-3 added certain codes, and deleted others. A U.S. Court of Appeals decision (10/10/85) reinstated NJDEP's authority to survey businesses in the manufacturing sector. In 1987, the federal Office of Management and Budget updated the SIC code list. The attached SIC codes are the activities as currently described in the "Standard Industrial Classification Manual, Revised" (PB87-100012), Springfield, VA: National Technical Information Service, 1987.

The federal Superfund Amendments and Reauthorization Act, (SARA), Title III, Emergency Planning and Community Right to Know Act of 1986 covers different facilities in different sections. For instance, Section 302 covers all businesses (public and private) who have Extremely Hazardous Substances in quantities greater than threshold planning quantities. Sections 311 and 312, hazardous substance inventory reporting, cover all facilities subject to the Occupational Safety and Health Administration's Hazard Communication Standard. When SARA Title III was passed, only manufacturers, SIC codes 20-39 were covered by the OSHA Standard. In August, 1987, coverage was extended to all non-manufacturers except the construction industry (SIC 15-17), and very shortly, pending a last appeal to the U.S. Supreme Court, these industry groups will also be covered. In 1988, Section 313, toxic release reporting, covered all manufacturing facilities, SIC codes 20-39 with 10 or more employees, who manufactured or imported greater than 75,000 pounds or otherwise used greater than 10,000 pounds of any toxic chemicals. In



1989, Section 313 thresholds decrease to 50,000 pounds of toxic chemicals manufactured or imported, but remain at 10,000 pounds otherwise used. In 1990 and thereafter, Section 313 thresholds are 25,000 pounds of toxic chemicals manufactured or imported or 10,000 pounds otherwise used. These thresholds are cumulative over a year.

2) A copy of the current DEP regulations is Attachment B. Current EPA regulations can be obtained by contacting the EPA at their HOTLINE, 1-800-535-0202.

3) The Department of Labor is the source of the mailing list of facilities subject to the NJ Worker and Community Right to Know Act. The list contains all employers in the relevant SIC codes who pay unemployment insurance. This list is updated by the DOL on a daily basis, with new employers, those who relocate, or those who go out of business.

Question 3, sections ii, iii, and iv have been referred to the Division of Regulatory Affairs for review.

4) The DEP obtains a computer tape from the Department of Labor just prior to mailing compliance materials to employers. This tape contains the most recent information from the DOL. Since compliance materials are mailed once a year, it is possible that a business may start operating in NJ on the day after the tape is obtained, and not receive compliance materials until the following year. This does not present a major problem because the inventory is for the previous calendar year and therefore a company might have only a few months of activity or none at all for the reporting year. Under SARA, Title III, the onus is on the facility to obtain the proper materials (forms, lists, etc.) to comply with the law.

5) The most current mailing list of all facilities in NJ is maintained by the Department of Labor.

#### PAST SURVEYS

6) There are two surveys that are missing in your list: DEQ086 was mailed in 1988 to public employers by the Department of Health, and DEQ094 was mailed in 1988 to all private employers in SIC codes covered by NJ Worker and Community Right to Know Act.

Data on VRK001 and VRK002 would take some time to retrieve because all the data has been archived. The following table summarizes the numbers of surveys mailed and received by the Department.

#### SURVEY

#### Number of forms

DEQ086, mailed in 1986 to newly covered non-manufacturers

Received to date	7,942
Mailed to date	9,247
Returned undeliverable	688

DEQ094, mailed in 1987 to manufacturers

Received to date	10,241
Active manufacturers according to DOL	14,262

DEQ 100, accompanied by Form R in 1988, mailed to manufacturers with 10 or more employees

Received to Date	6,018
Mailed to Date	8,339
Returned undeliverable	562

EPA Form R, received in 1988	869
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DEQ086, mailed to public employees by Department of Health  
(please contact DOH for current statistics)

DEQ094 in 1988, mailed to all private employers covered by NJWCRTK

Received to date	2,583
Mailed to date	34,400
Returned Undeliverable	2,482

Initial mailings of all of the surveys was by third class mail. More detailed reports of the substance information will take some time to assemble.

Penalty regulations were adopted in January 1988. Since that time, over 4800 letters of non-compliance were mailed certified to facilities who did not return the DEQ086 survey sent in 1987. During calendar year 1988, 697 notices of violation with Administrative Orders were issued, 70 orders were rescinded, and 19 were undeliverable. Total penalties assessed in 1988 were \$60,800 and collected were \$26,700. The remaining penalties are still outstanding and subject to collection.

Citizens may write to the DEP requesting information from any of the surveys. The most recent surveys are also available at the County Lead Agency. The Local Emergency Planning Committees in each municipality are also required to arrange to handle requests from the public. While the local fire and police departments receive copies of the surveys, they are instructed by the state law not to be a public access point for citizen requests.

All other information requested under question 6) has been referred to the Division of Regulatory Affairs for review.

7) The following table summarizes the thresholds for reporting chemicals on the DEQ094 surveys. The NJDEP suggests a threshold of zero for reporting all substances, since the different thresholds for different substances covered by SARA, Title III and NJWCRTK causes confusion. At a minimum, these thresholds are to be met.

<u>Substances</u>	<u>Thresholds*</u>
OSHA Hazard Communication Standard (requires MSDS)	10,000 pounds
Extremely Hazardous Substances	Threshold Planning Quantity or 500 pounds, whichever is less
Environmental Hazardous Substances	Zero
USDOT Hazardous Materials Table	Zero

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\* Threshold are quantities present on site at any one time.

