

May 4, 1990

TO: Jerry Balter Eric Scherzer
 Ken Rosenman David Tykulsker
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 Bill Flynn Eileen Nic
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FROM: Rick Engler & Jane Nogaki

RE: Enclosed Amendments to Right-to-Know Law

Enclosed please find proposed amendments to the New Jersey Right-to-Know law that reflect at least the staff position at DOH, State Police, DOL, and DCA. It is unclear whether they will reflect DEP.

It is likely that individual Council members will go to legislators to seek sponsorship.

While there are obvious questions raised by opening up RTK at this time, in any event we need to be prepared to respond to the merits of the proposed amendments, especially since they impact the HELP legislation's substance.

PLEASE SEND YOUR WRITTEN COMMENTS TO:

Rick Engler, 452 East Third Street, Moorestown, NJ 08057.
and to Marian Wise, NJPIRG, 11 North Willow St., 2nd Fl.,
Trenton, N.J. 08608

So that we may effectively compile comments, please send them in writing only!

If you have questions about the intent or meaning of proposed changes, contact Rich Willinger at DOH at 609 984-1863.

PLEASE LET US HERE FROM YOU BY MAY 25TH!

NEW JERSEY RIGHT TO KNOW AND ACT COALITION

May 4, 1990

Preliminary Analysis of Proposed Changes to New Jersey Worker
and Community Right-to-Know law (as amended)

The attached draft reflects at least the staff positions of the New Jersey Departments of Health, Environmental Protection, Labor, Community Affairs (Fire Service), and State Police. It may be least reflective of the DEP position because the DEP Commissioner says a comprehensive review of the law (and lack of enforcement by the DEP is being done). No bill has been introduced as of yet. For this to be introduced as representative of Departmental positions it would have to go through the Governor's Office.

However, individual Council members are likely to approach legislators to ask that they introduce these amendments.

In the attached copy of the complete RTK law, proposed additions to the law are underlined; deletions are bracketed.

The following preliminary analysis focuses on proposed changes that relate to the HELP legislation. This memo makes no attempt to evaluate the merits of the changes in relationship to any of the surveys/emission reports/Title 3. Nor does it evaluate whether the Title 3 related provisions on emergency planning are appropriate. This still needs to be done.

ERTK=Existing NJ Right-to-Know Law
PRTK=Proposed NJ RTK Law Amendments

- 1) Title is changed to the "Worker and Community Right to Know and Emergency Planning Act." In general, changes are made to incorporate emergency response concerns.
- 2) Definition added of emergency response plan (p.2). Further evaluation is needed to compare this to HELPs "Emergency Response Plan."
- 3) Definition added of employee which varies from HELP (in part because it explicitly includes volunteer firefighters).
- 4) The scope of employer coverage under ERTK is much broader than under HELP. HELP covers fewer SIC codes and Hazard Prevention Committees must be established only at facilities with 20 or more employees.

The PRTK law eliminates all SIC codes and would cover all employers. (HELP specifies employers but allows other sic codes to be administratively added or deleted).

By expanding coverage, the PRTK would raise more money, estimated at a total of \$10-\$12 million. It also appears to give the Departments more discretion as to what employers get what forms and how often.

It should be noted that expansion of employer coverage would encounter fierce opposition. In 1986 the dentists and doctors successfully lobbied to get out of ERTK. Putting them back in --along with other minor users of chemicals -- is problematic.

5) Facility def. different. ERTK partially exempts research and development; PRTK also at least partially exempts a quality assurance lab.

6) Page 5, m.(2) in a container issue. Meaning?

7) Definition of Local Emergency Planning Committee added, specifically mandating committees at municipal and county level.

HELP specifies that there be an equal number of local government officials and representatives of the public. PRTK proposes the list below as a minimum.

Comparison of LEPC Membership:

HELP	PRTK
Police Dept.	Law enforcement
Health Dept.	Health
Fire Dept.	Firefighting
Roads, traffic, or public works	Transportation
Environmental commission or department	Environmental
Emergency Management Office	Emergency Management
Planning Board	-
Right-to-Know Coord.	Right-to-Know
An elected official	Elected officials

HELP: Nine "official" members

Owners or operators of facilities sub. to Section 302	Same
Medical, industrial hygiene, environm., & safety profess.	-
Environmental advocacy groups	(?; see above)
Labor organizations	-
Community groups, or, if	

none exists, volunteers Same (roughly)

from the public.	
Firefighter employee rep.	-
Broadcast & print media	Same
-	First aid.

HELP: Seven public categories required.

HELP: 18 member LEPC (?)

PRTK: 12 member LEPC.

8) ERTK has provisions for the certification of trainers, including fees not to exceed \$500. (this is the result of recent amendments).

9) PRTK has additional labeling requirements as requested by Pete Smith and the IAFF. The Coalition has supported this in the past. (Universal labeling does not appear to be weakened and is still critical for pre-fire emergency response planning, etc.).

10) Analysis needed on emergency planning.

11) \$50 minimum fee abolished; fee is only \$2 per employee. This benefits small businesses already covered by the Act (see above) but raises more money overall due to expanded employer coverage.

Funds raised can now also be used for DCA, State Police, and LEPCs. Apparently the State Police did an analysis saying they would give each LEPC \$15,000 for computers and supplies (phased in over what number of years?).

12) LEPC right to enter an employers facilities during "normal operating hours" to determine compliance with RTK & Title 3. This is not a general inspection. DEP, DOH, or State Police representative MUST be present. (Why?)