



Cornell University  
ILR School

## Labor Research Review

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Volume 1 | Number 16  
*Organizing for Health & Safety*

Article 7

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1990

### HELP in New Jersey: From Right-to-Know to Right-to-Act

Edith K. Jeffrey

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## HELP in New Jersey: From Right-to-Know to Right-to-Act

### Abstract

[Excerpt] Since 1987 the New Jersey Right-to-Know-and-Act Coalition has been working to extend the rights of citizens and workers to take an active part in decisions vital to their health and safety. The Coalition initiated activity that has resulted in a bill now before the New Jersey Legislature. The bill is called Hazard Elimination through Local Participation – or HELP. If passed, HELP could become a model for other states, and a giant step toward worker and citizen empowerment for health and safety.

### Keywords

New Jersey, Hazard Elimination through Local Participation, HELP, Right-to-Know-and-Act Coalition

NEW JERSEY  
NEEDS  
H.E.L.P.

# HELP in New Jersey

## From Right-to-Know to Right-to-Act

■ *Edith K. Jeffrey*

Since 1987 the New Jersey Right-to-Know-and-Act Coalition has been working to extend the rights of citizens and workers to take an active part in decisions vital to their health and safety. The Coalition initiated activity that has resulted in a bill now before the New Jersey Legislature. The bill is called Hazard Elimination through Local Participation—or HELP. If passed, HELP could become a model for other states, and a giant step toward worker and citizen empowerment for health and safety.

The Right-to-Know-and-Act Coalition has its roots in the right-to-know struggle of the early 1980s. That effort brought together labor, environmental and community activists who had come to appreciate how their objectives converged. Increasingly, it has become clear that industrial toxics endanger both workers and community residents and that health and safety in the workplace and the environment go together. Workers are best situated to know which practices within an industrial facility constitute a hazard both outside and inside the workplace. Because of the key position workers occupy, labor pressure for a safer work environment benefits the community environment as well, while the backing of environmentalists mobilizes a larger constituency to

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• *Edith Jeffrey is an historian of American social history and is active in the New Jersey Right-to-Know-and-Act Coalition.*

press for corrective action.

The benefits of combined action were demonstrated in 1983 when New Jersey passed the strongest right-to-know legislation in the nation. Victory in New Jersey encouraged similar efforts in other states, which ultimately led to the passage of federal right-to-know legislation. With its requirements for identifying toxic chemicals in industrial use and making such information available to workers and the public, the right-to-know law has generated essential data for moving toward the goal of securing community and workplace health and safety.

But, even as this victory was achieved, leaders of that successful campaign recognized that winning right-to-know, crucial as it was, would not in itself improve working conditions or reduce pollution. Right-to-know legislation was a first step. Right-to-act is its logical and necessary sequel.

### **What is HELP?**

Government agencies alone cannot prevent environmental and occupational hazards. With current levels of funding and staffing, government inspectors cannot get to potentially hazardous facilities quickly enough or frequently enough to be effective. But even if standards and inspection procedures were to be substantially improved and financial penalties for violations increased, the number of inspectors could never be sufficient to provide an ongoing presence in the workplace and in the community adequate to the task.

Nor, with fewer than one of five workers organized, can the attainment of a healthy and safe work environment be left to collective bargaining. It is extremely difficult for many unions to negotiate effective safeguards. Moreover, a safe workplace ought to be considered a basic right appropriately secured by legislation, not an outcome of bargaining.

HELP will establish a right to act by those people who are most at risk from exposure to industrial toxics. At the heart of the right to act is the right to inspect, which HELP will implement both for workers and for residents of communities located near dangerous facilities.

In the workplace, HELP will require that all employers with 20 or more employees establish joint labor-management health and safety committees, referred to in the bill as Hazard Prevention Committees (HPCs). Half of the members of an HPC would be selected by management and the other half by the union, or in nonunion workplaces, elected by the employees. HPCs will investi-

gate hazards, environmental releases and accidents and will meet regularly to work on hazard prevention. HELP requires that HPC members be trained in hazard recognition and prevention. The committees will be eligible for state grants to hire experts to assist in inspections and hazard prevention.

If an employer refuses to abate an imminent hazard, an HPC member could direct that the specific process causing the hazard to workers or the environment be stopped until the arrival of an appropriate government official.

On the community side, a petitioning process would be set up to qualify community groups to have the right to conduct periodic investigations of facilities within a five-mile radius of their homes. The state will pay for a technical expert, chosen by the community group, to assist in the inspection process.