8) There was a field on the RAMIS database which was called PART-II-SURV. At the April 19 meeting with Mr. Montague, DEP staff speculated that the field could have represented firms identified to be sent an Environmental Survey - Part II. Since the RAMIS database has been abandoned, and all the information archived, it is unclear to the current staff what the field represented. At any rate, the current system of data collection and current database does not require that field.

Question 9) requires more time for investigation and some review by the Division of Regulatory Affairs.

10) Between November, 1986 and April, 1988, a vacancy existed on the Right to Know Advisory Council reserved for a representative of the environmental community. As you know, this was the result of the resignation of Mr. Lanard. During this time, Nancy Hedinger of the Association of New Jersey Environmental Commissions, was allowed by the Advisory Council to sit in on the meetings and provide input to the discussions. Also during this period, the Division of Environmental Quality met numerous times with representatives of the environmental community. While this may not have provided the same measure of formal representation, it did provide access to the program, as evidenced by the detailed nature of the questions in your letter.

Questions 11), 12), 13), 14), and 15) require more time for investigation and some review by the Division of Regulatory Affairs.

#### OTHER FUTURE MATTERS

16) The Department is considering a rule change that will expand the Environmental Hazardous Substance List to include all substances that the federal SARA program considers toxic chemicals.

17) The Community Right to Know penalty regulations were adopted in January, 1988, and a supervisor of the Compliance/Enforcement section joined the program in July 1988. The compliance strategy document, or "plan" is still in a draft form, and is not available for release. We will be happy, however, to share the document with you when it is available.

Questions 18) and 19) contain requests that must first be reviewed by the Division of Regulatory Affairs.

20) The computer generated tape which Mr. Montague received from Dr.

Dime in January, 1988, had all of the data which existed in the Right to Know database, written in the programming language RAMIS. A number of surveys, most of them from large companies, had been sent to a contractor for keying the substance information. The contractor's data tape had not been uploaded to the mainframe computer at the time that the tape was generated for Mr. Montague. In answer to your question, no information was intentionally omitted from Mr. Montague's tape or the database. The only information which has been and must continue to be omitted from information given to the public is that which contains trade secrets.

21) Copies of the completed Community Right to Know Surveys go to the NJDEP, the county lead agent and the local emergency planning committee, which must make them available to the public. Copies also go to the local fire and police departments, which are not required to make them available. NJDEP provides printouts from our computer to the county lead agent on a quarterly basis. These printouts contain lists of the regulated facilities alphabetically within municipalities, and list hazardous substances that they have reported to us. This would allow the county to check to be sure that their files are complete, and that facilities have sent information to them as well as to us. An extra copy of this printout is made for the county Office of Emergency Management coordinator to use in emergency response planning.

A mailing was recently made to all local emergency planning committees with a printout of the facilities in their municipality. They were invited to advise us of any changes to that list, and to use the listing as a checklist of facilities which should send Community Right to Know Surveys by March 1, 1989.

The Bureau of Hazardous Substances Information responds to all written requests for Community Right to Know information. Most routine requests are answered within 30 days. The number of requests that we receive has been increasing over the last few years as more people were made aware of the program. In December of 1988, we responded to 97 requests for information.

In response to requests to review large quantities of EPA Form R's, the Bureau set up a location for individuals to come in and review the files. We would like to continue this "reading room" approach for access to critical information which is not yet available in computerized form.

22) The DEP has contracted with the Environmental Law Institute for a "Citizen's Handbook on New Jersey's Community Safety Program". We have also contracted with the Association of New Jersey Environmental Commissions for various deliverables relating to local emergency planning committee responsibilities in making data available to the public. The Division of Regulatory Affairs is reviewing your request for copies of the contracts and any other information related to them as in Question 23.

24) The Division of Regulatory Affairs is reviewing your request for information regarding record-keeping of requestor information.

Answers to questions 25) and 26) require some research and parts require guidance from the Division of Regulatory Affairs.

27) The Department believes that it is meeting the requirements of the law.

28) The hazardous substance inventory information collected in 1987 and 1988 has been entered onto a mainframe computer and is available to the DEP emergency response personnel on a 24-hour basis. The computer is located at the State Police headquarters and is the only State mainframe which is running 24 hours a day. There are many uses for the inventory data and its availability in the event of an emergency is one of the more critical ones.

29) The SARA Section 313 information that was gathered on EPA Form R has been entered into a national database by the Environmental Protection Agency. The EPA plans to make the information available to anyone with a computer and modem via the National Library of Medicine system. They expect it to be available on May 1, 1989. This will make nationwide data summaries possible.

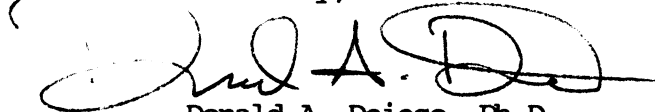
30) The DEP Community Right to Know display outlines that information is collected from all covered industries, and made available for emergency response, research, governmental agencies, and the public. The logo for the "Right to Know Compliance Materials for Employers" uses the same theme and graphics. The statements which are on the display are: "to inform people about toxic chemicals in New Jersey", "for emergency planning and response", "to assist in research", "to aid in the development of regulations, guidelines and standards", "collect data from all covered industrial facilities about substances they use or store", "establish a statewide database", "provide access to the data", "Bureau of Hazardous Substances Information", and "New Jersey Department of Environmental Protection".

Questions 31) and 32) require some research and review by the Division of Regulatory Affairs.

33) On January 20, 1989, we received a price estimate for the 9-track computer tape of the database from the Department of the Treasury, Office of Telecommunication and Information Systems. That same day, Jill Lipoti sent a letter to Peter Montague informing him of the cost.

I hope that these answers to your questions will assist you. We will be in contact with you in the near future to discuss timeframes for answers to the remaining questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald A. Deieso", with a large, stylized flourish at the end.

Donald A. Deieso, Ph.D.  
Assistant Commissioner

Attachment(s)

c: Commissioner Daggett  
Deputy Directory Mulvey  
Assistant Director Dime  
Chief Lipoti  
Director Mroczko





State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DONALD A. DEIESO, Ph.D.  
ASSISTANT COMMISSIONER  
FOR ENVIRONMENTAL MANAGEMENT AND CONTROL  
CN 402  
Trenton, NJ 08625  
609 - 292 - 8058

(RCUD 4/18/89)

April 17, 1989

New Jersey Right to Know and Act Coalition  
10 Rutgers Place  
Trenton, New Jersey 08618

Dear Ms. Nogaki and Mr. Scherzer:

This is a continuation of my response to your letter to Commissioner Daggett regarding the history of the implementation of the New Jersey Community Right to Know Program. The first part of the response was compiled in time for you to formulate your testimony at the annual Right to Know public hearing. In this letter some of the questions that required significant staff time for assembling information will be answered. When additional information has been received from the Division of Regulatory Affairs, the response will be completed. Answers are again provided in the same order as your questions.

#### FUTURE SURVEYS

11) The Community Right to Know Survey (DEQ094) combines the reporting requirements of the Emergency Services Information Survey, Environmental Survey - Part I, and SARA Section 312, Tier II surveys. This survey has been incorporated into the book "Right to Know Compliance Materials for Employers" and was transmitted to all facilities covered by the NJ Worker and Community Right to Know Act in 1988 for completion by March 1, 1989. Any facility which submitted SARA Section 312, Tier I or Tier II information is being asked to resubmit the information on the DEQ094 form to ensure consistency. Our goal is to have the same form used by all who must report hazardous substance inventories to us. The book will be updated and sent to all covered facilities in September/October of 1989 for completion by March 1, 1990 and we hope to keep to this schedule from now on.

The mailing list is updated from the files of active facilities maintained by the Department of Labor.

Some options are being investigated to make our tracking of survey information easier. Magnetic media submission is being investigated as an option for facilities which would prefer to submit their survey via a magnetic tape or diskette. Optical scanning is being studied to enter information into our computer.



When a survey is returned, it is date stamped and the first page is reviewed for completeness. If information has been omitted, the survey is entered onto the computer tracking system as incomplete, and it is returned to the facility. The facility tracking system is in the Bureau and is on a Local Area Network (LAN) with 19 personal computers linked together. Multiple user access is provided by the LAN. The hazardous substance information provided on subsequent pages of the survey is sent to be keyed outside of the Bureau. All of the substance information is keyed twice (double punched) as a quality assurance check on the keying staff to be sure that the information is correct.

A report is generated from the tracking system of those facilities which have not sent in their DEQ094 survey. This report is sent to the Compliance/Enforcement Section for follow-up. They may target the facility for a field audit by Bureau enforcement staff, DEQ inspectors, or EPA. A letter may be sent by certified mail which requires the facility to comply. A notice of violation may be generated. Under the current penalty regulation, the penalty for a time-related violation (not sending the survey by the due date) is initially \$100 but can increase. The Department has taken the attitude that they want the information rather than generating big penalties, but has taken an aggressive posture in issuing the notices of violation and administrative orders. To date, 1023 have been issued.

The hazardous substance inventory data is available to the DEP Bureau of Emergency Response, Bureau of Communications and Support Services, and Bureau of Hazardous Substances Information on a 24-hour database. This was described in my earlier letter, question 28.

The data is available on magnetic media to requesters on a cost-reimbursable basis. The estimated cost is \$2500 and has been communicated to those who have requested the data.

12) We have suspended the use of Environmental Survey - Part II, in favor of a form which we are calling the Environmental Release Report. Since the Environmental Survey - Part I is no longer used, the name "Part II" did not make sense. A draft of the Environmental Release Report is attached. This form is in the design stage, and will be published as a revision to the regulations in the New Jersey Register soon. The information gathered on the EPA Form R was examined, and the new form was designed to accept information consistent with the EPA's as well as meet the requirements of the NJ law.

In discussing the strategy for collecting release information, it is essential that part of that strategy include revisions to the law and regulations. These revisions are currently being discussed with the Right to Know Advisory Council and are not yet ready for release.

New Jersey wants to be sure that State information is part of the national database for release information. However, the EPA Form R lacks the essential mass balance information which can be collected under NJ law. So facilities which are required to supply federal Toxic Release Inventory information are also required to supply additional information to the State on the Supplemental Information Report (DEQ100). However, the scope of the

facilities which must report to the federal EPA under SARA, Section 313 is too narrow. Thus, the Environmental Release Report's purpose is for use by facilities which do not meet the EPA criteria for reporting. The information gathered on the Environmental Release Report will be phased into the database with advice from the Advisory Council.