Community groups will also be represented on Local Emergency Planning Committees (LEPCs). LEPCs are required by existing federal law, but the law does not adequately deal with questions of community representation or of funding. Under HELP, LEPCs will receive funding adequate to carry out the responsibilities with which they are charged. HELP will also assure public participation on LEPCs by including representatives of environmental advocacy groups, labor organizations, firefighters, and medical, industrial hygiene, environmental or safety professionals. In addition to framing emergency response procedures, LEPCs could inspect facilities for environmental hazards in order to prevent emergencies and would be funded through fees charged to the facilities.

HELP will create no new levels of bureaucratic supervision, nor is it oriented toward punitive measures. It puts in place orderly procedures for cooperative inspection, assessment and planning. Toward this end, HELP encourages management to work out and sign Good Neighbor Agreements with community groups.

As New Jersey Assemblyman Bob Smith, a prime sponsor of the legislation, pointed out in public hearings on the bill in February: The proposed HELP legislation "is in keeping with the continuing evolution of environmental and public laws in this State, but it is also a radical departure in the sense that it proposes to supplement existing regulatory efforts by the active engagement of communities and worker-management groups in protecting public health and safety."

### **The Right-to-Know-and-Act Coalition**

At a press conference in December 1989, Assemblyman Smith and State Senator Gabriel Ambrosio announced the filing of the

HELP bill in the New Jersey legislature. For the Right-to-Know-and-Act Coalition this occasion, though it was only the beginning of the legislative process, was a milestone achievement in a planning and organizing effort that had begun in 1987 with the revival of the right-to-know coalition.

In New Jersey cooperative action by labor, community and environmental groups is a "natural." It is also prudent. Leaders from powerful labor, citizen, and environmental organizations in the state formed its core group. More than 140 environmental, civic, public health and labor organizations have joined the Coalition. Its underlying strength, however, derives not only from its make-up but from its history in action. Crucial to the functioning of the Coalition is the fact that besides sharing a stake in a common goal, the diverse groups represented on its steering committee were already out there, working on different aspects of the problem, years before they formed the Coalition that exists today.

There is a wealth of experience represented on the Coalition's steering committee. Its co-chairs are Jane Nogaki, chair of the New Jersey Environmental Federation (the N.J. chapter of Clear Water Action), and Eric Scherzer, secretary-treasurer of Local 8-149 of the Oil, Chemical and Atomic Workers (OCAW). Other groups represented on the 30-member steering committee include the United Auto Workers Region 9, the Environmental Research Foundation, International Chemical Workers' locals, the Environmental Lobby, the Industrial Union Council AFL-CIO, New Jersey Public Interest Research Group (PIRG), the Philadelphia Area Project for Occupational Safety and Health (PHILAPOSH), New Jersey Citizen Action, the White Lung Association, and both the state Firemen's and Police Benevolent Associations.

Many of these groups had earlier joined forces to achieve New Jersey's Worker and Community Right to Know law in 1983. For some, joint action went back even further to the Delaware Valley Toxics Coalition, which won the nation's first right-to-know law in Philadelphia in 1981. This, in turn, had grown out of the work of PHILAPOSH, which had begun to push for federal regulation giving workers the right to know as early as 1976.

Over the years dedicated activists within these groups had learned how to work together, had shown a willingness to learn from one another and to try out innovative strategies. But "work," above all, is the key word: hard work, persistence, imaginative planning, cooperation, and grassroots participation won the right to know, and it is this experience that is now directed toward winning the right to act.

Even as the Coalition began to develop concepts for the HELP

legislation, it reached out to the broadest spectrum of concerned groups and individuals to recruit new organizations. Professional canvassing by NJ Citizen Action and the NJ Environmental Federation generated thousands of postcards supporting HELP, in addition to the thousands of cards collected by other Coalition activists. Meetings were held to explain the proposed legislation to unionists prior to its formal introduction in order to enable unionists to contribute ideas and help plan strategy. The Coalition also worked on models for community inspections and helped local groups concerned with toxic emissions and other dangerous processes in their localities to press for citizen inspections.

In November 1989, for example, the Coalition organized a rally at a Coastal Oil Co. plant to present a petition signed by 500 residents in the surrounding neighborhoods, demanding an inspection of the plant. Information was distributed at the rally detailing the types and amounts of emissions produced by the plant, information that came from researching EPA records. Jane Nogaki of the Coalition explained that a community inspection would mean that a delegation of residents living near the facility, together with their own expert, would go inside the plant to evaluate its operations.

Nogaki, as secretary of the Coalition Against Toxics, had successfully led such a community inspection at Dynasil Corp. in 1988 that had resulted in a Good Neighbor Agreement. Unlike Dynasil, however, the Texas-based Coastal Oil refused requests for inspection. Coastal had earlier broken the union at this plant; now it was disregarding the concerns of the community as well, despite the fact that multi-million dollar fines had been levied against it for polluting the Delaware River.