The EPA Form R's must be submitted to EPA and to NJDEP. The Bureau has a tracking system for the Form R's, but can access the chemical specific information on the EPA computer via a link between the computers. Some discrepancies have been found between data submitted to EPA and to NJDEP. A list of these errors will be transmitted to EPA for their consideration on compliance options for facilities which reported only to NJDEP or only to EPA. There have been errors identified in EPA's data entry as well, since they do not use the double punching method of verification that NJDEP uses.

Region II of the Environmental Protection Agency has a very aggressive program of enforcement on SARA, Section 313. They have conducted 47 inspections of NJ facilities and issued 9 notices of complaints with fines ranging from \$5,000 to \$101,000. NJDEP refers suspected violators to EPA to assist them in targeting facilities for inspection.

EPA's Toxic Release Inventory database will be available to anyone with a computer and modem via the National Library of Medicine system.

13)The current threshold for reporting under the NJ Worker and Community Right to Know law is zero.

14)The NJDEP plans for EPA Form R are integrated into the entire strategy for DEQ100 and the Environmental Release Report. This strategy is now being discussed with the Right to Know Advisory Council for their input and assistance. This is part of the legislative initiative to ensure consistency between NJ Worker and Community Right to Know and SARA Title III.

25)The Bureau of Hazardous Substances Information has an outreach strategy to publicize the value of the RTK data and its possible uses and to educate the regulated community in what they must do to comply with the Community Right to Know requirements. The Communications Section of the Bureau enhances the efforts of the other sections by publicizing the proper procedures for accurate reporting and the penalties for incomplete reporting. Likewise, the Communications Section relies on the other sections for recalling complete and accurate RTK information in a timely fashion to meet requests for data.

Eight audiences were targeted as groups who were likely to find information from the RTK program useful. The strategy to provide information to these groups relies on existing channels of communication. The same structure will be used, to impart new information, to these groups that audiences relied on for previous knowledge about environmental programs. This will give the information credibility and allow the program to concentrate on the message, rather than the means of providing the information.

1. The regulated community is an audience where the main message is "how to comply". We have provided speakers at meetings of various business

and industrial organizations, and written articles for newsletters and trade journals.

2. The county lead agencies have served as a contact point for the regulated community, local emergency planning committees, and citizens to obtain information. They know about the program concepts of "how to comply, how to use the data, and where to get information" to answer questions for these target groups.

In 1988, the counties contacted 3,953 covered employers to provide assistance in complying with the law. A large number, 1,387, were actual facility site visits.

3. Local Emergency Planning Committees are required to provide information on Right to Know data. The contract with the Association of NJ Environmental Commissions provided three conferences for LEPC members to concentrate on how the LEPC's can communicate RTK information availability to the public. A manual is being written under the contract to provide information on all aspects of SARA Title III and NJ Worker and Community Right to Know, with special emphasis on encouraging use of the data by the public. Sample press releases, posters, and flyers will be developed by ANJEC that will give standard information with space for the individual LEPC to write in more specific information.

Some of the members of the LEPCs are from the regulated community. These people are familiar with the RTK data. Other LEPC members may be members of the American Institute of Chemical Engineers or the American Society of Safety Engineers, two national groups who have instructed their members to participate in SARA Title III emergency planning. Industry and the community should form a partnership for emergency planning so that by educating industry, we will be reaching the community.

Working with the Information Resource Center, the Communication Section will be planning different information management and access options through the public library system. Librarians have extensive training in information management and public reference. Public libraries are familiar places that already provide public access. A letter was sent to all LEPCs in January, 1988, suggesting public libraries as a possibility for information management, public access, and reference inquiries. A copy of the letter is attached.

4. A users group was formed of DEP and Department of Health personnel from various Divisions who can use the RTK data for verification of compliance with other environmental regulations, development of new regulations, monitoring and research projects, and establishing priorities. The first meeting was in February 1988, in preparation for the release of the RTK Annual Report. Further meetings are planned as departmental interest in the database grows.

5. Interaction with other state programs and EPA has been most rewarding for the Bureau staff. Here, we serve as a model for other states instead of as a punching bag for environmentalists. Staff has participated

in a number of conferences set up by the National Governors' Association and EPA to discuss issues such as outreach and compliance/enforcement. Several papers have been presented at national conferences showing the value of Right to Know information in data verification and toxics use reduction.

6. We provide data to legislators, lobbying organizations and other groups to assist in policy formulation and legislation development. Many of these groups are aware of the RTK program through media coverage, but were unaware of the usefulness of the data already collected until the release of the annual report.

7. Releasing reports of the data and giving papers at national conferences has alerted the research community of the value of the RTK database. The program has been contacted by a number of researchers with specific data requests, and participated with the Division of Science and Research in prioritizing research projects for Spill Fund financing.

8. Ideally, every member of the general public with a concern about hazardous substances stored within their community should be made aware of the RTK data and how to access the information. Basic awareness of the program will be communicated through specific outreach programs developed by ANJEC for the LEPCs to use in their public information dissemination. More specific information about RTK is available through the county lead agents. Certainly the outreach efforts to the previously discussed target groups will assist in getting the information out to interested members of the public. After all, how would a member of the public become concerned about hazardous substances? Probably they would have a specific problem they were trying to deal with. Their channels of previous knowledge about hazardous substances would be the same channels they could use to obtain information about the RTK program.

One additional means of communication is the use of a computer bulletin board. This board allows anyone with a computer and modem to read messages prepared by Bureau staff about changes in the RTK program, any updates on SARA activities, reports on emergency planning operations, or answers to commonly asked questions. These questions may be ones that the staff is asked frequently, or that are left in our "mailbox" on the computer bulletin board. The telephone number for the computer bulletin board is 609-633-6195. Currently the system has about 40 regular users.

Under a separate contract with the Environmental Law Institute, the Bureau has directed the development of a "Citizen's Handbook, Guide to the Community Safety Program". This handbook describes all of the programs in the Release Prevention and Emergency Response element, and explains the information available to the public, and the procedures for obtaining it. This will be published soon.

As described in testimony at the annual public hearing, the Bureau has answered 13,886 telephone calls in 1988. The Bureau responded to written information requests, and sent out information materials, copies of surveys, and general correspondence to 2,378 individuals in 1988. A total of 72 presentations were made in 1988 to approximately 4,280 people.

26)The Bureau plans to continue its outreach program as outlined above. If any of your member groups would like to have a speaker from the Department make a presentation at one of your meetings, please contact the Bureau with your request. To the extent that staff resources are available, your request will be met. Dr. Jill Lipoti has offered to speak at functions organized by the NJ Worker and Community Right to Know and Act coalition, but has not been included on the agenda.

32)The Department has just released the "Community Right to Know Annual Report" as a demonstration of how the data can be used. As stated in the introduction, the Department hopes that this report will stimulate interest in the data and that more people will think about how the data may be useful to them. Here are some ways the data may be used:

- to learn about the quantities and locations of hazardous substances which are stored, used, or released in New Jersey communities and counties;

- to make sure that all facilities which should have reported, actually did report;

- to encourage dialog with facilities about their operations in a community;

- to suggest to government officials what chemicals need further monitoring or regulation;

- to encourage reductions in the use and release of toxic chemicals, and to document this reduction over time;

- to make sure local fire and police departments know what chemicals are used in the community and are prepared to respond to incidents; and

- to use the information in land use planning decisions involving those chemicals.

At NJDEP, there are two groups which work with the Right to Know staff on the use of the data. The first group is called the Data Interpretation Group and is comprised of representatives of industry, environmental groups, and government. This group met several times in 1988 to discuss logical uses of the Community Right to Know information. Advice was given on how to answer questions asked by the public, and how to present data. Discussions also centered on inappropriate uses of the data, and how to curtail misuse. Ms. Nogaki serves on this group and has attended the meetings. The second group is the DEP Users Group which was discussed earlier.

One common misuse of Right to Know data is the idea that it can prevent accidents from occurring. The data is a report of hazardous substance use, storage, or release from the previous calendar year. The data does not address proper storage and handling conditions. The Bureau of Release Prevention administers a program which is designed to protect the public from catastrophic accidents caused by releases of extraordinarily hazardous substances into the environment by anticipating the circumstances that could result in such releases and requiring precautionary and preemptive actions to



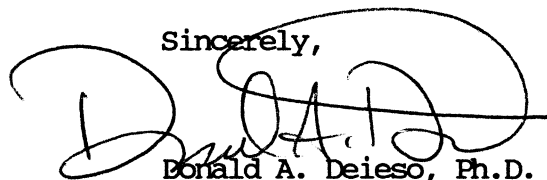
prevent such releases.

The Toxic Catastrophe Prevention Act is the legislation which provides a mechanism for the department to collect data on safety reviews, standard operating procedures, preventive maintenance, operator training, accident investigation, risk assessment, and emergency response. A risk management program checklist must be completed by the facility, and submitted to the Bureau of Release Prevention. For additional information on this important program, contact Acting Chief McCue at 609-633-7389.

The Department sees that the Right to Know information is a valuable link between many of the programs and the public. The key to successful use of the data is cooperation among the various groups. The NJDEP is the core in trying to establish this cooperation since the information is disclosed to the Department and is transmitted to the public by the Department. It is a responsibility which is taken very seriously since the Right to Know information has the potential to strengthen the effectiveness of many of the Department's programs. If the Right to Know program was born out of the public's mistrust of industry and government, the availability of the Right to Know information must now help trust grow between these entities.

We will be in contact with you to discuss timeframes for answers to your remaining questions.

Sincerely,



Donald A. Deieso, Ph.D.  
Assistant Commissioner

Attachment(s)

c: Commissioner Daggett  
Acting Director McMahon  
Director Mroczko  
Deputy Director Nicholls  
Acting Assistant Director Edwards  
Chief Lipoti

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF ENVIRONMENTAL QUALITY  
RTK SURVEY  
CN 405  
TRENTON, N.J. 08625-0405

PROOF COPY

← Return completed  
form to this  
address

**ENVIRONMENTAL RELEASE REPORT (ERR)**

**IMPORTANT:** Read instructions before completing. Please print or type all responses.

NJEIN

SIC

COUNTY/  
MUNICIPALITY

**FACILITY LOCATION**

SAMPLE FORM  
FOR INFORMATION  
PURPOSES ONLY

Indicate changes to mailing address on label.

If the facility location is different from the  
mailing address on the label, enter facility  
address below.