News coverage of the rally at Coastal and the issues it highlighted was followed early in December by a report of the NJ Department of Health on occupational disease in New Jersey. The study's recommendations fit very well with the provisions of the HELP bill; press coverage of the report quoted Coalition members from the Industrial Union Council and the UAW making this point.

Since the bill was introduced in the legislature, the HELP campaign is being waged on many fronts at once. This spring, following major efforts at the public hearing on the bill, the Coalition co-sponsored a forum and workshop with the A. Philip Randolph Institute on "Hazards on the Job: Impacts on African-American Workers and Strategies to Fight Back." On April 27 the Coalition held a Workers' Memorial Day conference attended by more than 100 union and environmental activists. In May a benefit concert by Pete Seeger helped raise money and awareness. In July the Coalition released to the press a report, *Keeping Workers in*



*the Dark*, analyzing OSHA records and showing widespread failure on the part of New Jersey employers to comply with OSHA's Hazard Communication standard.

At the same time that the Coalition has kept the issue in the public eye, it continues the less visible, but equally important, work behind the scenes. Periodic contact with key legislators proceeds on a regular basis; Coalition leaders have met with Governor Florio and his staff; and outreach to labor and community groups continues—to listen to their concerns, to explain the provisions of the legislation, and to solidify support.

### **Prospects for HELP**

New Jersey's history, economy and location have provided fertile conditions favorable for building our labor-community-environmental coalition. Much of the state is highly industrialized and has been for a long time. The state has a strong organized labor presence, and in recent years a large and growing environmental movement. In New Jersey much of the population is now well aware of the threat of toxics in the environment.

The sights and smells of refineries and chemical plants are a common experience for New Jersey residents, many of whom regularly drive past smoldering chemical storage drums near major highways. Frequently these same people have learned that their local water supplies are at risk from leaking old landfills or illegal dumping sites, and that some of their favorite recreation areas have been polluted by toxic effluent, the vestiges of oil spills and other water-borne wastes. While many toxic chemicals cannot be readily seen or smelled, enough of them can in New Jersey to have produced a high level of citizen awareness and apprehension.

A recent study conducted for the EPA indicates that in New Jersey suspicion of industry as a source of reliable information concerning toxics is widespread, as is mistrust of industry's professed willingness to act on its own to eliminate hazards associated with its operations. The same study shows that government bureaucracy is also mistrusted. It is environmental and local emergency responders who are seen as both the most knowledgeable and the most trustworthy. Given this climate of opinion, the HELP legislation has garnered significant public support.

In response, industry groups have targetted HELP as their number one bill to defeat. They say New Jersey doesn't need HELP because there's "no problem."

Hal Bozarth, executive director of the Chemical Industry Council, testified at the public hearing, as did representatives from

American Cyanamid and DuPont. Bozarth asserts that inspections "imposed" by HELP would merely duplicate those now being carried out by "highly educated and trained technical experts from regulatory agencies." He contrasted current practice to what we could expect under HELP when, he warned, public safety would be entrusted to "laymen inspectors."

Industry spokesmen insist that existing laws and procedures are sufficient to handle all problems that HELP is intended to correct. The chemical industry likes to portray itself as sensitive to community concerns. The Chemical Manufacturers Association (CMA) has gone so far as to urge its member industries to establish facility/community advisory panels as an excellent way to open dialogue. But advisory panels and dialogue are one thing, participation in an inspection process is another.

While CMA public relations espouses cooperation, industry has been trying to drive a wedge between community and labor interests with the blackmail threat that manufacturing will move out of the state if burdened by new regulation. A similar effort by industry to factionalize the coalition that waged the earlier right-to-know campaign failed. And industry's threat during that campaign—that jobs would move out of the state—did not materialize. Then, with the passage of the federal right-to-know law creating uniform standards for the entire country, this threat lost whatever credibility it might have had. This points up a crucial reason why a federal right-to-act law should be the long-range target of labor, environmental and community activists—why the measures that are being fought for now in New Jersey ought to become the law of the land.

Industry will fight hard to defeat HELP, but the Coalition confidently expects passage of the bill during the next legislative session.

To win HELP is now the Coalition's goal. But just as the work of the Coalition's constituent groups did not begin with the campaign for HELP, its work will not end with the passage of a right-to-act bill. The Coalition will have a role in continuing to build bridges between the different segments of the larger community who share concerns about health and safety, in encouraging the use of the new structures, in training for effective use, and in monitoring and publicizing the progress of implementation. The empowerment that HELP legislation will bring will be a new beginning, with new rights and new responsibilities. ■