Check here if you would like your survey mailed  
to the above address. ☐

**SECTION A — GENERAL FACILITY INFORMATION**

1. Person to Contact  
Regarding this Report - Name (printed) \_\_\_\_\_ Title \_\_\_\_\_
- 1a. Phone Number (include Area Code) \_\_\_\_\_
- 1b. Mailing Address of Contact (if different) \_\_\_\_\_
2. Facility Contact Person (if different than #1) Name \_\_\_\_\_ Title \_\_\_\_\_
- 2a. Phone Number (include Area Code) \_\_\_\_\_
3. Briefly describe the nature of business conducted at this facility: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. No. of Production Employees at Facility \_\_\_\_\_ 4a. No. of Nonproduction or other Employees \_\_\_\_\_
5. Date Facility Began  
Operations at this Site \_\_\_\_\_ 6. Approximate  
Size of Site (acreage or sq.ft.) \_\_\_\_\_
7. Has any portion of the site ever been used for final disposal of any hazardous wastes? ☐ Yes ☐ No
8. What is the status of this facility as set forth under RCRA rules and regulations?  

Small Quantity Hazardous Waste Generator (under 100 Kg/month)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Generator of Hazardous Waste (greater than 100 Kg/month)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Transporter of Hazardous Waste	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Treatment, Storage and/or Hazardous Waste Disposal Facility	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9. Supply your EPA ID Number \_\_\_\_\_
- 9a. Supply your Dun & Bradstreet Number (if available) \_\_\_\_\_ D-U-N-S Number \_\_\_\_\_

10. **WASTEWATER DISCHARGES** — Complete the following information:

A. Is there a discharge to a publicly owned treatment works (POTW) sewer system? ☐ Yes ☐ No ☐ Unknown

1. Name of Utility (POTW) \_\_\_\_\_

2. Address/Location \_\_\_\_\_

3. Estimated Average Volume of Wastewater Discharged to POTW in a day \_\_\_\_\_ gals/day

4. Briefly describe any pretreatment methods \_\_\_\_\_

5. Wastewater consists of:

☐ Process Water  
☐ Domestic Sewage  
☐ Scrubber Water

☐ Contact Cooling  
☐ Contaminated Storm Water  
☐ Leachate

☐ Non-Contact Cooling  
☐ Washdown Water  
☐ Other \_\_\_\_\_

B. Is there a discharge to surface water, Navigable Waterway or to Tributary System? ☐ Yes ☐ No ☐ Unknown

1. Name of Receiving Stream \_\_\_\_\_

2. NJPDES Permit No. \_\_\_\_\_

3. Estimated Average Volume of Wastewater Discharged to Receiving Stream in a day \_\_\_\_\_ gals/day

4. Briefly describe any treatment methods \_\_\_\_\_

5. Wastewater consists of:

☐ Process Water  
☐ Domestic Sewage  
☐ Scrubber Water

☐ Contact Cooling  
☐ Contaminated Storm Water  
☐ Leachate

☐ Non-Contact Cooling  
☐ Washdown Water  
☐ Other \_\_\_\_\_

C. Is there a discharge to groundwater? ☐ Yes ☐ No ☐ Unknown

1. Permit No. \_\_\_\_\_ 2. Estimated Average Volume \_\_\_\_\_ gals/day

3. Briefly describe treatment and discharge methods: \_\_\_\_\_

4. Wastewater consists of:

☐ Process Water  
☐ Domestic Sewage  
☐ Scrubber Water

☐ Contact Cooling  
☐ Contaminated Storm Water  
☐ Leachate

☐ Non-Contact Cooling  
☐ Washdown Water  
☐ Other \_\_\_\_\_

D. Does this facility store 400,000 gallons or more of a hazardous substance?

1. DPCC Number \_\_\_\_\_

2. Hazardous Substance(s) stored:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use additional pages if necessary)

11. WATER USE INFORMATION — What water sources are utilized by this facility? (Include approximate volumes)

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12. What fuels are utilized by this facility? \_\_\_\_\_

13. Air Pollution Permits — Do you have an APC ID No.? ☐ Yes ☐ No If yes, enter number \_\_\_\_\_

14. Have you included a site plan? ☐ Yes ☐ No (See Instructions)

15. Have you made any trade secret claims on this report? ☐ Yes ☐ No (You are required to provide full documentation on any trade secret claims. Refer to Trade Secret Claim Instructions.)

16. Lot # \_\_\_\_\_ Block # \_\_\_\_\_

*I hereby certify that all statements made by me in this report are true, complete and correct to the best of my knowledge and that estimates where used have been made in good faith.*

NAME (print) \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

**NOTE:** You are required to forward a copy of this survey to your County Health Department. (See Instructions)

Complete one Section B Form for each Environmental Hazardous Substance or as requested.

**FOR OFFICIAL USE ONLY**

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF ENVIRONMENTAL QUALITY  
RTK SURVEY  
CN 405  
TRENTON, N.J. 08625-0405

## ENVIRONMENTAL RELEASE REPORT (ERR)

SECTION B — Complete one Section B Form for each Environmental Hazardous Substance

1. Name and Location of Plant	NJEIN
2. Environmental Hazardous Substance Name	C.A.S. No.
3. Briefly Describe It's Use on the Site	Reporting Year
	RTK Substance No.
3a. Date Chemical was First Used on Site:	

Complete One Section B Form for Each Environmental Hazardous Substance		Enter the Actual or Estimated Quantity	Use the Requested Units	Check One	
				Actual	Estimate
THROUGHPUT QUANTITIES	4. Starting Inventory		lbs/yr.		
	5. Quantity Produced on Site		lbs/yr.		
	6. Quantity Brought on Site		lbs/yr.		
	7. Quantity Consumed on Site		lbs/yr.		
	8. Quantity Shipped Off Site (as or in product)		lbs/yr.		
INVENTORY	9. Ending Inventory		lbs		
	10. Maximum Inventory		lbs		
	11a. Methods of Storage:				
	11b. Describe the Frequency and Methods of Transfer:				
AIR EMISSIONS	12. Total Stack or Point Source Emissions		lbs/yr.		
			max lbs/day		
	13. Total Fugitive or Non-Point Source Emissions		lbs/yr.		
			max lbs/day		
WASTEWATER DISCHARGES	14. Total Discharge to On Site Treatment or Pretreatment System		lbs/yr.		
			max lbs/day		
	15. Total Discharge to Publicly Owned Treatment Works (POTW)		lbs/yr.		
			max lbs/day		
	16. Total Discharge to Surface Waters		lbs/yr.		
			max lbs/day		
17. Total Discharge to Ground Water		lbs/yr.			
		max lbs/day			

**18. Disposal of Wastes Containing the Environmental Substance:**

Table A Physical State	Table B Storage Method	Name and Address of Waste Hauler	Quantity of Substance Disposed lbs/yr	Name and Location of Final Disposal Site	Table C Disposal Method

19. a. Are any methodologies employed at this facility to achieve "Source Reduction" for this substance? Briefly describe methods. (Attach additional pages if necessary.)

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page, possibly from a composition book. There is no handwriting or other markings on the page.

b. State the amount of waste generation that was prevented. \_\_\_\_\_



March 21, 1991

Ruth Williams  
Right to Know Program  
NJ Dept. of Environmental Protection  
401 E. State Street  
Trenton, NJ 08625

Dear Ms. Williams:

I have some questions concerning the Right to Know program in the Department of Environmental Protection which I would be most appreciative if you could help answer.

First, I would appreciate an explanation of item #2 in your Bureau Activities Reporting Statistics. This refers to Section 311 (MSDS) totals received. Is the figure of 7,279 an indication of the number of different facilities that have sent MSDSs to the SERC? I am trying to understand where this figure comes from and what it represents.

I would also appreciate information on DEP penalties for violations of the New Jersey Worker and Community Right to Know Law. I ask for this information because it appears from recent Right to Know Advisory Council minutes that while penalties were levied, a high percentage of these penalties were never collected. I would be most appreciative if you could provide me with a year by year breakdown, from the beginning of the Right to Know program, for the penalties assessed and the penalties actually collected. As part of this request please provide a figure on the total amount of outstanding penalties due to the DEP for each year since the beginning of the Program and the total figure for penalties that are due to the DEP but have not been paid and are considered outstanding.

Thank you very much for your assistance in this matter.

Sincerely,

Rick Engler, Director  
of Safety & Health





State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF ENVIRONMENTAL QUALITY  
CN 027, TRENTON, N.J. 08625-0027

Nancy Wittenberg  
Director

(609) 292-5383  
Fax # (609) 292-1074

May 17, 1991

Mr. Rick Engler  
Director of Safety and Health  
New Jersey State Industrial Union  
Council, AFL-CIO  
Occupational Safety and Health Office  
452 East Third Street  
Moorestown, New Jersey 08057

Dear Mr. Engler:

I am writing in response to your March 21, 1991 correspondence concerning MSDS's and penalties noted on the information distributed at a recent Right to Know Advisory Council Meeting.

The Section 311 (MSDS) total reported in the statistics refers to the number of MSDS or list submittals that the State Emergency Response Commission (SERC) has received under Section 311 of Title III. The number does not correspond to the total number of facilities reporting, as many companies may have submitted additional information after the original submission. Section 311 requires that MSDS's or lists be updated annually if changes occur in chemical inventories meeting Section 311 thresholds at a facility.

Attachment A shows the penalties assessed and collected to date by the DEP for violations of the Worker and Community Right to Know Act. We are concerned with the delays in collection of penalties. Many of the facilities penalized contest their fines, and further reviews must be conducted on each case. Our efforts to collect these monies are on an ongoing basis, and we are committed to the collection of these penalties.

I hope this information addresses your concerns.

Sincerely,

Richard A. Dime, Ph.D.  
Assistant Director

Attachment





ATTACHMENT A

SURVEY YEAR 1986/1987

Total assessed: \$90,200

Total collected: \$68,600

SURVEY YEAR 1988

Total assessed: \$264,300\*

Total collected: \$114,850

SURVEY YEAR 1989

Total assessed: \$907,000\*

Total collected: \$ 51,320

\* Adjusted for rescinds and Administrative Orders returned  
undeliverable

**NEW JERSEY STATE  
INDUSTRIAL UNION COUNCIL, AFL-CIO**

**Occupational Safety and Health Office**

452 East Third Street • Moorestown, NJ 08057

(609) 866-9405 FAX: (609) 866-9708



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Sal Giardina  
ILGWU  
Rosalie Griffiths  
CWA  
Charlie Hall, Sr.  
RWDSU  
Bobby Head  
IUE  
Marie Krystaponis  
ACTWU  
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AFT  
Michael Lanni  
AFSCME  
Emanuel Leventhal  
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Robert Meade  
ICWU  
Richard Outlaw  
ATU  
Robert Roach  
IAM  
Leslie Roberts  
UAW  
Michael Roccia  
RWDSU  
John Ronches  
CIR  
Eric Scherzer  
OCAW  
William Terrell  
UAW  
Kenneth O. Test  
UPIU  
Vince Trivelli  
CWA  
Rudy Thomas  
IFPTE  
Pat Tully  
OPEIU  
Ann Twomey  
HPAE  
Raymond Walling  
IUE  
Chester Wierzbowski  
URW  
Ivey Williams  
ICWU  
Max Wolf  
SEIU  
Frank DeMaria  
Asst.-to-President

June 11, 1991

Richard A. Dime, Ph.D.  
Assistant Director  
Division of Environmental Quality  
Department of Environmental Protection  
CN 027  
Trenton, NJ 08625

Dear Dr. Dime:

Thank you for your letter of May 17 in response to my letter of March 21. I would appreciate it if you could provide some further clarification about penalty assessments and collections by the DEP under the Worker and Community Right to Know Act. I would appreciate more specific data on this issue given your concern for delays in collection of penalties. Specifically, what percentage of employers protests their penalties? How many employers simply refuse to pay once their legal appeals have been exhausted? How many employers have actually appealed?

In addition, please provide a list of companies that are contesting and/or refusing to pay penalties. Thank you very much for your assistance in this matter.

Sincerely,

Rick Engler, Vice President  
& Director, Health & Safety

cc: Assemblyman Robert Smith, Chairman, Assembly Environment  
Committee  
Senator Dan Dalton,  
Pete Smith, Chairman, Right to Know Advisory Council

**National Advisory Panel**

Morton Bahr, CWA  
William Bywater, IUE  
Thomas Fricano, UAW  
Jay Mazur, ILGWU  
Lenore Miller, RWDSU  
Jack Sheinkman, ACTWU  
Howard Samuel, IUD





State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF ENVIRONMENTAL QUALITY  
CN 027, TRENTON, N.J. 08625-0027

Nancy Wittenberg  
Director

(609) 292-5383  
Fax # (609) 292-1074

July 1, 1991

Mr. Rick Engler  
Director of Safety and Health  
New Jersey State Industrial Union  
Council AFL-CIO  
Occupational Safety and Health Office  
452 East Third Street  
Moorestown, New Jersey 08057

Dear Mr. Engler:

This letter is sent in response to your June 11, 1991 letter to Dr. Richard A. Dime concerning penalty collections for violations of the Worker and Community Right to Know Act. Because the questions you asked concern specific enforcement data, I have referred your letter to Mr. Harold Christiff, Chief of the Bureau of Enforcement Services in this Division. That Bureau is responsible for processing penalty actions and appeals for companies that have not complied with the requirements of the Act. I asked Harold Christiff to respond directly to you.

Thank you for your interest in New Jersey's Right to Know Program.

Sincerely,

Shirlee Schiffman, Chief  
Bureau of Hazardous Substances  
Information

SS:ilt

c: Harold Christiff, Chief







State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF ENVIRONMENTAL QUALITY  
CN 027, TRENTON, N.J. 08625-0027

Nancy Wittenberg  
Director

(609) 292-5383  
Fax # (609) 292-1074

August 16, 1991

Mr. Rick Engler  
Director of Safety and Health  
New Jersey State  
Industrial Union Council, AFL-CIO  
Occupational Safety and Health Office  
452 East Third Street  
Moorestown, New Jersey 08057

Dear Mr. Engler:

This is in response to your letter of June 11, 1991, addressed to Dr. Richard A. Dime, concerning the assessment and collection of civil administrative penalties for violations of the New Jersey Worker and Community Right-to-Know Act and its regulations.

In order to address the concerns in your letter, I have elected to use Department figures for calendar year 1990 to represent the number of contested cases and penalties collected during that year. During 1990, the Department issued 1,098 Administrative Orders and Notices of Civil Administrative Penalty Assessments to employers who failed to submit the Community Right-to-Know Survey. Throughout 1990, 609 employers contested or appealed the Administrative Orders and Notices and 20 appeals were referred to the Office of the Attorney General for the scheduling of administrative hearings. No administrative hearings have been held to date, therefore, it is not possible to determine how many employers will refuse to pay penalties once their legal appeals have been exhausted. The Department collected approximately \$227,300.00 in civil administrative penalties during calendar year 1990.



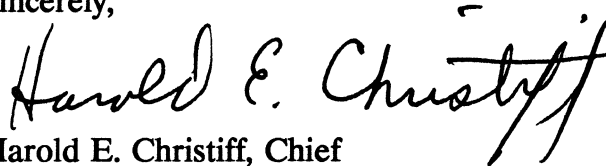


Mr. Rick Engler  
August 16, 1991  
Page 2

In response to your request for a list of companies that are contesting and/or refusing to pay penalties, the Department has no such list available.

If you have any additional questions, please contact me at (609) 984-9482.

Sincerely,

A handwritten signature in black ink, reading "Harold E. Christiff". The signature is written in a cursive style with a large, stylized "H" and a long, sweeping flourish at the end.

Harold E. Christiff, Chief  
Bureau of Enforcement Services

HEC/MD:jt

c: