



THE STARR REPORT:

Strategy To Advance Regulatory Reform

A Response of the
Whitman Administration

Coordinated By:

The Department of State
Office of the Business
Ombudsman

July 1995

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TABLE OF CONTENTS

MESSAGE OF THE GOVERNOR AND CABINET

ACKNOWLEDGEMENTS

I. INTRODUCTION

EXECUTIVE SUMMARY

PRIORITIES

PRIORITIES ACHIEVED

PRIORITIES FOR ACTION

CONCLUSIONS

APPENDIX TO SECTION I:

I A Evaluation of Past Reports and Comparative Analysis with Recent OBO Findings

II. CABINET INITIATIVES, PRIORITIES, & ACCOMPLISHMENTS

III. OUTPUT OF PUBLIC HEARINGS AND COMMENT PROCESS - RECOMMENDATIONS FOR REGULATORY REFORM

APPENDICES TO SECTION III:

III A List of Public Witnesses

III B Individuals that submitted comments for record outside of public hearings

IV. ATTACHMENTS

A Reform Issues that Require Federal Action

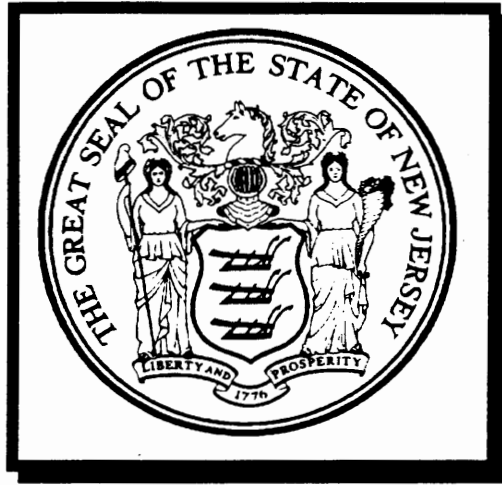
B Executive Order No. 15 (1994) Office of the Business Ombudsman

C Executive Order No. 27 (1994) - Requirement for Statement Concerning Federal Standards in State Agency Rule Making

D Executive Order No. 1 (1994) - Creation of the Economic Master Plan Commission

E H.R. 4949 Congressman (Franks) - Administrative Procedure Reform Act of 1994

F Executive Order No.22(1994) - Department of Education Review of Regulations



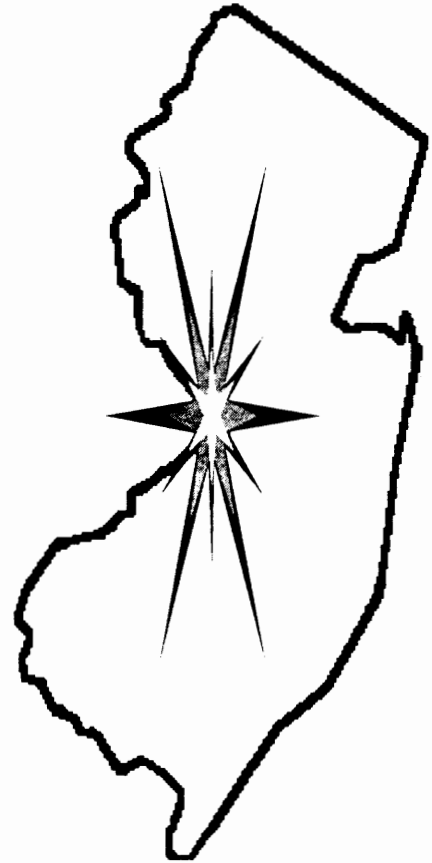
Christine Todd Whitman, Governor

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Coordinated By:

The Department of State
Office of the Business Ombudsman





State of New Jersey

OFFICE OF THE GOVERNOR

CN-001

TRENTON NJ 08625-0001

CHRISTINE TODD WHITMAN
Governor

July 12, 1995

Dear Citizens of New Jersey:

One of my Administration's goals is to provide for a more efficient and effective regulatory process. To achieve this goal, we must harness the energies of business and government to provide the highest quality of life. The Cabinet and I believe the suggestions and principles described in this report represent critical steps in that direction.

This report would not have been possible without the support and participation of those who provided testimony at the hearings and those who submitted comments. We appreciate their involvement and thank them for their efforts.

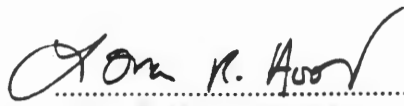
Yours sincerely,

A handwritten signature in cursive script, appearing to read "Christine Todd Whitman".

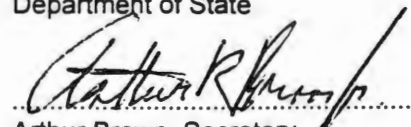
Christine Todd Whitman
Governor


JOINT CABINET MESSAGE


We concur with the recommendations made in this report and pledge the continued commitment of our respective departments for regulatory reform.

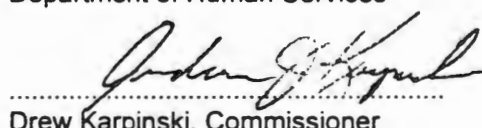

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Lonna R. Hooks, Secretary
Department of State

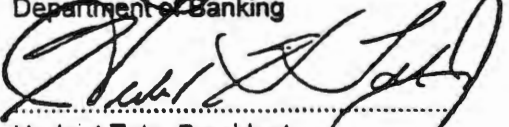

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Len Fishman, Commissioner
Department of Health

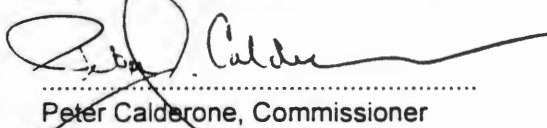

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Arthur Brown, Secretary
Department of Agriculture

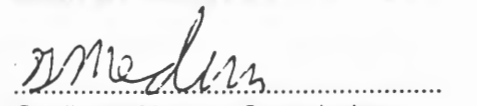

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William Waldman, Commissioner
Department of Human Services


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Elizabeth Randall, Commissioner
Department of Banking


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Drew Karpinski, Commissioner
Department of Insurance

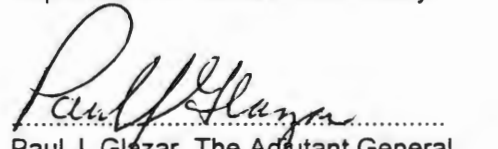

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Herbert Tate, President
Board of Public Utilities



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Peter Calderone, Commissioner
Department of Labor

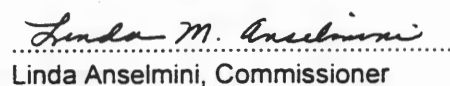

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Gualberto Medina, Commissioner
Department of Commerce & Economic
Development

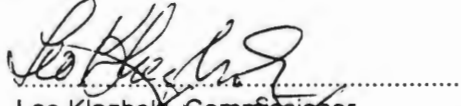

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Deborah Poritz, Attorney General
Department of Law & Public Safety

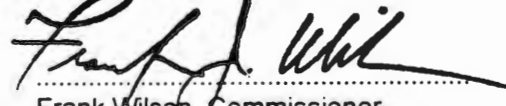

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Harriet Derman, Commissioner
Department of Community Affairs

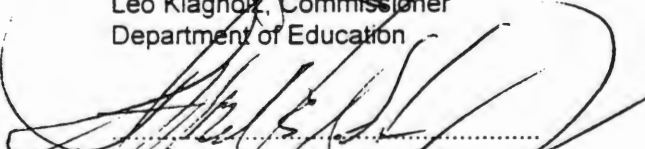

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Paul J. Glazar, The Adjutant General
Department of Military & Veterans Affairs

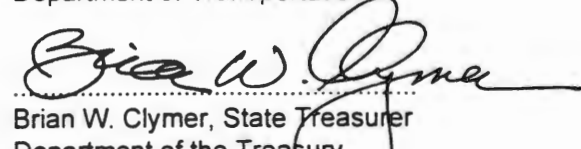

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William H. Fauver, Commissioner
Department of Corrections


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Linda Anselmini, Commissioner
Department of Personnel


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Leo Klagoth, Commissioner
Department of Education


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Frank Wilson, Commissioner
Department of Transportation


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Robert C. Shinn, Jr., Commissioner
Department of Environmental Protection


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Brian W. Clymer, State Treasurer
Department of the Treasury

ACKNOWLEDGEMENTS

This report, a **Strategy to Advance Regulatory Reform (STARR)**, is the result of a collaborative and focused effort between the Office of the Business Ombudsman and all cabinet officers:

Lonna R. Hooks, Secretary of State and Business Ombudsman; Arthur Brown, Secretary of the Department of Agriculture; Elizabeth Randall, Commissioner of the Department of Banking; Herbert Tate Jr., President of the Board of Public Utilities; Gualberto "Gil" Medina, Commissioner of the Department of Commerce and Economic Development; Harriet Derman, Commissioner of the Department of Community Affairs; William H. Fauver, Commissioner of the Department of Corrections; Leo Klagholz, Commissioner of the Department of Education; Robert Shinn, Commissioner of the Department of Environmental Protection; Len Fishman, Commissioner of the Department of Health; William Waldman, Commissioner of the Department of Human Services; Drew Karpinski, Commissioner of the Department of Insurance; Peter Calderone, Commissioner of the Department of Labor; Deborah Poritz, Attorney General; Major General Paul J. Glazar, the Adjutant General of the Department of Military and Veteran's Affairs; Linda Anselmini, Commissioner of the Department of Personnel; Frank Wilson, Commissioner of the Department of Transportation; and Brian Clymer, State Treasurer.

Governor Whitman and the Business Ombudsman, Lonna R. Hooks, would like to acknowledge and thank all of the many small business owners, manufacturing firms, large corporations, distinguished members of the New Jersey State Legislature, members of the congressional delegation, especially U.S. Representatives Bob Franks and Dick Zimmer, for taking an active leadership role in this process at both the state and federal levels, the many trade and business associations and, most important, all the many concerned New Jerseyans who gave their time and effort to testify at one of the seven statewide Regulatory Reform hearings held in the Fall of 1994.

We also offer our special thanks to the staff in the Governor's Office, especially Peter Verniero, Chief of Staff; Margaret Foti, Chief Counsel; and Jane Kenny, Chief of Policy and Planning; Anthony Miragliotta, Assistant Director of Rules and Publications in the Office of Administrative Law, and Haskell Berman, Director of Policy and Planning for the NJ General Assembly Majority Office (who worked on the 1988 SCORE Commission). They all contributed to the editing and fact-finding necessary for the production of this report.

The hearing process, which began in October and ended in December of 1994, included well over 140 participants from Bergen County to Cumberland County. Over twenty-five hours of testimony was received by the OBO panel, which included a representative from several major regulatory agencies and members of the state's Citizens Committee on Permit Coordination. The hearings generated over 700 pages of testimony.

The Office of the Business Ombudsman would also like to thank the host sites for the seven hearings: **Edison State College in Trenton, Schering-Plough Corporation in Kenilworth, Martin Marietta (now Lockheed-Martin) in Camden, The City of Vineland and The Vineland Chamber of Commerce, United Water Resources's Facility in Haworth, Sieko/International Trade Zone in Mt. Olive, and Concurrent Computers in Oceanport.** We also would like to acknowledge the **Governor's Advance Office** for its work in helping to facilitate these successful hearings and **The Citizens Committee on Permit Coordination** for its involvement with the hearings.

Established under Executive Order No. 57 of Governor Byrne and reconstituted under Executive Order No. 100 of Governor Kean, the Citizens Committee and accompanying Cabinet Committee on Permit Coordination came under the management of the Department of State's Office of Business Ombudsman with the signing of Executive Order No. 15 on April 5, 1994. The Citizens Committee serves as a private sector advisory group to the Secretary of State and to the Cabinet Committee on issues related to the efficient administration of permit procedures and regulatory policy. Participating members of the Citizens Committee include: Ellis Vieser (Chair), Eugene De Stefano, David Fisher, Jeffrey Horn, James Johnston, Stephen Kukan, Stephen Schlags, Robert Scolpino and Nancy Wittenberg.

I. INTRODUCTION

New Jerseyans have historically enjoyed a robust economy and a high quality of life. Over the years, state agencies have attempted to promulgate regulations to achieve both. For a number of reasons, many of those regulations, once implemented, have resulted in the very opposite that state government strives to deliver to New Jersey taxpayers. Unpredictabilities and inconsistencies in many permitting processes have caused the regulated community to become more vocal in its pursuit of regulatory reform. For the past 18 months, the Whitman Administration has refocused the energy of state bureaucracy toward "smarter" ways of governing and developing more efficient institutional structures.

If New Jersey's businesses are to survive and flourish, a concerted effort must be made by the public sector to increase efficiency in the regulatory process. New Jersey's business community has made its voice heard.

Each department has made a commitment to change. Their actions to date are catalogued in this report.

As a sign of her commitment to improving New Jersey's regulatory system, Governor Christine Todd Whitman signed Executive Order No. 15 which created the Office of the Business Ombudsman (OBO) in the Department of State. This April 5, 1994, Executive Order charges OBO with directing a comprehensive effort to assist businesses in dealing efficiently with state regulations and to make the state business climate supportive and open toward business. Specifically, OBO's role is to coordinate an efficient and timely process for submission, evaluation and resolution of applications for business permits and approvals.

During 1994, OBO undertook two critical steps: 1) case management (short-term mission) and 2) fact finding (long-term mission). By the close of the year, OBO helped more than 500 businesses that once had been nearly strangled by red-tape to prosper, expand, and create jobs for New Jersey. OBO linked these businesses to responsive teams of state officials who found ways to allow projects to move forward within the meaningful boundaries of current regulation.

As part of OBO's fact-finding mission, a series of seven public hearings were held across the state. One set a precedent as the first joint public hearing of the Administration and State Legislature. This hearing involved the Senate Natural Resources, Trade and Economic Development Committee and the Assembly Regulatory Oversight Committee. OBO then shared this information with the Governor and Cabinet for analysis.

The public testimony was valuable. During our analysis, we found that most of the public recommendations fell under one of **11 Guiding Principles**. The **16 Priorities for Action** include a recommendation that each agency adopt the 11 Guiding Principles as ongoing and long-term goals. The remaining Priorities for Action address issues that need immediate resolution.

It is rewarding to note that the public comments reflect a wide variety of interests including those of businesses, trade associations, environmental groups, and government officials at the local, state and federal levels. We believe that this report adequately reflects the suggestions for regulatory reform represented during the past 18 months.

OBO will continue to work to ensure that the bulk of this report's recommendations are implemented in a timely fashion. To this end, OBO, cooperating with representatives from the several agencies and departments, will issue periodic progress reports, beginning in late 1995. While the eventual success of this endeavor will result from the concerted efforts of each cabinet officer and the Governor, it is encouraging to note that some of the concerns raised during the hearing process already have been resolved. Since others still exist, OBO presented and discussed the report's initiatives and recommendations with the appropriate cabinet officers to elicit their proposed strategies for action, timing for implementation, the status for any actions in progress, and any bases for alternative proposals.

The Legislature is also a vital partner in this process and implementation of certain recommendations will require statutory changes.

New Jersey's people, especially those who offered their comments in this process, have expressed the opinion that it is important to continue to improve on the accomplishments of these past eighteen months. The State of New Jersey will endeavor to live up to their trust as we go forward.



THE STARR REPORT

I. EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

This **Strategy to Advance Regulatory Reform** seeks to:

- (1) Identify specific **priorities for action** in the area of regulatory reform along with plans for implementation;
- (2) Present **guiding principles** for each agency to follow to improve responsiveness and promote responsible government;
- (3) Detail the initiatives, priorities and accomplishments of the various Cabinet Departments; and
- (4) Benchmark these current needs in perspective with recommendations from past reports (SCORE 1988, NJIT 1994, and EMPC 1995).

At each of its hearings, OBO requested witnesses to provide "specifics," based on their experiences, of how the State's permit, license or certification programs could be streamlined and how the processes could be improved upon without sacrificing the environment, health, safety or economic vitality of the state. OBO sought comments and recommendations to provide for: less duplication; more timely and efficient reviews; consistency within and between departments; elimination or revision of outdated and/or excessive requirements; less costly processes; more predictable and better defined standards; and consistency with legislative intent.

Several higher priority recommendations set forth in this report were culled from the hundreds of recommendations, suggestions and comments noted at the hearings. These high priority recommendations were largely associated with four of the eleven **guiding principles** developed from the hearing comments: Review/Revise Systems; Agency Coordination; Rulemaking Impact Analysis; and Performance/Innovation. They are presented as the **16 Priorities for Action** that are detailed in this report. These priorities should be implemented immediately in order to provide regulatory relief to the state's businesses that will translate into immediate cost-savings and new jobs.

Included in the discussion of each Priority are two sections, "Accomplishments/Status" (what the Whitman Administration has accomplished) and "Actions Indicated" (what remains to be done). The Accomplishments/Status portion contains responses and/or initiatives by the various cabinet officers that address the priority issues. The Actions Indicated section reflects the report writers' recommendations to expeditiously resolve the matter.

While the primary focus of this report is on the need for regulatory reform throughout state government, many of the comments taken at the hearings were specific to the regulatory policies and processes of the Department of Environmental Protection. It was no surprise that, as one of the largest agencies in state government, with rules that directly affect the operations of thousands of businesses across the state, the DEP was the subject of many of the comments at the public hearings.

Conversely, as part of the Whitman administration's emphasis on reform, DEP also has the largest list of accomplishments to date.

To ensure a broad perspective and to make use of previous good work, the OBO report evaluated the key recommendations from three earlier groups:(1) Study Commission on Regulatory Efficiency (SCORE) 1988; (2) New Jersey Institute of Technology (NJIT) 1994; and the (3) New Jersey Economic Master Plan Commission (EMPC) 1995. This evaluation process allowed OBO to compare among the reports the types of issues raised, where else they were referenced, the agency with ownership and the mode(s) for implementation.

The Whitman Administration will work to fulfil the promise of the future for each of New Jersey's citizens as business, the public and government develop an understanding of, and a responsiveness to, each other's goals.

PRIORITIES

PRIORITIES ACHIEVED

The accomplishments listed in the following pages document an intensive 18 month effort by Governor Whitman and her cabinet to improve the regulatory process. However, continued improvements to the process are needed to foster inter-agency coordination and responsiveness, more open rulemaking, and better methods to promote compliance, such as implementation of the Netherlands Principles. It is appropriate to note that several **concerns raised during the hearing process** have already been addressed by the Administration.

- Governor Whitman's Executive Order No. 27, signed on November 24, 1994, directs state regulatory agencies to consider **Federal Standards** when adopting new rules or amending or readopting existing rules and to justify the use of "state" standards that exceed those imposed by federal laws. The Legislature has concurred with the Governor's sentiments by enacting Executive Order No. 27's recommendations into law on April 6, 1995 as P.L. 1995, c.65. This action should reduce confusion and costs that result when various state and federal agencies impose unwarranted differing standards in the same area of regulated activity.
- Placement of **DEP's fees and fines on-budget** was begun on July 1, 1995, for Fiscal Year 1996. This proposal will provide for a more thorough and open review by the Executive and Legislative branches and should promote more accountability.
- Creation of the Office of Business Ombudsman by Executive Order No. 15 on April 5, 1994. The Office serves as a catalyst to assist businesses in dealing efficiently with state regulations and also assists in developing **interagency staff teams** to facilitate the issuance of permits.

In addition, many achievements in the area of regulatory reform have taken place since the start of this Administration. **Achievements noted by the agencies since the hearing process**, and summarized in the following table, include:

	ACHIEVEMENT	AGENCY
○	Revamped and simplified Farm Building Code.	NJDA
○	Use of private sector Ad Hoc groups to develop rules.	NJDA
○	Merged new federal stormwater program into SCD Soil Erosion & Sediment Control Program to prevent duplication.	NJDA
○	Revised rules to more narrowly define mortgage solicitor which reduced by 50% those entities that need to be registered.	NJDB

ACHIEVEMENT	AGENCY
○ Lowered construction code fees through revised rules to require bidding of municipal inspection contracts with private agencies and use of a data collection system to audit fees charged by municipalities.	DCA
○ Initiated a new building rehabilitation code for the state that will be less costly, more easily applied and benefit urban areas.	DCA
○ Initiated uniform statewide site development standards for residential projects to provide for consistency between towns.	DCA
○ Eliminated standards that exceeded national recommendations for county jails.	CORR
○ Adopted objective classification system to increase minimum custody assignments and reduce costs of incarceration.	CORR
○ Provided opportunity for school districts to seek relief from costly or burdensome regulations through the Department's equivalency and waiver process.	DOE
○ Initiated a comprehensive review of all education regulations to identify and take action on those that are unnecessary, ineffective and/or overly prescriptive.	DOE
○ Issued first facility-wide permit in the nation designed to promote pollution prevention while streamlining permit process.	DEP
○ Introduced Alternative Dispute Resolution to resolve disputes with the regulated community in a more timely and cost-effective manner.	DEP
○ Expanded the use of general permits and permits-by-rule.	DEP
○ Created greater compliance with environmental laws through such programs as air amnesty, grace periods and voluntary audits.	DEP
○ Developed and integrated an information resource system to link data bases within the DEP, as well as to let industry file required data.	DEP
○ Provided low-cost alternatives to institutional care through new licensing rules for assisted living facilities.	DOH
○ Proposed significant reform of existing Certificate of Need permitting program to make process more equitable, streamlined, responsive and timely.	DOH
○ Merged rules and manuals on Hospital Services.	DHS

ACHIEVEMENT	AGENCY
○ Initiated rescission of Rules on Sale and Distribution of Goods and Articles Made by Blind Persons.	DHS
○ Repealed unnecessary rules that required insurers to file a lengthy, annual financial report, saving time and resources.	DOI
○ Codified existing standards and practices regarding admission requirements for life/health insurers.	DOI
○ Created advisory boards of employer and employee representatives from the regulated industries regarding workplace safety.	DOL
○ Revised regulations governing unemployment benefit payments to provide eligibility requirements for claimants employed by temporary help service firms in response to industry's petition.	DOL
○ Provided computer downloading of business incorporation forms and initiated plans for fax filing of forms.	DOS
○ Initiated development of an alternative procedure for adopting traffic control rules that would save up to 5 months.	DOT

Agency References:

NJDA	Department of Agriculture
NJDB	Department of Banking
DCA	Department of Community Affairs
CORR	Department of Corrections
DOE	Department of Education
DEP	Department of Environmental Protection
DOH	Department of Health
DHS	Department of Human Services
DOI	Department of Insurance
DOL	Department of Labor
DOS	Department of State
DOT	Department of Transportation

PRIORITIES FOR ACTION

Following is the list of 16 specific **Priorities for Action** along with relevant agency accomplishments and further actions that are indicated to address these issues.

1. **Provide for a more open and timely process by which rules, and petitions for rulemaking, are reviewed and acted upon.**

➤ Accomplishments/Status

Several agencies (i.e., DOT, DEP, DOH, DCA, BPU, Personnel, DOL) report the use of peer/advisory groups to be productive. As examples of this effort, the DEP is developing draft revisions to the NJ Air Pollution Control Act, with the help of a working group, and has found this process to be constructive. The department has established 10 subcommittees to develop the procedures to implement the air permit reform measures in the bill. Similarly, the BPU established 12 subcommittees to provide input into the development of the Energy Master Plan. DOH has a broadly representative HMO Advisory Task Force.

➤ Action(s) Indicated

State agencies should implement more informal processes that maximize the participation of regulated and other interested parties and the public prior to the actual rulemaking process. The goal is to develop regulatory programs in which agency personnel, the public and the regulated communities, through dialogue and negotiation, understand the objectives and the constraints of the programs in an effort to reach consensus prior to publication and adoption. This is consistent with the Netherlands approach.

Establish specific procedures that agencies must follow prior to the sunset and re-adoption of rules, including an open examination of the agency's review process and performance (e.g., timeliness) and of problems raised by the public. These procedures must begin 12 months prior to the rule's expiration.

Create a simple and understandable one-page form (uniform across all agencies) that will allow citizens to petition for rule changes without the need of a lawyer; provide a prompt and adequate explanation in those instances where agencies reject a petition (i.e., per N.J.S.A. 52:14B-4(f)).

Clarify both the Office of Administrative Law's (OAL) authority to address procedurally defective rulemaking and how and when a comment period closes. Improve agency regulatory openness and efficiency by using rulemaking calendars, interagency advisories, pre-proposals, extended comment periods, and additional rulemaking notices; and by soliciting public comment regularly for existing programs. The OAL, the Attorney

General's Office and OBO should publicize any assistance available to rulemaking entities.

2. Develop an integrated computerized information management system to provide for: ready access to permit information; improved electronic communication within, and among, the agencies; efficient resource allocation; and a common database for agencies.

► Accomplishments/Status

In 1994, the DEP, among others, began undertaking a significant computerization effort to ensure that all of the Department's programs can share data that will help avoid duplication and pave the way for improved and faster decision-making. Such a system is being designed to allow companies to submit (e.g., electronically transfer) their data and permit applications directly into the Department's computer system, thereby dramatically reducing the amount of paperwork and inputting currently necessary.

► Action(s) Indicated

Establish appropriate short-term objectives through an inter-agency computerization task force to develop appropriate, fully integrated systems for managing computer information and resources.

Establish appropriate sources of funding from the public and private sectors to develop this computerized system.

Set up a simplified, integrated permit/approval tracking system for major projects on a pilot project basis as soon as possible.

3. Improve the efficiency of the provision of services and permit application and review processes (e.g., "ONE-STOP SHOPPING") to identify all permit needs upfront, eliminate costly and time-consuming paperwork, and provide for concurrent review of permit applications.

► Accomplishments/Status

OAL has begun getting agencies to assign a liaison called an Administrative Practice Officer (APO) to OAL so that the public can contact one key individual at each agency to raise rulemaking issues and concerns.

In December, 1994, the DEP issued its first facility-wide permit, designed to promote pollution prevention and streamline the permitting process, to the Schering-Plough Corp. plant in Kenilworth. This innovative approach

to permitting replaced more than 60 permits, including NJPDES, air pollution control certificates, hazardous waste permits, stormwater permits, air pollution control emission reporting requirements, as well as submittal of pollution prevention reports, with just one permit. The program is a clear demonstration of achieving the dual goals of improving the environment while fostering a sound business climate. Additional facilities have been selected to participate in the pilot facility-wide permitting program. The DEP will issue the balance of the pilot program permits by September 1995.

The DEP adopted rules in June 1994 to streamline the CAFRA program that, for the first time, regulate smaller development in sensitive coastal areas at the water's edge. The intent was to streamline the process while ensuring continued protection of the coast. The changes also made the permit process simpler for homeowners whose construction projects have minimal environmental impact. The regulations include new categories of CAFRA permits, called general permits and permits-by-rule, that cover routine activities or those that have little impact on the environment. These types of permits have small or no fees at all, require no public hearings and have fewer submission requirements.

In the Air Permitting program, the DEP is finalizing development of an air general permit category. Through the creation of general permits, certain types of facilities will be held to minimal air emission permitting requirements. General permits will provide a standardized, uncomplicated means of permitting common types of similar sources, such as gas stations and dry cleaning establishments. For facilities that are eligible for general permits, renewing one will be similar to renewing an automobile registration. The DEP also has plans to convert about 50% of the preconstruction permits to general permits that would require only a seven-day notice of registration.

Working together, DCA and the NJ Housing and Mortgage Finance Agency, which is in but not of the DCA, are developing a single application form for program assistance. For profit and not-for-profit developers will be able to submit applications to one designated intake office.

The Department of Health is pursuing the concept of "One-Stop Shopping" in the provision of services such as food supplement programs, immunization, etc., through the "co-location" of services. Such efforts improve the system for clients of these programs in the same manner as does implementation of "One-Stop Shopping" for permits. In addition, as part of its Certificate of Need (CON) Reform proposal, the DOH will publish a two-year schedule of "calls" giving potential applicants as much as two years advance notice of when the Commissioner intends to issue a "call" for CON applications for specific categories of health care services.

The Hackensack Meadowlands Development Commission (HMDC), which is in but not of the DCA, is finalizing a Special Area Management Plan (SAMP). This SAMP is a comprehensive plan for the protection and management of the wetlands that comprise about one-third of the thirty-two square mile region of the Hackensack Meadowlands. If successful, the SAMP will be a model for integrating local and area-wide master planning into federal environmental regulations and state legislative mandates, thereby providing for a streamlined and coordinated permit review program.

► Action(s) Indicated

Identify and assign Administrative Practice Officers (APO) with both rule-writing and program experience so that they will be better able to oversee the agencies' rulemaking processes and be responsible for Administrative Procedures Act (APA) compliance. These persons should also be designated as the "agency rulemaking contact person" or the "rule ombudsman" for general public inquiries.

Expand the use of facility-wide and project-wide permits, to the extent permitted by law, to establish a single point of entry (e.g., single application) for agency permitting.

Prepare a single user's guide to permits that clearly and simply explains how to apply for a permit and obtain assistance, identifies contact persons, and provides specific permit program information.

Expand the use of general permits and permits-by-rule, in a manner consistent with law, in order for all programs to achieve lower permit costs, less submissions and paperwork, and reduced/eliminated public hearing requirements for activities that have no significant impact on the public health or the environment, as determined by the appropriate departments.

Once State government demonstrates its ability to provide "One-Stop Shopping", this success should be used as a model to work cooperatively to achieve similar results at the county and municipal levels of government.

Work toward single agency review of projects based on all applicable standards, to the extent permitted by law.

4. Strengthen the existing rulemaking process regarding the preparation of an economic impact statement for major proposed rules to ensure their necessity and to reduce the cost of regulatory compliance to allow for the creation and protection of jobs.

➤ Accomplishments/Status

The current rules on Coastal Zone Management include a provision that all complete applications submitted to DEP prior to the adoption of the new rules will be governed by the old regulations. This policy, which provides for certainty and honors good faith investments by permit applicants relying on rules in existence at that time, is used for all programs within Land Use Regulation.

DEP's regulations are intended to achieve or make progress toward environmental protection objectives specified in the enabling statutes. Promulgated standards are developed based upon risk assessment procedures that use the best scientific understanding available to the agency.

➤ Action(s) Indicated

As part of the requirements under the Administrative Procedures Act and Executive Order # 27, the agencies should to the extent practical include in their analyses how the proposed major rule meets tests for necessity, reasonableness, consistency and non-duplication with existing rules, legal authority, its impact on addressing measurable risks to human health or the environment, cost efficiency, jobs, and paperwork burden. Further, agencies must submit clear and complete information for the above-mentioned criteria.

Rulemaking agencies should provide appropriate grandfather protection for proposed activities for which a complete permit application has been submitted prior to a rule change, provided that they will not have any significant adverse impact on human health and the environment.

Appropriate grandfather protection provisions need to be addressed through the legislative process.

5. **Provide for agency compliance with permit (i.e., license, authorization, certification, etc.) review time frames according to relevant statutes and regulations so as to eliminate unnecessary delays and ensure New Jersey's competitiveness with other states.**

► Accomplishments/Status

For the most part, the DEP's NJ Pollution Discharge Elimination System (NJPDES), Treatment Works Approval (TWA), and land use permit actions have been issued within the published time frames under adopted legislation (e.g., Environmental Management Accountability Plan, etc.). The TWA program is governed by the 90-Day Law. Backlogs exist in other permitting programs, and the department is making a concerted effort to eliminate them.

The DOH Certificate of Need Reform proposal seeks to impose upon the Department strict deadlines for Commissioner review of CON applications and to establish an annual performance review for compliance with these deadlines.

► Action(s) Indicated

Establish management systems that ensure agency compliance with permit deadlines according to statutory and regulatory time frames. This system should pursue opportunities to rely on the private sector for review/certification of certain applications (e.g., permits, etc.) below certain thresholds, and be structured to avoid any conflict of interest.

Formally implement the Administration's policy to refund permit application fees if agencies do not take action within specified time frames. This may require the preparation of implementation plans by agencies and supporting authorizations by the Legislature.

With the Legislature, consider adopting or expanding (e.g., 90-Day Law) legislation in cooperation with the departments to establish a set time frame for deciding upon an application once it is determined to be complete or else the permit is deemed to be approved. Based on the use of a checklist, limit agencies to only one request for additional information once an application is deemed complete.

6. **Establish de minimis thresholds that trigger permit reviews, where appropriate, to allow the regulatory agencies more time and resources to focus on significant issues.**

➤ Accomplishments/Status

DEP does consider de minimis permitting thresholds whenever possible, and has incorporated this concept into the treatment works approval program.

DEP and DCA have agreed on a method for permitting accessory apartments to "hook-up" to existing septic systems without the necessity of a full-scale permitting process.

➤ Action(s) Indicated

Identify programs where it is appropriate to provide for or raise thresholds, and make those changes in a timely manner; legislation may be needed. These changes in thresholds should reduce the costs of regulatory compliance but must be conditioned on there being no adverse impact to public health or the environment.

7. **Make internal agency regulatory guidelines public to provide for predictability and consistency in agency decisions and interpretations.**

➤ Accomplishments/Status

DEP management strives to ensure consistency throughout its programs. However, in order to address criticisms that decisions are not timely, signature authority has been delegated to the lowest levels appropriate. Anyone who feels aggrieved can take his or her complaint up the chain of command.

➤ Action(s) Indicated

Ensure that agencies manage all guidelines that are regulatory pursuant to the Administrative Procedures Act and the criteria set forth in the Supreme Court decision of Metromedia. Until these rules are adopted, lists of these guidelines should be advertised in the NJ Register, and the actual guidelines should be readily available to interested parties. Any guidelines that are purely advisory or instructional also should be readily available to the public.

8. **Provide for a penalty mitigation (i.e., "safe harbors") policy, where appropriate, for entities that voluntarily audit and correct problems so as to come into compliance.**

➤ Accomplishments/Status

The DEP currently waives or substantially reduces penalties for violations that are discovered during a voluntary environmental audit and promptly reported to the Department and properly corrected. Although this policy is currently applied on a case by case basis, the Department plans to engage the regulated community and other interested parties in the further development of this policy throughout the year.

The DEP has expressed its support for the "safe harbors" concept, provided: violations are promptly disclosed and corrected; are not the result of criminal intent; and do not cause significant environmental harm. The DEP is in the process of developing a written policy on this issue.

The Administration is working with the Legislature regarding legislative codification of this policy.

➤ Action(s) Indicated

DEP should develop and implement an environmental audit policy that recognizes an entity's voluntary audit and compliance activities as a mitigating factor in determining the appropriateness of an enforcement action. This "safe harbor" policy should also clarify that DEP will not routinely seek the contents of an entity's audit report absent independent knowledge of violations.

Implement consistent "safe harbor" policies within appropriate agencies and departments.

The Administration should continue to work with the Legislature regarding legislative codification of both a safe harbors policy and clarification of the circumstances under which DEP may seek audits.

9. **Establish information programs and seminars to promote compliance with and better educate and explain regulatory programs to both permit review staff and the regulated community.**

➤ Accomplishments/Status

The Office of Administrative Law provides rulemaking training services to agency personnel and to the Certified Public Managers training program.

The Department of State and other cabinet agencies have begun

ongoing informational forums to explain the process of business incorporation. The Department of Community Affairs regularly holds forums with the industries regulated under its building codes and fire safety programs.

On June 13, 1995, DOH held a full-day public symposium at Mercer County Community College to obtain private sector input on the Certificate of Need Reform proposal.

The DEP regularly holds public workshops around the state on major regulatory proposals aimed at educating the affected constituency.

► Action(s) Indicated

Conduct agency sponsored seminars (with academic community, trade associations, etc.) at regular intervals on existing and new major programs for regulated community.

Implement periodic (e.g., monthly) agency management meetings with permit review staff to update and explain to them administration policies that are to be implemented. This same staff should undergo training, including how to communicate program elements and requirements to those regulated, changing the staff mind-set from enforcers to facilitators and improving procedural rulemaking requirements. This change should eliminate the perception of policy-making by individual staff members.

10. Eliminate redundant statutes and regulations and duplicative oversight in areas of jurisdiction.

► Accomplishments/Status

The federal Environmental Protection Agency (EPA) promulgated rules in 1992 and established schedules and goals for regulation of municipal and industrial stormwater discharges. EPA guidance suggested that existing State soil erosion and sediment control requirements for these land disturbance activities could serve as the primary basis for meeting the federal stormwater quality requirements.

The DEP and NJDA State Soil Conservation Committee (SSCC) jointly developed a general permit that affords persons engaged in construction and mining the option of securing stormwater discharge authorization through an existing program implemented by the local soil conservation districts.

A memorandum of agreement was developed between NJDA/SSCC and DEP and approved December 1990. This agreement clarified certain respective program authorities and established mutually acceptable

technical solutions where potentially conflicting program requirements exist. This agreement is now being further refined to reduce or eliminate remaining technical conflicts. It is anticipated that the remaining conflicts will be eliminated through revisions to the memorandum of agreement.

The DEP eliminated reviews for industrial Treatment Works Approvals (TWAs) in July 1994. A certain number of smaller municipal TWAs are now accepted with a professional engineer's certification, eliminating a duplicate review by the department. Larger municipal TWAs should still be reviewed by the department.

DCA will issue regulations accepting under certain circumstances the findings of local maintenance inspections in lieu of required State multiple dwelling inspections. This regulation will relieve an owner of the need to pay for duplicate inspections.

► Action(s) Indicated

Review NJ statutes to identify duplication, obsolescence or other circumstances that might warrant repeal or amendment of current statutes and regulations as provided for in Phase II of the NJIT Study.

Identify regulations, programs or procedures that should be targeted for elimination or modification.

Establish a mechanism to provide on-going review and coordination to prevent rule inconsistency and duplication in the future.

Complete the process to eliminate/consolidate duplicative licensure programs (e.g., the N.J. Department of Law and Public Safety Division of Consumer Affairs is in the process of consolidating professional boards).

11. Provide for more performance vs. prescriptive standards.

► Accomplishments/Status

The Administration is examining the manner in which others -- the Dutch, in particular -- manage their environmental conditions. In the Netherlands, the government wanted to encourage long-term planning by reduced reliance upon their "command and control" approach to regulation. The Dutch government found it was becoming too costly for government and industry to implement and was not meeting their environmental goals.

Instead of setting environmental rules from the top down, the Dutch government developed a long-term plan and set aggressive environmental cleanup goals, with the help of the environmental community and industry. The Netherlands has long term, facility-wide

permits with specific goals and effective inspection and enforcement. The government enters into voluntary covenants with industry to reduce emissions and discharges over a 15 to 20 year program period. These permits not only deal with air and water discharge control devices, but also focus on the total process. Industry likes the predictability of the permitting process and works with government to reach mutual long-term environmental goals.

► Action(s) Indicated

Develop long-term goals that integrate protection of the environment and a sustainable economy, with the active participation of both the environmental and business communities.

Establish and implement terms and conditions under which long-term permits, based on mutually agreeable, achievable, measurable, and enforceable goals, can be administered.

Expand the use of performance-based standards in all programs to allow permit applicants various options for complying with the intent of laws that have the same or less impact on the environment.

12. Pursue opportunities for expediting permit review/processing functions by the most effective use of competitive contracting (where permitted) and cooperation with other governmental units.

► Accomplishments/Status

NJPDES program already authorizes this concept. The Air Operating Permit program and Site Remediation program are exploring its potential.

► Action(s) Indicated

Evaluate the effectiveness and the cost efficiency of current privatization and competitive contracting practices and procedures used by agencies, and incorporate those practices and procedures into the routine operations of other agencies, where feasible.

Identify additional opportunities to expedite permit processing and review functions by increased cooperation among State and local agencies and more effective use of limited resources.

13. Review and enact Water Pollution Control Act amendments to allow more agency discretion on the amounts and instances in which fines need to be levied.

► Accomplishments/Status

The DEP is working internally and in cooperation with the State Legislature to improve water pollution control laws. Major improvements that maintain the prime goal of protecting water quality are already under development. The NJ Pollution Discharge Elimination System (NJPDES) regulations have not kept pace with other changes made to federal and state statutes and regulations. As a result, the permitting process has become inefficient, the program's effectiveness in improving water quality has not been adequately monitored or measured, and many legal disputes have arisen. In addition, the current NJPDES rules are not well coordinated with some of the Department's other programs, which address water quality issues over an entire watershed or basin.

On October 3, 1994, the DEP published a rule summary document describing how it intends to shift the NJPDES permitting process toward a watershed-based program to enable the DEP to focus attention on the impact of pollutants on entire waterbodies and to better evaluate the impact of various control measures.

A thorough review of the Water Pollution Control Act is also in progress. During October and November 1994, the Senate Environment Committee held public hearings on New Jersey's water pollution control laws. The Department offered testimony outlining the need to amend this Act to provide the DEP with sufficient discretion to administer a fair and rational enforcement program.

► Action(s) Indicated

DEP and the public should continue their dialogue with the Legislature at the legislative hearings and advisory group meetings to identify those statutory revisions that need to be enacted to achieve the goal of a fair, rational and effective enforcement program.

14. Provide for a "Grace Period" to allow permittees to come into compliance.

► Accomplishments/Status

The DEP is reviewing its policy regarding grace periods and has determined that this approach should both be expanded and applied more consistently. Suspending civil penalties during a compliance grace period is viewed as a more effective tool for obtaining compliance and

thus achieving greater protection of the environment. The Office of Enforcement is working with the Governor's Office, Legislature and the EPA on a means to codify this approach. This approach would allow the DEP to suspend a civil monetary sanction upon the discovery of a minor violation that has no serious impact on the environment, thus affording the violator a reasonable period within which to achieve compliance.

The Department is currently employing grace periods in several land and water use programs, commenced a grace period policy in the Air Enforcement program last month and will do so for all Environmental Quality programs by the fall.

➤ Action Indicated

Establish criteria that promote appropriate and timely compliance actions by permittee.

The Administration should continue to work with the Legislature regarding legislative codification of this policy.

15. Review and revise, as appropriate, procedures followed by the agencies and appellants in the review of cases, brought before the Administrative Law Judge (ALJ), in order to promote prompt resolution at reasonable cost.

➤ Accomplishments/Status

The Department of Environmental Protection (DEP) has begun using Alternative Dispute Resolution as a tool for resolving disagreements with the regulated community in a more timely, cost efficient and effective manner. Matters which were, in the past, routinely referred to the Division of Law are now being internally reviewed with the aim of handling them through dispute resolution. In addition, matters which have already been forwarded to the Division of Law are reviewed for possible resolution by mediation rather than by litigation. There has been a great deal of satisfaction with the process not just because it produces a resolution, but because it fosters a mutual understanding of the issues facing each side and encourages compliance with regulations.

➤ Action(s) Indicated

Establish an ad hoc Task Force to: (1) help agencies develop improved practices and procedures to formally identify and resolve contested facts in a manner that would promote prompt disposition of cases; (2) design educational measures regarding the ALJ process, its procedures and limitations, and potential outcomes of the process; and (3) identify other changes to the ALJ process that will make more effective use of agency

and private sector resources. The composition of this Task Force should include representatives from the Office of Administrative Law, the Department of Law & Public Safety, select user agencies, and the private sector.

16. Incorporate Regulatory Reform Guiding Principles into Agency Operating Procedures to the extent possible under law.

► Accomplishments/Status

Comments received regarding ways in which New Jersey's regulatory agency activities might be improved tended to focus on 11 subject areas, or "guiding principles." Individual departments and agencies can point to activities where one or more principles have been addressed. The public's perception, based on the comments made, is that consistent, coordinated and effective implementation of these principles is not apparent.

The **11 Guiding Principles** are:

- I. **Bases for Fees** - Establish a rationale for fee and penalty schedules that reflects the work performed or the demonstrated impact that results to ensure fair, equitable and rational costs to the regulated community;
- II.. **Accountability / Empowerment** - Provide to the lowest appropriate managers clearly defined responsibilities and authorities, together with relevant training and guidance, to foster timely decision making;
- III. **Project Planning** - Establish upfront in the project review process the necessary focus, objectives, information needs and time constraints to provide for better understanding and certainty and to promote a mutually agreed upon, less adversarial, process;
- IV. **Performance / Innovation** - Promote consideration and selection of innovative technology or performance options for compliance, consistent with recognized levels of risk, so that choices can be made from available, effective, cost-efficient alternatives;
- V. **Information Management** -Reduce paperwork burdens by establishing information management systems and practices that simplify and reduce information common to the needs of more than one department or agency;
- VI. **Agency Coordination** -Eliminate redundant requirements and promote consistency within and among the actions of agencies and

departments (i.e., local, county, regional, state and federal) to eliminate unnecessary confusion and costs;

- VII. **Project Certainty / Timeliness** - Establish project and permit review processes, with established milestones and time intervals, to ensure certainty and predictability of outcome to all parties;
- VIII. **Research & Development Support** - Establish appropriate review processes that promote the timely establishment of research and development activities within mutually agreed upon parameters/constraints;
- IX. **Small Business Recognition** - Establish criteria that modify and simplify requirements needed for activity review to assist in lowering the operating costs of designated "small businesses and manufacturers";
- X. **Review / Revise Systems** - Establish systems by which both legislative and regulatory bodies periodically review and, as appropriate, revise enabling legislation and any relevant regulations and policies to identify, modify and/or eliminate provisions that are outdated or ineffective;
- XI. **Rulemaking Impact Analysis** - Strengthen the system by which department/agency rulemaking or internal guidance is appropriately subject to regulatory impact analysis, (e.g., rule clarity, scientific/economic bases, risk assessment, jobs impact, paperwork burden, etc.), prior to implementation so that only rules that are necessary and well thought out can be adopted. This step should minimize the cost of regulatory compliance to allow more funds for job creation, research, training, wages and employee benefits.

► Action(s) Indicated

Develop and implement management systems appropriate for incorporating the 11 regulatory reform Guiding Principles into the operating practices of each Agency/Department.

CONCLUSIONS

The individuals who testified made the recent hearings a success. They identified many legislative and regulatory reforms that, when implemented, should provide for enhancing New Jersey's economic position while streamlining the regulatory process, reducing costs, and preserving our high quality of life. Governor Whitman is committed to a green policy in New Jersey, and an efficient approach to regulation is particularly important as the Administration addresses future management of the state's environmental rules, an area of prime concern to those who gave testimony.

The testimony presented and the recommendations outlined in this report indicate that New Jersey's business community simply wants to be treated as a partner, not as an adversary. They want to be recognized as partners with the regulatory agencies and general public in achieving, maintaining and improving upon the economic and environmental conditions of the state. The people who create jobs and stimulate economic growth in New Jersey want to work alongside their elected leaders and government officials to create new ways of bringing New Jersey the economic prosperity that it deserves in the twenty-first century.

Achieving this "partnership goal" is a job for both the Executive Branch and the Legislature, which has led the regulatory reform change in many ways. Members of the Cabinet have recognized that state government can do more to reduce the costs and the uncertainties of regulations.

Many of the suggested reforms that are identified in this report will reshape and streamline the permitting, regulatory, and enforcement processes used by the key regulatory agencies. The Office of the Business Ombudsman believes that the regulatory process will improve dramatically as government begins to achieve the **16 Priorities for Action** that are detailed in this report. Among these priorities is the incorporation of the **Regulatory Reform Guiding Principles** into the regulatory agencies' daily operating procedures. This priority will require that the agencies adopt a long-term commitment to reshaping and improving their rulemaking process.

A table of the **16 Priorities for Action** along with a suggested mode of implementation is provided for easy reference. An effort was made to work these priorities for action in decreasing order of importance. At the top of the list are those recommendations that, when implemented, should act as a catalyst for achieving the balance of issues---key among these recommendations are the use of negotiated rulemaking and other mechanisms that include the regulated community in the development of regulations; improved efficiency of the permit application and review processes (one-stop shopping); development of an integrated computerized information management system; and strengthening of the existing analysis required in the preparation of new regulations.

The release of this report is not the end of the Administration's review, but rather part of the continuing process of trying to identify and restructure outdated and onerous regulatory processes within the state agencies. Future efforts will be concentrated on ensuring that these reforms are enacted and that all of those concerned with this process work together.

On January 18, 1994, at the beginning of her Administration, Governor Whitman reaffirmed her commitment to regulatory reform in her first annual message to the Legislature. This report reflects her commitment to regulatory reform and points toward a brighter new future for all New Jerseyans.

Priorities for Action	Suggested Mode(s) of Implementation
1. Open, Timely and Consultative Rulemaking Process	Executive Order
2. Integrated Computerized Information Management System	Executive Order/Agency
3. One-Stop Shopping - Improved Permit Review Efficiency	Agency
4. Strengthen Economic Impact Analysis of Regulations/Statutes	Agency/Legislature
5. Timeliness of Permit Review Process	Executive Order/Legislature
6. Establish/raise <u>de minimis</u> thresholds	Agency
7. Publicize, promulgate agency guidelines	Agency
8. Voluntary audit penalty mitigation	Agency/Legislature
9. Educate public and explain policies internally	Executive Order
10. Eliminate redundant statutes & regulations	Agency/Legislature
11. Performance vs. Prescriptive Standards	Agency
12. Competitive Contracting	Agency
13. Revise Water Pollution Control Act	Legislature
14. Grace Period	Agency/Legislature
15. ALJ Cases - Reform agency procedures	Executive Order/Agency
16. Guiding Principles in Agency Operating Procedures	Agency/Executive Order

APPENDIX IA

EVALUATION OF PAST REPORTS AND COMPARATIVE ANALYSIS WITH RECENT OBO FINDINGS

The results of this evaluation are found in the following tables and allow the reader to see at a glance the types of issues that were raised in the past and compare them to the initiatives that were identified by the OBO process. Additionally, the tables identify where else similar recommendations were made; the agencies to whom the comments were directed, whether or not any action has been taken to implement the suggestions, a subjective rating of priority (impact) as determined by the report writers; and a suggested mode for implementing these recommendations. A brief synopsis of each of the three earlier reports is found below.

Over the last several years, a number of reports have been generated which addressed the need for regulatory reform. In order that this report build on these earlier foundations, an evaluation was completed on the recommendations from three earlier reports: (1) Study Commission on Regulatory Efficiency (SCORE) 1988; (2) New Jersey Institute of Technology (NJIT), 1994; and (3) NJ Economic Master Plan Commission (EMPC), 1995.

STUDY COMMISSION ON REGULATORY EFFICIENCY (SCORE) 1988

SCORE was created on June 1, 1987, when enabling legislation A-2082 (Franks) was signed into law (P.L. 1987, c. 130) by then Governor Thomas H. Kean. The Commission was charged with recommending changes to administrative procedures used by executive agencies when establishing rules and regulations that interpret state law. SCORE findings and recommendations were formally submitted in a report dated September 1988. The SCORE Report focused on the process by which regulations are promulgated and the oversight that is needed for existing regulations.

NEW JERSEY INSTITUTE OF TECHNOLOGY (NJIT) 1994

In March of 1994, NJIT released its report requested by Senator Robert Littell, Chair of the Budget and Appropriations Committee during the Fiscal Year 1993 budget hearings entitled: "A Review of the Economic Impact of Environmental Statutes, Rules and Regulations on New Jersey Industry".

The report identified 24 critical issues impacting New Jersey businesses which were grouped into nine categories: 1) Excessive fees and fines; 2) Overly adversarial relationship between regulators and businesses; 3) High compliance costs; 4) Burdensome paperwork; 5) State-of-the-art technology requirements; 7) Obstacles to research and development activities; 8) Right-to-Know labeling and reporting requirements; and 9) Compliance assistance for small business manufacturers.

The report identified numerous problems with the rulemaking process and made 24 recommendations for follow up by the Legislature and regulatory agencies that included revisions to the N.J. Administrative Procedure Act.

A second phase of this report is underway, which will include a review of the statutes to identify duplication, obsolescence or other circumstances that might warrant repeal or amendment of current statutes and regulations.

NJ ECONOMIC MASTER PLAN COMMISSION (EMPC) 1995

The EMPC was created by Executive Order No. 1, signed by Governor Whitman on January 18, 1994. The Commission was charged with developing strategies for removing barriers to economic growth and providing for sustainable prosperity. The Commission gathered information from prominent representatives from diverse industries, labor, community-based organizations, academic institutions and governmental officials. Specific recommendations were made in key areas identified to have the most significant and positive impact on the economy of New Jersey. The tables refer to recommendations to address complaints pertaining to business regulation and permits.

Comment No.	Comment Source	Brief Narrative	Also Noted By	Agency	Action Started	"STARR" Guiding Principle	Impact (per OBO)	Mode
I.1	SCORE	Legislature to require a regulatory note		All	N	X, XI	H	4
I.2	SCORE	Amend APA to require rules to be referred to Legislative Reference Committee		All	Y	X	M	4
I.3	SCORE	Leadership in both Houses reduce no. bills introduced		All	N	X	L	4
I.4	SCORE	Bills to be taped		All	N	X	M	4
I.5	SCORE	Legislature to have power to attach Finding of Disapproval		All	Y	X	M	4
II.1	SCORE	Agencies to publish regulatory calendar		All	N	XI	M	2
II.2	SCORE	Agencies to centralize their rulemaking and APA compliance functions		All	N	X, VI	M-H	2
II.3	SCORE	Agencies to utilize advisory committees in pre-proposal period		All	Y*	XI	M	2
II.4	SCORE	Agencies to codify internal policies regarding permitting time- frames, fees and other procedures imposed on regulated public	E 4 N R-46	All	Y*	VII, I	H	2
II.5	SCORE	Agencies to develop procedure to measure user satisfaction and statistical performance	E 7 N R-6	All	Y*	II, X	H	1
II.6	SCORE	Establish an ORS in Department of State with oversight of all APA	E I-1	Dept. of State	N	X	H	4
II.7	SCORE	OBA to track, expedite manage permit process	E 1 E 3 E 4	All	Y*	V	M	3

Comment No.	Comment Source	Brief Narrative	Also Noted By	Agency	Action Started	"STARR" Guiding Principle	Impact (per OBO)	Mode
R-1	NJIT	State should reduce DEP reliance on fees and fines		DEP	Y	I	H	4
R-2	NJIT	DEP should fund staff through normal state appropriations		DEP	Y	X	H	4
R-3	NJIT	Fees should relate to tasks performed. Fines should relate to seriousness		DEP	N	I	M	4
R-4	NJIT	Fines should be set at a level comparable with other states		DEP	N	I	M	3
R-5	NJIT	DEP should consider privatization of some services	S IV.1	DEP	Y*	IV	H	2
R-6	NJIT	DEP should emphasize responsiveness as a value	E 7 S II.5	DEP	Y	II, VII	H	1
R-7	NJIT	DEP should conduct advisory inspections with no penalties		DEP	N	IV	M	2
R-8	NJIT	DEP should establish time frames for required actions including designated staff to expedite permits	E 2 E 5	DEP	N	III, II	H	2
R-9	NJIT	DEP should establish Ombudsman/Manufacturing		DEP		V, VI	M	1
R-10	NJIT	DEP staff should be trained in understanding industry and customer service		DEP	N	II	H	1
R-11	NJIT	DEP should establish employee exchange program		DEP	N		M	1
R-12	NJIT	Standards should be scientifically based not policy based (risk assessment)		DEP	N	XI	H	2
R-13	NJIT	Realistic impacts of new programs /regulations should be assessed		DEP	N	XI	H	2
R-14	NJIT	DEP should establish advisory council (s)	S II.3	DEP	Y*	XI	M	2, 4
R-15	NJIT	Regulatory system should allow discretion for staff to resolve issues		DEP		II	M	1

Comment No.	Comment Source	Brief Narrative	Also Noted By	Agency	Action Started	"STARR" Guiding Principle	Impact (per OBO)	Mode
R-16	NJIT	Formal process should be established to allow variances for economic hardship		DEP	Y*	IX	M	4
R-17	NJIT	Process for dispute resolution/negotiation should be established		DEP	Y*	II	M	1
R-18	NJIT	Process should be established to find areas of agreement regarding legislative changes		DEP	Y*	X	M	2, 4
R-19	NJIT	DEP should allow compliance contracts especially by smaller firms		DEP		IV, IX	L	2
R-20	NJIT	DEP Commissioner to establish task force for paperwork reduction		DEP	N	VI, V	L	2
R-21	NJIT	Environmental laws, rules should be written in clear language		DEP		XI	L	4
R-22	NJIT	DEP to eliminate unnecessary paperwork and delays		DEP	N	VI, VII	H	2
R-23	NJIT	DEP to use same format as similar federal programs		DEP		X, VI	K	2
R-24	NJIT	DEP to develop on-line computer system to simplify permit processing	E 3 S II.3	DEP	Y*	V	H	3
R-25	NJIT	DEP to establish single agency data base	E 3 S II.7	DEP	N	V, VI	H	3
R-26	NJIT	Agency guidelines should be made public		DEP	Y*	XI	H	2
R-27	NJIT	Develop environmental Master Plan		DEP	Y		L	2, 4
R-28	NJIT	Eliminate redundant Statues and Regulations		DEP	N	X, VI	H	4, 2
R-29	NJIT	Seek consistency with federal regulations		DEP	Y	X	H	2, 4
R-30	NJIT	Combine federal and State Standards whenever possible		DEP	Y	VI	H	2, 4
R-31	NJIT	Establish an independent Office of Technology Assessment to review rulemaking		All		X	L	4
R-32	NJIT	Reorganize DEP regulatory priorities		DEP		X	L	2

Comment No.	Comment Source	Brief Narrative	Also Noted By	Agency	Action Started	"STARR" Guiding Principle	Impact (per OBO)	Mode
R-33	NJIT	Limit use of continuous emission monitors		DEP		IV	L	2
R-34	NJIT	Weigh cost and benefit of requirements		DEP	N	XI	H	2
R-35	NJIT	Modify "State of Art" requirements to cover only new sources; allow alternative technology for existing sources		DEP		IV	L	2
R-36	NJIT	Emphasize risk reduction in setting State of Art requirements		DEP		IV	L	2
R-37 .. R-40	NJIT	Provide fast response to R & D permit needs		DEP	N	VIII	M	2
R-41 .. R-43	NJIT	Revise Right to Know to reduce reporting requirements		DEP	N	X	M	2
R-42	NJIT	Exempt most small containers from Right to Know		DEP	N	X	L	2, 4
R-44	NJIT	Expand Technical Assistance program for all environmental programs		DEP	N	VII	M	2
R-44	NJIT	Provide loan programs for small business		DEP		IX	L	4
R-46	NJIT	Establish information program to promote compliance	S II.4	DEP		VII	H	2

Comment No.	Comment Source	Brief Narrative	Also Noted By	Agency	Action Started	"STARR" Guiding Principle	Impact (per OBO)	Mode
1	EMPC	Establish a Regulatory Council to drive the entire regulatory review process to identify unnecessary and duplicative regulations	S II.6 S II.7	All	Y*	V, VI	H	3
2	EMPC	Multi-agency "Red teams" to address regulatory bottlenecks for significant projects.	N R-8	All	Y*	III, VI	H	3
3	EMPC	Continue the re-engineering of permitting processes within the DEP to simplify and speed up permitting.	S II.4 N R-24 N R-25	DEP		VII, II	H	1
4	EMPC	Establish time deadlines for regulatory action and return permit fees when these deadlines are not met.	S II.4 N R-46	DEP		VII, III	H	5
5	EMPC	"One stop" process for permits and provision of services that combines all levels of government.	N R-8	All	Y	III, VI	M	3
6	EMPC	State agency fees and compliance penalties directed to General Treasury.		All	Y	I	H	4
7	EMPC	Embed a customer focus and business friendly philosophy in all levels of government.	S II.5 N R-6	All	Y*	II	H	1
8	EMPC	Examine the 1985 State Planning Act and recommend how NJ can advance the twin goals of statewide planning and economic growth.		All	Y	III, VI	H	3
9	EMPC	Enhance New Jersey competitive posture through legislative-installed tort reforms.		All	Y	X	M	4
10	EMPC	Repeal the sales and use tax on telecommunications.		Treasury	Y	X	H	4
11	EMPC	Allow the double -weighted sales factor		Treasury	Y	I, VI	M	2
12	EMPC	Allow the filing of consolidated returns for the corporate business tax.		Treasury		IV	M	4

Comment No.	Comment Source	Brief Narrative	Also Noted By	Agency	Action Started	"STARR" Guiding Principle	Impact (per OBO)	Mode
13	EMPC	Eliminate the "regular place of business" requirement.		Treasury	Y	IV	M	2
14	EMPC	Create NJ Telecommunications Trust Fund and the Telecommunications Advisory Panel.		Governor Legisl'r		IV	L	4
15	EMPC	Elevate NJ in the top quartile of the nation in the use of telecommunications to improve K-12 education.		DOE		V	M	2
16	EMPC	Explore the concept of establishing a Life Sciences Center.		DOE		VIII	L	2
17	EMPC	Develop a 5 year Comprehensive State Tourism Master Plan.		DCED			M	2
18	EMPC	Identify and meet infrastructure needs and enhance marketing of NJ to increase tourism.		DOT DCED	Y	III, VI	L	2
19	EMPC	Continue and enhance shore protection efforts.		DEP	Y	III, VI	M	2
20	EMPC	Form NJ International Trade Partnership and ambassador programs to promote international trade		DCED	Y	IV, VI	M	2
21	EMPC	Establish development partnerships for intellectually-based industries to spur biotechnology and other technology businesses.		DCED	Y	VIII	M	2
22	EMPC	Revitalize the State Employment and Training Commission (SETC).		DOL	Y	II, VI	M	2
23	EMPC	Establish Individual Training Accounts		DOL		II	L	2
24	EMPC	Establish One-Stop Career Centers		DOL	Y	V, VI	H	2
25	EMPC	Expand and enhance the teaching of economics in K-12 education.		DOE		V	L	2
26	EMPC	Reauthorize the Transportation Trust Fund.		DOT	Y	I, X	H	4

Comment No.	Comment Source	Brief Narrative	Also Noted By	Agency	Action Started	"STARR" Guiding Principle	Impact (per OBO)	Mode
27	EMPC	Promote development of a national policy on port dredging and waste disposal.		DEP	Y		H	5
28	EMPC	Expand the Economic Development Authority's loan package activities and individual investor activities through associations.		DCED	Y	IX	M	2
29	EMPC	Create a Venture Capital Funding Program.		DCED	Y	IX	M	2
30	EMPC	Create a NJ Capital Access Program.		DCED	Y	IX	M	2
31	EMPC	Create Business and Industrial Development Companies (BIDCO)		DCED	Y	IX	M	2
32	EMPC	Establish a state -level Urban Council to facilitate private/public partnerships		All	Y	IV, IX	M	3
33	EMPC	Work through local development organizations to attract private/public funding for revitalization activities and planning.		DCA		IX	M	2
34	EMPC	Expand micro-loan opportunities in urban areas		NJDB DCA	Y	IX	M	3
35	EMPC	Revitalize and expand the scope of the Urban Development Corporation to invest more funding in urban areas.		DCED	Y	IX	M	3
36	EMPC	Establish an Enterprise Loan Marketing Program within the Economic Development Authority		DCED		IX	L	2
37	EMPC	Tax Increment financing		Treas		IV	M	2
38	EMPC	Promote workforce training and development		Labor All	Y	VI, X	L	3
39	EMPC	Create Prosperity New Jersey to catalyze the growth of independent business development partnerships or networks.		All DCED	Y	II, VI	H	5

Notes for Tables:

"Noted by" Sources: This report references other sources whenever a similar regulatory reform recommendation has been noted in the past reports.

- E** Economic Master Plan Report (January, 1995) + Recommendation references
- N** NJIT Report (March, 1994) + Recommendation references
- S** SCORE Report (September, 1988) + Recommendation references

Guiding Principle References:

- I** Bases for Fees
- II** Accountability / Empower
- III** Project Planning
- IV** Performance / Innovation
- V** Information Management
- VI** Agency Coordination
- VII** Project Certainty / Timeliness
- VIII** Support Research & Development
- IX** Small Business Recognition
- X** Review / Revise Systems
- XI** Rulemaking Impact Analysis

Impact: H - High

M - Medium

L - Low

Mode of Implementation:

1. Agency action (internal)
2. Agency action (external)
3. Interagency action
4. Legislative action
5. Administrative action

Action Started:

Y* Yes, conditionally - Reflects that some progress has been made by some agencies.



THE STARR REPORT

II. CABINET INITIATIVES, PRIORITIES & ACCOMPLISHMENTS

II. CABINET INITIATIVES, PRIORITIES & ACCOMPLISHMENTS

Department of Agriculture (NJDA):

- 1.) NJDA, in conjunction with the Department of Community Affairs (DCA), is revising the Farm Building Code section of the State Uniform Construction Code to reduce unessential requirements.
- 2.) NJDA used ad hoc advisory groups of those interested and affected to assist in developing draft rules.
- 3.) NJDA and its State Soil Conservation Committee is working to develop consistency of management practices among all Soil Conservation Districts.
- 4.) NJDA is cooperating with DEP in developing a required Federal plan and implementation program for Coastal Non-Point Pollution Control which has major agricultural relationships.
- 5.) NJDA in conjunction with DEP and Rutgers Cooperative Extension is working on Best Management Practices dealing with wetlands/agricultural issues and sludge utilization for agriculture.
- 6.) NJDA has merged two divisions (Regulatory Services and Dairy Industry), with primary regulatory responsibilities, into one, called the Division of Dairy and Commodity Regulation for purposes of efficiency and economy.
- 7.) NJDA reviews other departments' proposed rules that inter-relate with its programs or agricultural interests for possible formal comment.
- 8.) NJDA, in conjunction with Rutgers Cooperative Extension, provides public education and information services on its regulatory requirements and operating programs.

Department of Banking:

The following is a list of the initiatives of the Department of Banking which simplify regulatory compliance by the industry, while in many instances reducing the administrative costs of the Department. Some of these initiatives will require statutory changes.

- 1) Reduction in License Types - The Department of Banking by statute currently issues separate licenses for persons who engage in closely related businesses. For example, a person must obtain a license under the Mortgage Bankers and Brokers Act, N.J.S.A. 17:11B-1 et seq. to make first-lien residential mortgage loans, under the Secondary Mortgage Loan Act, N.J.S.A. 17:11A-34 et seq. to make second-lien residential loans and under the Consumer Loan Act, N.J.S.A. 17:10-1 et seq. to make unsecured consumer loans. Each licensing act has specific regulatory and substantive provisions.

The Department proposes that these laws be amended to provide for generic licenses, such as a lending license, which would permit activity in several related fields. the cost of the license would be based on the number of activities the licensee conducted. This would reduce the number of licenses issued, thereby reducing the administrative cost to the Department and the regulated industry.

In a related matter, the renewals of most licenses fall at the same time every two years. This is a burden to the licensing staff, and causes processing delays. Accordingly, it is proposed that any such statutory change allow for staggered licensing periods.

- 2) Solicitor Registration - The Department amended its rules in November 1994 to more narrowly define "mortgage solicitor" only to those persons for whom compensation received is in some way based on the number of applications or mortgage loans generated. This change has resulted in the need for less solicitors to be registered - 5,177 as of March 31, 1995 versus about 10,000 under the former definition and rules. This change has helped both the Department in the Administration of the Solicitors as well as the industry which now has a clear understanding of who they need to register.
- 3) Savings Bank Change of Control - On January 25, 1995, Governor Whitman signed into law in Chapter 24, Laws of N.J. legislation that revised the definition of "control" such that it is now defined as control of 25% (not 5%) of the stock of a savings bank. This change will reduce the number of required applications and hearings.

- 4) Facilitate Depository Mergers - The Department has experienced an increase in the merger applications involving depositories in different industries, such as between banks and associations. Current statutes do not explicitly contemplate such mergers. Accordingly, institutions were forced to flip their charters (such as from an association to a bank) before obtaining approval to merge. Relying on parity statutes and advice from the Attorney General's Office, the Department for the first time this year has permitted direct mergers between depositories in different industries.
- 5) Savings Bank Residency Requirements - Current law requires that two-thirds of the directors of a savings bank be residents and citizens of New Jersey (N.J.S.A. 17:9A-188). To increase the available pool of eligible managers, the Department supports efforts to eliminate or reduce this requirement.
- 6) Branch Closing - The Department removed the publication requirement for most banks desiring to close a branch office. (N.J.A.C. 3:1-2.17). This will directly reduce the administrative cost of publication.
- 7) Home Repair Contractors License - The Department regulates those who finance their home repairs, and issues a home repair contractor license. It is proposed that the name of this license be changed to home financing license to alert everyone to the fact that only the financing activity is regulated. This revision requires a legislative change.
- 8) Interstate Banking Bill - A major initiative of the Department is to provide leadership in responding to federal legislation which authorized states to enact interstate branching legislation. If branching in several states were permitted, multi-state banking institutions could avoid the expense of having separate banking subsidiaries under a holding company form in each state.
- 9) Truth in Savings - The Department adopted amendments to its regulations governing deposit accounts to eliminate all disclosure requirements other than those required by federal Truth in Savings and Regulation DD. These federal provisions provide far more than adequate disclosures.
- 10) Appraisal Requirements - The Department is considering proposing rules which would reduce the appraisal requirements for banks making mortgage loans. Current law requires written certification signed by at least two persons. However, federal standards have recently been implemented, and appraisers have been certified and licensed on a state level. Accordingly, the Department may propose rules so as to require only one appraisal.

Board of Public Utilities (BPU):

Over the last decade, significant changes have occurred in the regulation of energy, telecommunications, water and sewer, and cable television companies. The common theme of change has been competition, that is, the substitution of market forces for administrative rulings in the setting of prices. In addition, these same market forces are requiring regulatory agencies to carefully reassess which components of utility services require regulation and which are subject to effective competition and therefore, need not be regulated.

During the reevaluation of traditional rate base rate of return regulation, the Board will need to carefully monitor the financial needs of regulated utilities and be sensitive to the consumers' expectations for expanded choices, high quality of services and continuing reasonable rates. The Board will also need to assess industry specific changes to determine whether historic monopolies will prevail, whether new oligopolistic structures will emerge or whether new forms of effective competition will occur. Each structure will require unique oversight by the Board.

This dynamic environment will require the Board to critically reevaluate both the procedural and substantive elements of New Jersey's regulatory process.

The Board has adopted an integrated approach to reevaluating the regulatory model. First, the Board is carefully scrutinizing key processes to assure that all required administrative efforts at the Board and the Office of Administrative Law are completed efficiently. Second, the Board has underway numerous programs to improve the performance of regulated companies in each industry.

1) Regulatory Reform: Procedural Innovations

The Board has initiated a number of programs aimed at eliminating costly administrative requirements, reducing the time required to complete administrative tasks, and where feasible, developing alternatives to the sometimes contentious quasi-legal process used to reach administrative decisions.

Building on the recommendations of its Regulatory Review Committee, the Board initiated programs to improve rate case processing and review and implement the use of alternative dispute resolution strategies that best serve the consumer and address the changing utility market.

Program: Rate Case Processing

Given the financial impacts of rate case decisions, the Board has an ongoing collaborative program with the Office of Administrative Law (OAL), the regulated companies, the Division of Ratepayer Advocate and various customer groups to identify opportunities to reduce the overall costs of litigation and improve the timeliness of decision making.

Program: Alternative Dispute Resolution

The OAL, the Division of Ratepayer Advocate and the Board agree that alternative dispute resolution (ADR) capabilities should become an integral part of the administrative process in New Jersey. Last fall, the Board reviewed with OAL the ADR training options and costs for such program.

Training has been completed as of March 31, 1995. Training seminars were conducted by the Office of Dispute Settlements (ODS).

In the Reorganization Plan creating the Division of Ratepayer Advocate, the ADR process is identified as a useful tool for increasing the number of negotiated settlements. The accompanying reduction in the overall costs of litigation is one useful measure of performance.

2) Regulatory Reform: Improving Industry Performance

Each regulated industry is at a different stage in their movement toward more competitive markets. The difference can be accounted for by the underlying economic and technical forces in each industry, and the incentives to competition provided by state and federal legislation. The Board has a number of different programs under way in each industry that met the challenges inherent in the varying market.

Program: Unbundling of Natural Gas Tariffs

Federal Energy Regulatory Commission (FERC) Order 636 created opportunities for gas consumers (primarily commercial and industrial) to purchase gas from entities other than their regulated Local Gas Distribution Company (LGDC). To effectuate these opportunities, the Board implemented a program for the development and adoption of "unbundled" gas tariffs by each of the four LGDC's.

The Board used its existing Gas Policy Group to reach out to gas marketers, large industrial companies, cogenerators and electric utilities to develop a set of guidelines for "unbundling". The Board issued its Guidelines in late 1993 and the LGDCs responded with "unbundled" tariffs during the first quarter of 1994. As of year end 1994, all local distribution gas companies in New Jersey had filed and had Board approved unbundling tariffs which have been put into effect. After two years the Board will review the unbundling program and decide whether it should be extended to residential customers.

"Unbundling" will allow gas customers to purchase gas in the open competitive market and use only those services of their LGDC that they need to complete the transaction. New Jersey consumers will have greater opportunities to control their gas costs and thereby improve their competitive position in their industry.

Program: Regulatory Flexibility

The Board, under the broad heading of Regulatory Flexibility, started a program to consider three key issues in the electric industry:

- Board's ability to approve Economic Development rates.
- Board's authority to allow individual customer discounts as a tool for business retention and expansion.
- Board's authority to allow alternative forms of regulation.

The first outreach initiative of the program was the convening of two stakeholder group meetings, the first with an industry group comprised of electric and gas utilities and large customers, and the second with a consumer's group including the Division of Rate Counsel and other prominent consumer protection activists.

These meetings were used to focus on issues for detailed discussion at three public hearings held around the State by the Board resulting in a comprehensive record of oral and written testimony.

Clearly the competitive position of New Jersey companies will be improved if their electric prices can be reduced. The Board is developing policies which provide short term rate relief for individual customers in order to foster business retention and attraction, while providing incentives for utilities to contain costs for the longer term benefit of all customer groups.

At the present time, the Board has clearly established its legal ability to approve economic development rates. Virtually every electric and gas company has proposed and the Board has adopted (sometimes with modification) these proposals. Second, in exercise of its authority, the Board has approved two customer discounts for large industrial customers after protracted litigated proceedings. The Board has proposed legislation which, subject to critical customer protection standards, would provide a streamlined process for utilities to quickly grant discounts in order to address competitive threats.

Enabling legislation has been introduced by Senator Kyrillos. The proposed legislation would also allow the BPU to entertain and, if critical consumer protection standards are met, approve alternative forms of regulation. Alternative forms of regulation, as constrained by the proposed legislative standards, would provide incentive mechanisms for utilities to reduce costs and rates for all consumers, and to become more efficient.

In the Spring of 1995 the Board is launching an investigation of the structure of the electric industry, in order to explore changes which would unbundle the industry and permit retail customers to seek out alternate sources of power, similar to the changes now being undertaken in the natural gas industry.

Program: IntraLATA Competition

Competition in the telecommunications industry is well advanced and increasing rapidly. To assure widespread sharing of the benefits of competition, the Board has adopted a phased program to allow competition in the provision of IntraLATA toll service among major inter-exchange companies (AT&T, Sprint and MCI) and Local Exchange Companies (Bell Atlantic of New Jersey, United Telephone of New Jersey, Warwick Valley Telephone). As a result of this first phase, New Jersey consumers have real opportunities to shop around for the lowest prices in the market. Subsequent phases will consider the economic and universal service impacts of simplified and more user friendly access to competing IntraLATA toll providers. Educating the consumer on all services which benefit the residential and commercial customers will be an integral part of the proposed new plans to be offered to New Jersey business and residents.

The Board has issued a procedural order on IntraLATA competition, hearings commenced in May 1995 with the proceeding to be concluded by December 1995.

Program: Integrated Resource Planning

Integrated Resource Planning and Competitive Bulk Power Procurement - The Board has proposed draft integrated resource planning (IRP) rules as well as a proposed strategy for promoting competition in the wholesale (bulk) power market. The purpose of these initiatives is to more efficiently blend electric resource planning with State energy, environmental and economic development policy, and to foster greater reliance on competitive market forces in the supply of electric power in the State. These initiatives will, we believe, result in significant savings for the ratepayers of the State, as increased competition brings down the cost of power being supplied to the utilities. As well, these rules and initiatives, if adopted in their present form, could allow for the elimination or streamlining of the existing Certificate of Need process.

Program: Privatization in Water Industry

Although competition to date has not significantly impacted the water industry, there are still opportunities to create customer benefits through facilitating privatization of municipal systems in the State. Using the Water Management Task Force, the Board identified two sources of potential benefits; either outright purchase of problem systems by investor owned utilities or the use of management contracts where the day-to-day operations will be assumed by the investor owned utility under a management agreement approved by the Board.

It is anticipated that as the market for privatization develops that the number of companies bidding for these opportunities will increase and thereby the customers should see improved services and moderated rates.

Senate Bill-1292, the New Jersey Water Supply Public - Private Contracting Act was signed into law on May 11, 1995 as P.L.1995, c.101.

Program: Energy Master Plan

The Division of Energy attempted to reach a consensus on issues through effective outreach to affected stakeholders. This was accomplished through the formation of advisory groups which provided input into the development of the Energy Master Plan. A broad spectrum of interest groups were invited to participate in the development of the plan.

The Energy Master Plan includes well defined policy statements with achievable goals. A tracking system will be developed to monitor progress on achieving the goals established in the plan. To this end, as opposed to past Energy Master Plans, the Energy Master Plan is a policy document setting out the energy goals and objectives to be achieved in the next three years.

In order to insure that the policies espoused in the Energy Master Plan are consistent with the policies of the Administration, an extensive effort was made to coordinate with the development of the Economic Development Master Plan and the Environmental Master Plan. The economic development and environmental impacts of energy policy options were assessed and the energy policies adopted by the Energy Master Plan Committee carefully balance the economic development and environmental objectives of the Administration.

DEPARTMENT OF COMMERCE (DOC):

The following are accomplishments in the area of regulatory reform which the Department has undertaken:

1. **Small Women-Owned and Minority Business Program (SWMB)**
 - The Department has reduced the backlog in certification of SWMB businesses by the efforts of the Division Director and staff through mutual cooperation.

2. **User Friendliness of N.O.T.E.**
 - N.O.T.E. is the Network for Occupational Training and Education, an association of New Jersey's 19 Community Colleges established to enhance promotion of the programs offered by the colleges to the business community.

The services offered through N.O.T.E. are broad in scope, ranging from training courses in workplace literacy, upward mobility and international business to robotics, plastics, technology and fiber optics.

Courses are offered at low or minimal cost, are easily accessible, and can be custom-designed to meet the specific needs of employers and students.

3. **Synergy efforts with County and Municipal Economic Development Programs**
 - The Division has long maintained a cooperative working relationship with County Economic Development Departments. Quarterly meetings of the Economic Development Network (EDN) are conducted to provide a forum for enhancing the interaction among state, county, local, and utility economic development professionals.

Department of Community Affairs (DCA):

1. CONSTRUCTION CODE FEES

The Department of Community Affairs is ultimately responsible for all aspects of building code regulation in New Jersey but the enforcement of building regulation is primarily a local government responsibility. The costs of building regulation are met through fees charged to permit applicants by local governments. DCA is doing two things to lower those fees:

A) It has just adopted rules that require the bidding of municipal inspection contracts with private agencies. Many municipalities use private contractors to carry out inspection work. About 25% of inspections are done this way. These contractors were previously paid a fixed (and excessively high) amount prescribed by law. Where these agencies are used, this change should reduce fees by as much as 40%.

B) Three years ago the Department adopted rules and implemented a data collection system designed to both prohibit and ferret out excessive fees being charged by municipalities - fees which exceed their costs by a substantial amount. It now has enough information to identify the worst offenders and has begun a targeted effort to force fee reductions and, perhaps, even refunds.

2. REHABILITATION CODE

The Department of Community Affairs adopts the state's only building regulations by rule. No other state agency is permitted to adopt such rules and neither is any local government. Our rules are almost entirely "adoptions by reference" of national codes and standards developed by private sector non-profit professional associations and societies.

Those national codes and standards are primarily intended for new construction. They are applied to the rehabilitation and renovation of existing buildings in certain limited ways which are specified in the Department's rules.

DCA concluded that these current rules can impose unnecessary expense and be difficult to apply in a uniform way to all projects.

Last Fall, DCA launched a major effort to develop a new rehabilitation code for the state. This work involves an in-depth review of everything that has been done on the subject anywhere in America and the development of new provisions using the assistance of several highly qualified technical professionals as well as a large advisory committee of state and national experts. Supported by recent legislation signed by the Governor, DCA expects to complete this complex task to the point where it has new rules ready for public comment by the end of 1995 and adopted as law within 6 months after that. This is a very short time frame for what DCA expects to be a groundbreaking effort to solve a problem which has not been solved in any other state.

3. ELEVATOR INSPECTIONS

The Construction Code requires all elevators to be inspected every six months. Most of these inspections are done by municipalities using contract inspectors. All these elevators are also inspected and serviced regularly by elevator maintenance companies working under contract to the building owner. Effectively, the building owner pays for two inspections. The Department seeks to change this system to one in which the owner's elevator maintenance company would be licensed by the Department. DCA would then eliminate the second inspection since it would then be entirely redundant since the licensing system would allow DCA to ensure that the first inspection is done competently and allow the Department to hold the elevator maintenance company accountable for poor or careless work. Legislation is needed to accomplish this change. Senate Bill 816 (Bennett) is that legislation.

4. CONSTRUCTION REGULATION CONSOLIDATION

The Department of Community Affairs is responsible for more than 90% of the state's building related regulatory activity. Several other departments are responsible for a dozen or so other such activities that comprise the remaining 10%. The state currently spends as much on these 10% as it does on the 90% in DCA. This is essentially a result of the way DCA carries out its responsibilities in partnership with local governments instead of duplicating their effort.

DCA proposes consolidating all the building related permit and licensing functions of state government into DCA's construction code program. It believes this could save \$4,000,000 a year but, more importantly, it would eliminate duplication of effort and improve competence and efficiency. For example, the state licenses electrical contractors, plumbing contractors, architects, and engineers for essentially the same reason it requires building permits and inspections - to protect public health and safety in buildings. If these programs were consolidated, DCA could reduce the number of inspections needed. Similarly, it could eliminate some building permit plan review requirements because it could hold architects and engineers accountable for the code compliance of the plans they prepare.

The bureaucratic resistance to this kind of change is immense but needs to be overcome - at the top. This can be accomplished by Executive Order or legislation.

5. CONSTRUCTION CODE OVERSIGHT

New Jersey's state/local construction code enforcement system is structurally the most user friendly in America. It has been widely recognized for its single code, its training system for local officials, its emphasis on responsibility and accountability, its single agency review policy, and the very short time frames in which applications or requests must be acted upon. Like any system, it is only as good as the people who work in it. DCA has broad authority to ensure that they all work well. It exercises that authority primarily by responding to complaints. DCA plans to reallocate resources within the Department to emphasize a more systematic monitoring of the performance of localities and the private inspection agencies which are a key feature of the system in order to ensure that the system's promise is met in practice.

6. SITE DEVELOPMENT STANDARDS

Every New Jersey municipality has a set of standards governing the construction of streets, walks, storm and sanitary sewers, water supply and parking. They apply to any major subdivision and most non-residential building projects. Each town has its own standards. Some are unreasonably restrictive, some are weak, all are different. The Department is preparing uniform statewide standards which will supersede all existing municipal standards for residential development. This work will be completed by the end of 1995 and the standards will take effect six months after that. The Department believes that two further steps are needed. Both will require legislation. First, the standards should be extended to cover non-residential development. Second, the development standards imposed by all other levels and agencies of government must be made compatible with these new statewide municipal standards. This can be accomplished through the comprehensive permitting reform which is the Department's eighth priority.

7. LOCAL LEVEL PERMITTING/ENFORCEMENT

State agencies will explore more ways to empower local officials to take the lead in permit issuance and enforcement (e.g., environmental subcode proposal, etc.). Such an ambitious undertaking requires comprehensive study, but the State of New Jersey has an obligation to explore the possibility of implementing a single review process for all aspects of development, as well as one-stop permitting on the local level.

8. PERMIT REFORM

Statewide development standards and an environmental subcode will substantially improve the development regulation morass but they only address municipal standards and concern relatively straightforward and objective DEP permitting requirements. There remains the legion of other permit and review requirements created by state law over the last 25 years. We simply can not afford a separate review for every agency, level of government or issue. We need to integrate all those legitimate concerns into one review, preferably at the local level. The Department has draft legislation, the "Permit Reform Act", which would accomplish that objective.

9. LAND AVAILABILITY

New Jersey's housing costs are among the highest in America. An identical home, built in North Carolina by the same builder, costs half as much as in New Jersey. A major contributing factor to this problem is the lack of available and buildable land which is zoned for construction "as of right" at appropriate densities and free of other permitting requirements and restrictions imposed by state, regional and county regulatory agencies. New Jersey needs a housing element in its State Plan which can help ensure an adequate supply of vacant developable land so that a functional competitive land market can re-emerge in New Jersey. This should be based on a housing needs analysis which will be undertaken by DCA.

10. EXPANDED TRAINING FOR REGULATED INDUSTRIES

The Department in conjunction with local officials will expand its efforts to educate representatives of regulated industries on code compliance. Emphasis will initially be placed on fire safety issues.

11. MULTIPLE DWELLING MAINTENANCE

The Department and the multiple dwelling industry are working to develop a regulatory program designed to emphasize long term scheduled maintenance. By developing and executing building maintenance programs, owners may qualify for lower inspection fees.

Department of Corrections:

Regulatory Reform Priorities

The Department has implemented a pilot project for an objective classification system for inmates. The Department anticipates that this system will help reduce overcrowding in medium and maximum security correctional facilities by assisting in identifying those inmates who should be recommended for minimum custody level designation. (N.J.A.C. 10A:9A).

The Department will be engaged in the readoption process for rules governing medical and health services for inmates. However, the current rules will be amended, consistent with the Department's current initiative involving the privatization of health services for state prison inmates. (N.J.A.C. 10:16-1 et seq.).

Rules governing adult county correctional facilities will be proposed shortly with amendments which eliminate current standards on physical plan and design which exceed standards recommended by the American Correctional Association. (N.J.A.C. 10A:20-4.32).

The Department is in the process of adopting rules which will increase the maintenance fees collected from state prisoners who are participating in the work release programs. (N.J.A.C. 10A:20-4.32).

The Department has established a Dedicated Law Enforcement Trust Fund into which monies confiscated from inmates will be placed. (N.J.A.C. 10A:3-6(a)).

The Department has received informal advise from the Department of Law and Public Safety, Division of Law, and will proceed with rules governing breathalyzer testing of inmates. (N.J.A.C. 10A:3-1.1 et seq.).

The Department has proposed an amendment to the inmate disciplinary code which requires certain incarcerated sex offenders to comply with the registration requirements under "Megan's Law" prior to their release. (N.J.A.C. 10A:4-4.1 et seq.).

Department of Education (DOE):

Executive Order No. 22 and State Board Resolution

The regulatory review process began for the Department of Education with Governor Whitman's signing of Executive Order No. 22 which froze the regulatory process and directed the department to conduct a comprehensive review of all existing regulations. The Executive Order was followed by a State Board resolution initiating the comprehensive review of all education regulations and their interrelationships to be completed no later than December 31, 1995. The process is currently being conducted by a Code Review Committee which will determine which code requirements are unnecessary, ineffective, inflexible and/or overly prescriptive. The process will incorporate the work that has already been done by an ad hoc Code Review Committee which compiled a report in 1993 along with public testimony on the process invited by the State Board at its public hearings from September through December of 1994.

Regulatory Equivalency and Waiver

In order to offer short-term relief to school districts from regulations that, in their judgement, are overly restrictive in a specific case, the State Board has adopted an equivalency and waiver process which provides regulatory flexibility for school districts to meet the requirements of the rules contained in the New Jersey Administrative Code Title 6. Regulatory flexibility may be granted as a waiver to a specific rule or as an equivalency (an approach that is different from but comparable to that prescribed in the rule) to a specific rule so that school districts can provide effective and efficient educational programs. The Commissioner is granted the authority, on a case-by-case basis, to approve a waiver or an equivalency to a specific rule.

The criteria for granting a waiver or equivalency are as follows:

- * the spirit and intent of applicable statutes and regulations are served by granting the equivalency or waiver;
- * the provision of a thorough and efficient education is not compromised; and
- * there will be no risk to health, safety or civil rights.

The equivalency and waiver process allows a district to submit an application which describes and justifies the granting of relief from the rule. The district is directed to demonstrate that the Board of Education, parents, administration and staff have been informed of the request for waiver or equivalency through public comment and input. For the duration of the waiver or equivalency, which is not to exceed three years, the district must evaluate the process and report the results to the Commissioner and the State Board.

By the end of 1995, the Department of Education will have a full report on the results of its code review that will be made available to the Department of State to be included in any subsequent updates of the Regulatory Reform Initiatives document. The broader comprehensive review of regulations will be informed by the requests of school districts for short-term waivers and equivalencies.

Department of Environmental Protection (DEP):

Many of Governor Whitman's goals for improving the way that DEP does business were met during 1994. Although we have some distance to go, the Department is vastly more efficient than just one year ago. The following is a summary of our key accomplishments and some of the initiatives that are currently underway here at DEP.

In an effort to streamline our operations, the DEP is undertaking a comprehensive review of our activities. We are shifting the focus from enforcement and penalties to increased compliance through building partnerships. Some regulatory changes have already been adopted, while others are under review. We hope that you find this information helpful.

A) REGULATORY RELIEF:

- **Community Right-to-Know Regulations** -- The DEP adopted rules in October that changed the reporting requirements under this law. By streamlining the requirements, the number of reportable substances will drop from approximately 3,000 to 800. The DEP and those who respond to environmental emergencies will now be able to focus on the most hazardous substances in New Jersey's communities. This action will also result in less of a reporting burden on the regulated community and, thus, will reduce the costs associated with compliance. The planned change in the reporting threshold from 100 lbs. to 500 lbs. will mean that the number of businesses required to report will drop.
- **New CAFRA Rules Adopted** -- The DEP adopted rules in June to streamline this program that, for the first time, regulates smaller development in sensitive coastal areas at the water's edge. The changes also made the permit process simpler for homeowners whose construction projects have minimal environmental impact. The regulations include new categories of CAFRA permits, called general permits and permits-by-rule, that cover routine activities or those that have little impact on the environment. These types of permits cost less, require no public hearings and have fewer submission requirements.
- **Efforts to Achieve Efficiencies in Permitting** -- The DEP has already changed its permitting requirements and thus its regulatory authority by delegating some responsibilities to local government. For example, in July, the DEP enacted revised rules governing the Treatment Works Approval (TWA) program by raising the permitting threshold for sewer projects from 2,000 gallons per day (GPD) to 8,000 GPD. This served to reduce the number of construction activities requiring permits. The use of professional certificates that authorize professional engineers to certify the adequacy of design work also is being employed in the TWA program, while the Department is working on expanding this program into other areas.

The Department will also expand an approach authorizing permit applicants to prepare first drafts of their permits. This will result in fewer contested permits, saving staff time and avoiding potential litigation costs. Emphasis will also be placed on developing standard or general permits that will incorporate several activities under one permit rather than require individual permit submissions and reviews. In cases where the DEP can promulgate standardized rule requirements, the program may also utilize greater permits-by-rule.

The use of professional certifications which allows professionals in the engineering discipline to certify the adequacy of designs is already being applied in the TWA program. The division is now working on expanding this program into other areas. Reissuing expired permits without change may be possible in those cases where the permit requirements are considered insignificant in terms of environmental impact. This approach would result in quicker approvals.

The Department is also looking to introduce additional improvements to speed permit processing by the introduction of computer enhancements, the reassignment of permitting duties from professional to paraprofessional staff and greater utilization of electronic reporting (EDI).

Finally, a major initiative which is included as part of our reinventing government focus is to take a close look at the experience gained in privatizing our permit reviews. Specifically, the review will look at experience in both the Air program, as well as the NJPDES program with the aim of documenting both the positive and negative aspects, as well as, developing recommendations which would optimize such an approach.

Presently, the DEP is examining the feasibility of establishing money-back guarantees for many of its permits. This guarantee would ensure the timely review or a full refund of application fees. Another new program at DEP allows businesses to pay permitting fees exceeding \$1,000 in installment payments. The installment plan applies to nearly twenty major permitting programs.

• **Efforts to Refocus Compliance Monitoring** -- The Department is continuing to explore opportunities to foster a more cooperative relationship with the facilities that we regulate as a way to promote compliance. For example the Division of Enforcement and the Office on Pollution Prevention have begun to explore ways to assist regulated facilities in identifying pollution prevention opportunities that may be voluntarily implemented to improve compliance. Also, the Department is also involved in negotiated affirmative defense provisions of the Air Pollution Control Act. Here again, the objective is to improve compliance, focus inspection teams on priority areas and thus reduce litigation costs.

• **Air Permitting** -- The program now issues most permits within an average processing time of less than 2 months. However, further streamlining and predictability is being developed and introduced into the air permitting process, with the active participation of business and industry. Current plans are to convert about 50% of a 7 day notice of registration. Also, while case-by-case documentation of best available control technology would only involve 10% of the State's permits, those permits account for about 90% of total air contaminant emissions. With these changes in place, the air program could then refocus its efforts on the upfront publication of defined requirements and thus less effort on case-by-case technology\permit reviews.

As part of the comprehensive efforts to re-engineer the air program, DEP management and staff have been working closely with industry representatives to develop operating permit policies that are predictable, balanced and consistent with federal requirements. In an unprecedented endeavor, the DEP organized eight air permit re-engineering work groups, each comprised of and co-chaired by representatives from DEP and industry. Each work group is developing policy and procedure in a separate area of the air permit program. The working group subject areas are: electronic data interchange (EDI); application forms; permit workflow and workload analysis; permit rule development; research and development flexibility; general permits; State-of-the-Art (SOTA) technical manuals; and standard permit conditions.

The DEP is currently finalizing development of an air general permit category. Through the creation of general permits, certain types of facilities will be held to minimal air emission permitting requirements. General permits will provide a standardized, uncomplicated means of permitting common types of similar sources, such as gas stations and dry cleaning establishments. For facilities that are eligible for general permits, renewing one will be similar to renewing an automobile registration

The primary benefit to general permits is that they will alleviate the permitting burden on many facilities while placing most companies in a single industry on an equal footing with regard to permit requirements. Yet, general permits will also help to streamline the DEP by eliminating the case-by-case technology reviews required for many facilities.

• **Reforming Water Pollution Control Laws** -- The DEP is working internally and in cooperation with the State Legislature to revisit antiquated water pollution control laws and major improvements are already under development. The Pollution Discharge Elimination System (NJPDDES) regulations became effective in March 1981 and have remained largely unchanged since that time, except for some revisions to implement the Clean Water Enforcement Act. These regulations govern discharges from industrial sources and sewerage sources and they have not kept pace with other changes made to federal and state statutes and regulations. As a result, the permitting process has become inefficient, the program's effectiveness in improving water quality has not been adequately monitored or measured, and many legal disputes have arisen. In

addition, the current NJPDES rules are not well coordinated with some of the Department's other programs, which address water quality issues over an entire watershed or basin.

The Department is in the process of a comprehensive review of existing NJPDES rules and policies. On October 3, 1994, the DEP published a rule summary document spelling out how it intends to shift the NJPDES permitting process toward a watershed based program. A watershed approach, as opposed to a site-specific approach, will enable the DEP to focus attention on the impact of pollutants on entire waterbodies and to better evaluate the impact of various control measures. The new rules will also implement major administrative reforms to make permit application and issuance procedures more efficient and flexible. These include allowing permittees to submit their applications in the form of draft permits, issue public notices, make arrangements for public hearings, have permits automatically renewed if standards have not changed since the permit was issued and increase the use of general permits and permits-by-rule.

A thorough review of the Clean Water Enforcement Act is also in process. During October and November 1994, the Senate Environment Committee held public hearings on New Jersey's water pollution control laws. The Department offered testimony outlining the need to amend the CWEA to provide the DEP with sufficient discretion to administer a fair and rational enforcement program. The Division on Enforcement is also preparing a paper outlining specific recommendations for legislative amendments and setting forth the reasoning supporting these changes.

- **Facility-Wide Permits** -- In December, the DEP issued its first facility-wide permit, designed to promote pollution prevention and streamline the permitting process, to the Schering-Plough Corp. plant in Kenilworth. This innovative approach to permitting would replace more than 60 permits, including NJPDES, air pollution control certificates, hazardous waste permits, stormwater permits, air pollution control emission reporting requirements as well as submittal of pollution prevention reports with just one permit. The program is a clear demonstration of achieving the dual goals of improving the environment while fostering a sound business climate. Additional facilities have been selected to participate in the pilot facility-wide permitting program. The DEP will issue the balance of the pilot program permits by September 1995.

- **Comprehensive Review of Solid Waste Regulations** -- The Division of Solid Waste Management has embarked on a comprehensive review of the state's Solid Waste regulations that are due to sunset in October 1995. This effort focuses on the entire solid waste program including economic regulation issues, grants and loans, as well as medical waste and the A-901 program (permit applicant screening). As part of this process, the DEP will conduct a complete review of the program's basic fee and tax structure. The tax structure is involved since many of the special taxes collected by the State (e.g., Clean Communities) are due to sunset by December 1995. This review is being

conducted in an open forum and includes representatives from the private sector.

- **Review of Hazardous Waste Regulations** -- DEP's Hazardous Waste regulation program has begun work on a major regulatory initiative to recodify the current hazardous waste regulations. This effort, supported in part by an EPA Resource Conservation and Recovery Act grant, involves the examination of all of New Jersey's applicable hazardous waste regulations. Recodification will enable the state regulations to be more analogous to the federal regulations and thus permit the DEP to proceed more easily with the incorporation by reference. Together, recodification and incorporation by reference will ultimately accelerate the regulatory development process and, consequently, the RCRA authorization process.

- **Site Remediation Program Initiatives** -- The Department is finalizing its report to the Legislature on "Large Areas" of Historic Industrial Contamination. It is expected that this report will provide additional recommendations for fostering cleanup and site reuse, as well as discussing other programmatic tools for improving the Site Remediation Program.

The Site Remediation Program has convened an internal task force, with representation from staff of the Division of Law, to review the possibility of using "covenants not to sue" within the existing liability structure of New Jersey's site remediation laws. EPA has recently offered covenants at several sites to encourage cleanup and reuse.

A working group has been convened to identify ways to simplify and expedite cleanups at residential properties (in particular, homeowner tanks). The program is currently developing flat fees for oversight of residential remedial actions to give homeowners certainty in costs. In addition, the Site Remediation Program has recently published Homeowner Assistance Guidelines, a brochure that gives straight forward advice on the remediation of discharges from residential tanks.

The Site Remediation Program has asked county Hazmat teams to participate in a pilot to evaluate resources for emergency response activities. The goal of the Pilot is to assess whether DEP resources dedicated to emergency response may be reduced in certain counties, based upon existing county support. The pilot will also seek to determine if counties may act in lieu of the DEP in certain emergency response actions.

• **Review of Water Supply Initiatives** -- The Water Supply component of the Department has the responsibility for such programs as Water Allocation, Well Drillers, Safe Drinking Water and Water Supply Loans. The program has been conducting a comprehensive reassessment of these programs and as such will be proposing a series of regulatory revisions over the course of the next year. In the case of the Water Allocation, Well Permit and Safe Drinking Water programs, changes will include: developing categories of general permits, refining or reducing application requirements and/or exempting currently regulated activities from future regulatory oversight. This review will also result in the clarification of licensing requirements. Again, the focus of all these efforts is aimed at simplifying and/or eliminating DEP's oversight, either of which will serve to achieve further efficiencies and economies within the operation.

• **Federal Clean Air Act Mandates** -- The Department, in conjunction with other state agencies (e.g., DMV, DOT, BPU), is in the midst of major rule making activities aimed at achieving air quality standards mandated under the federal Clean Air Act (CAA). These efforts include: development of the enhanced vehicle inspection and maintenance program; effectuating the state's Operating Permit program; the development of a state transportation system that avoids increases in certain emissions; the development of an emissions trading system; and the introduction of low emission vehicles (LEV's). In addition to compliance with the federal Clean Air Act, these efforts are being structured to ensure that manufacturing facilities in the State do not get unfairly burdened.

A major effort is also underway by the Department to lead the 12-state Ozone Transport Region into compliance with the EPA/CAA/SIP requirements. This work-intensive effort will guarantee continued federal highway financing and economic development flexibility in New Jersey.

• **Independent Review of DEP's Operations** -- Governor Whitman has authorized an intensive review of DEP's permitting, enforcement and central management functions, particularly the water pollution permitting program (NJPDES) the air pollution program and the various land use regulation programs, such as stream encroachment, the Coastal Areas Facilities Review Act and Freshwater Wetlands Act. The review will compare each program's authorizing legislation to the rules promulgated by the Department, and will make suggestions to better align DEP's regulations with the intended scope of the laws. In addition, the review will also identify where existing regulations may be consolidated to eliminate duplication, streamline the Department's administration and reporting requirements and enhance understanding among the regulated community and the public.

The way DEP delivers its services will also be reviewed to identify areas where technological improvements can be made to increase efficiency. Recommendations will address improving DEP's responsiveness by improving front-line employees' knowledge of policy directions; improving the way the Department shares information with the public and the regulated community, and improving DEP's management culture to adopt a more cooperative, "user-friendly" attitude.

Suggestions for permitting improvements will address investigating a single point of entry for permits; cross-training project managers to administer major permits on a facility-wide basis; expanding the drafting of permits by permittees; analyzing various fee schedules for equity and competitiveness by other states; and addressing work fluctuations through staff reallocations or privatization. Suggestions for enforcement improvements will address investigating facility-wide enforcement through staff re-training and examining existing enforcement policies to ensure consistency across programs, where State law permits. Lastly, suggestions for management and administration will address reviewing the ratio of support staff to line staff and analyzing the appropriateness of the number of management layers.

B) COMPLIANCE:

- **Comprehensive Review/Revision of Penalty Regulations** -- The DEP is responsible for compliance monitoring and enforcement for approximately 15 environmental statutes. Subsequent to their enactment, the DEP adopted regulations governing the assessment of penalties for each. However, many of these penalty regulations have been developed in an inconsistent manner. In addition, their application in specific cases sometimes leads to penalties that are disproportionate to the seriousness of the particular violation.

Accordingly, the DEP has begun a systematic review of these regulations with the aim of recommending revisions where problems are identified. Revisions have already been adopted with regard to the Air Pollution and the Coastal Areas Facility Review Act programs and the department has proposed amendments to the Water Supply Management and Noise Control programs. Additionally, the Division of Enforcement is currently developing amendments to the penalty regulations for the Toxic Catastrophe Prevention Program, the Discharge Prevention, Contingency and Countermeasure Program, the Water Pollution Control Program and the Safe Drinking Water Program.

Substantial revisions are also being readied in the Sludge Management, Medical Waste and Solid Waste Programs. Again, the primary goal behind these revisions is to ensure that the assessment of civil administration penalties more accurately reflects the particular circumstances and severity of violations.

• **Utilization of Grace Periods** -- The DEP is also reviewing its policies regarding grace periods and has determined that this approach should both be expanded and applied more consistently. The process of suspending penalties during a compliance grace period is viewed as a more effective tool for obtaining compliance and thus achieving greater protection of the environment. The Office of Enforcement is working with the Governor's Office, legislative staff and the EPA on legislation that would codify this policy. This approach would allow the DEP to suspend a monetary sanction upon the discovery of a minor violation, thus affording the violator a reasonable period within which to achieve compliance. Determining whether a violation is minor will involve the application of certain criteria such as: was the violation purposeful or reckless, does the violation pose a minimal risk and has the person been a chronic offender.

The Department is currently employing grace periods in several land and water use programs and plans to commence a grace period policy in the Air Enforcement program by the end of March, 1995 and for all Environmental Quality programs before the summer.

• **Violations Discovered During Voluntary Environmental Audits** -- The Department currently waives or substantially reduces penalties for violations that are discovered during a voluntary environmental audit and promptly reported to the Department and properly corrected. Although this policy is currently applied on a case by case basis, the Department plans to engage the regulated community and other interested parties in the further development of this policy during the balance of 1995. Legislation was recently introduced that would establish an evidentiary privilege for audit reports. The Department has not taken a position on this bill but Enforcement has some concerns. However, we are meeting with members of the regulatory community in order to better understand their concerns.

Our goal is to help the violator achieve compliance and avoid the imposition of penalties that can lead to lengthy litigation and costs to all parties involved. The success of these types of practices can be seen in the Air Amnesty program held last fall for companies that were not in compliance with federal clean air standards. As a result of the amnesty offer, over 200 companies filed letters of intent to come into compliance.

• **Review of State and Local Enforcement Activities** -- DEP is also in the process of finalizing various initiatives to identify and eliminate duplication between state and local enforcement agencies. The Department is actively supporting an amendment to the Air Pollution Control Act that would prohibit the adoption of local ordinances concerning air pollution. This would help to avoid redundant and inconsistent state and local requirements. A similar provision was included in the Air Pollution Control Reform Act legislation. County and local government agencies would still be able to participate in pollution reduction activities under the DEP's supervision pursuant to the County Environmental Health Act.

The DEP is also substantially revising the rules governing the County Environmental Health Act to better delineate state and local responsibilities. A pre-proposal was published in September 1994 setting forth a draft revised rule. At present, changes are being made to the rule based upon comments received during three workshops held by DEP. The Department has established a task force comprised of local health agencies to assist with this project.

C) OTHER INITIATIVES:

- **Environmental Master Plan/Shore Master Plan** -- At the very core of DEP's efforts to improve its relations with business is the development of an Environmental Master Plan. The plan will provide essential resource information required to make sound environmental decisions, whether they involve air, water or land acquisition strategies. Utilizing such tools as the DEP's Geographic Information System (GIS), state and local agencies will be able to access resource information and, in turn, utilize that data to make more informative and less labor intensive decisions. While the formulation of this plan will require the Department to shift the focus of some of its current personnel and fiscal resources, once implemented it should result in cost savings in terms of the time needed to make clear and predictable decisions.

Folded into the Environmental Master Plan will be Governor Whitman's Shore Master Plan that will be a multi-agency compendium of planning and land use data for the Shore area. The DEP began an update in July of the Shore Protection Master Plan, the state policy section of the federally mandated Coastal Zone Management Program. The Department has contracted with Rutgers University's Institute of Marine and Coastal Sciences to obtain the public's views on shore protection. While evaluating existing and potential shore protection methods, the institute held public meetings and met with individuals interested in future shore policy. In addition to complying with the mandates of the Coastal Zone Management Program, the 13-year-old Shore Protection Master Plan, which is being updated for the first time, will serve as the DEP's contribution to the Shore Master Plan. The DEP expects to complete its update by fall of 1995.

- **GIS Mapping** -- The DEP's Geographic Information System (GIS) is the backbone of Commissioner Shinn's Environmental Master Plan. GIS allows local officials, planners, developers, DEP staff and others to view any geographic area in the state and visualize any factors that affect the area, the levels of permitting and allowable development or any other land-use decision. Users of GIS will be able to instantaneously access natural resource data such as the locations of wetlands, wells, endangered species habitats, buffer zones or parks. At the same time, potential threats to those resources can be seen such as natural resource extraction operations, air pollution discharge points and hazardous waste sites. GIS will provide an efficient way for all users to access the same data base. The DEP is currently working on ways to make

GIS available to the public and recently launched a pilot project with Monmouth County. The county has made GIS available to its residents throughout the county library system and Health Department. The GIS database currently covers 18 of the 21 counties and the remaining three should come on line during 1995. Commissioner Shinn has made completion of a statewide GIS network a top priority.

• **Introduction of Alternative Dispute Resolution** -- In July of 1994, the Department began developing and implementing a plan to introduce Alternative Dispute Resolution (ADR) as a method for resolving disputes with the regulated community in a more timely, cost efficient and effective manner. The introduction of ADR was initially facilitated by training field personnel, while subsequent training will include personnel up to the Assistant Commissioner level. From an operational standpoint, matters which were in the past routinely referred to the Division of Law are now being internally review prior to transmittal, with the aim of handling such disputes by ADR. In addition, matters which have already been forwarded to the Division of Law are now being reviewed for possible resolution by mediation rather than the usual process, which often resulted in lengthy and costly litigation. Though not finalized, it is our preliminary estimate that cases that are settled through litigation, involving the Office of Administrative Law and/or the Division of Law, result in an average cost of \$20,000 per case. Accordingly, if only 3 to 4 mediations are scheduled per month, a significant cost savings could be achieved. More importantly, the Department will be able to resolve contested issues with the regulated community in a more meaningful and businesslike forum.

• **Crafting a Holistic Approach to Environmental Regulation** -- A Whitman Administration contingent traveled to the Netherlands this summer to see how the Dutch manage their environmental problems, which are similar to those in New Jersey. Holland is twice the size and population as New Jersey, but has roughly the same density. However, the Dutch abandoned their "command and control" approach to environmental policy about five years ago. It was becoming too costly for government and industry to implement and was not meeting the country's environmental goals.

Instead of setting environmental rules from the top down, with the help of the environmental community and industry, the Dutch government developed a long term plan and set aggressive environmental cleanup goals. For example, the Dutch government's plan aims to double the gross national product of the country and reduce water discharges by up to 90 percent by 2010. The Netherlands has long term, facility-wide permits with specific goals and effective inspection and enforcement. The government enters into voluntary covenants with industry to reduce emissions and discharges over a 15- to -20 year program period. These permits not only deal with air and water discharge control devices, but also focus on the total process. Industry likes the predictability of the permitting process and works with government to reach mutual long-term environmental goals, which are:

- Pollution should be prevented in the most practical way possible.
- The best available technology should be applied.
- Non-treatable waste should be isolated, managed and controlled.

The DEP is taking a page from the Dutch and plans to establish long term goals that would be achieved by establishing agreements with industry whereby they would commit to meeting those goals.

• **Office of Environmental Technology and Market Development** -- The newly-created DEP Office of Environmental Technology and Market Development is developing policies and programs that steer environmental protection as an economic development tool. This agency promotes the development and commercialization of environmental technologies with a goal of expanding New Jersey's economic base by fostering the creation of private sector, non-regulatory jobs that benefit the environment.

• **Emissions Trading** -- New Jersey is one of the first states to participate in a regional emissions reductions credit program. The program enables companies to earn tradable credits for reducing ozone-forming pollutants such as nitrogen oxides and volatile organic compounds. The credits can then be sold at a profit, through an emissions trading bank, to help other companies resolve compliance concerns. They can be applied to a factory expansion or to temporarily afford a company greater flexibility while they modify or retrofit a facility to improve compliance.

• **Dredging** -- The Port of New York and New Jersey plays an important role in the region's economy. The port's shipping operations require the Port Authority, a bi-state agency, to expend capital for berth and channel deepening projects. For nearly the past 90 years, port deepening projects involved dredging of naturally accumulating sediments and the dumping of those sediments at a federally designated site known as the "Mud Dump," located six miles off Sandy Hook. In recent years, state and federal agencies have discovered that the dredged sediments were contaminated with toxic substances, such as dioxin, PCB's and heavy metals. Because of the continued need for the port to be dredged, coupled with increased costs of ocean disposal and increased environmental concerns, the Governor established in June a task force -- the Dredged Materials Management Team -- with a mission to develop short term (0-3 years) management options for the disposal of contaminated dredged materials from the New Jersey side of the Port.

The task force has reviewed disposal alternatives such as upland disposal, containment islands, subaqueous pits and decontamination through remedial technology. The task force presented their findings to the Governor in January 1995. The DEP is also represented on the regional Dredge Materials Management Team that includes representatives from the EPA, Army Corps of Engineers and NY Department of Conservation. The "straw proposal" is presently undergoing the public comment process. The Department is in the

process of implementing, on a priority basis, the governor's task force recommendations.

• **Privatization of Permit Reviews** -- Both the NJPDES and air permitting programs have undertaken privatization efforts by contracting out the review of specific levels of permits. The Department will be continually assessing those efforts to determine how to optimize the application of privatization in these and other program areas. The Department also authorizes professional engineers to certify the adequacy of design work under the treatment works approval program

• **Certification/Licensure Within Site Remediation Program** -- The DEP is exploring privatizing certain aspects of the Site Remediation program, whereby certified professionals would conduct activities, such as site evaluations, and make determinations of necessary remedial actions in certain cases. The objective is to reduce the costs of DEP oversight to the regulated community and accomplish remedial work more quickly. The interest in evaluating opportunities for the privatization of various remedial oversight functions that are currently performed by the Site Remediation Program remains high.

The 1993 Report on Certification and Licensure of Persons Engaged in the Remediation of Contaminated Sites indicates that statutory authorization is necessary before such a program can be initiated. However, there is growing concern within the regulated community about the costs and potential conflicts which may potentially compromise a consultant-driven program. These and other issues will need to be closely examined.

• **Other Privatization Efforts** -- To other privatization efforts, the Department will be issuing an RFP to determine the cost effectiveness of contracting for radiological laboratory analyses versus those analysis currently performed by DEP laboratories. Another RFP is currently being developed for the privatization of navigational channel markings.

• **Common-Sense Budgets and Operating Costs** -- Revisions to the FY-95 budget resulted in the avoidance of some \$18 million in fee increases. The Department received an \$8.8 million appropriation from the General Fund, an important first step in reversing its reliance on fees and fee increases. Specifically, increases of \$2 million were avoided in the Stormwater Permitting program, \$3.9 million in Air Operating permits, \$4 million in the NJPDES program and \$700,000 in the Treatment Works Approval program. The practice of routinely increasing fees on the regulated community has stopped. With the FY-95 budget, DEP began the process of replacing dedicated revenues with General Fund appropriations -- in effect, breaking the direct link between DEP programs and the fees and fines collected.

The FY-96 budget, for the first time, proposes the return of all fee and fine monies, with the exception of Hunter and Angler funds, to the State's General Fund, thus placing these programs "on budget". This will mean greater

flexibility for the DEP to direct limited resources to programs with the highest priorities; elimination of the need to automatically increase fees to offset mandated increases such as cost-of-living adjustments; and greater ability to stabilize or reduce fees and fines, thus encouraging increased investment in New Jersey. This transition was accomplished in the FY-96 budget in a manner that was "revenue neutral" to the general fund. This effort will make New Jersey more competitive.

Operating costs, such as those at the Division of Law, have undergone greater scrutiny than ever before. While the original FY-96 client services estimate from DOL was structured at \$12 million, the Department has negotiated that number to a level of \$9.2 million. Many of the Department's litigation costs and thus the necessity to engage the services of DOL, as well as the Office of Administrative Law. This is critical since better than \$8.1 million of these costs are directly borne by DEP's fee and fine funded programs.

- **Computerization** -- In 1993, the DEP began undertaking a significant computerization effort to ensure that all of the Department's programs can share data that will help avoid duplication and pave the way for improved and faster decision-making. Additionally, it will be designed to allow companies to submit their data and permit applications directly into the Department's computer system, thereby dramatically reducing the amount of paperwork and inputting currently necessary.
- **Recycling Incentives** -- Under the Statewide Mandatory Recycling Act, the DEP provided support to a Georgia-Pacific Corp. paperboard mill in Camden County that allowed the mill to expand its operations and rehire furloughed employees. Under the Act, corporations operating in New Jersey that purchase recycling equipment are eligible for up to a 50 percent tax credit on the cost of the equipment, which is applied to the operations' state Corporate Business Tax. The DEP provides information and assistance to those beginning or expanding their recycling business.
- **Reduction of Vehicle Fleet** -- As part of the Governor's call to reduce the State's vehicle fleet, the DEP conducted an extensive review of its vehicles in 1994. As a result, the DEP turned in 176 vehicles. The annual savings accrued from this action is nearly \$470,000, the majority of which will be used to offset fee programs.
- **Staffing** -- The DEP has reduced its personnel complement by 157 individuals since January of 1994. Accordingly, as of 02/17/95, DEP's staffing now stands at 3,550. Part of this reduction included our reduction-in-force, which impacted permanent and non-permanent employees. Specifically, 56 employees in this category were terminated at a savings of \$1.8 million. Programs such as Solid Waste were able to maintain its current level of staffing without increasing fees due to this reduction effort.

- **Gold & Green** -- A study entitled "Gold & Green" by the Institute for Southern Studies of Durham, using 1991 data, found that the states with the best environmental records also offer the best job opportunities and climate for long-term economic development.

- **Self Renewal** -- The DEP is improving efficiency through a self-renewal process. A suggestions task force, comprised of DEP employees, is looking at ideas submitted to streamline the Department. Secondly, a program-by-program systematic review of the Department is underway. The review is focusing on several key areas including eliminating the duplication of tasks.

Department of Health (DOH):

Regulatory Reform Priorities

The following are regulatory reform initiatives which the Department has undertaken:

1. ELIMINATION OF HOSPITAL INSPECTIONS

The Department had planned to eliminate routine inspections of acute care hospitals and accept the certification of the Joint Commission On Accreditation of Health Care Organizations (JCAHO) in place of these inspections. Assembly Bill A-258, which would have mandated the substitution of JCAHO accreditation for purposes of state licensure, has not been enacted. As a result, the Department is formulating a plan to conduct limited and focused surveys of New Jersey's 85 acute care hospitals. These would not serve to duplicate the JCAHO's survey process but would supplement this activity and would allow the Department to continue its current statutory obligations regarding inspections.

2. ELIMINATION OF HOSPITAL RATE SETTING SYSTEM

Pursuant to the Health Care Reform Act of 1992, the Department no longer regulates the payment rates for acute care hospitals. The Hospital Rate Setting Program was disbanded this past year and the relevant rate setting regulations have been allowed to expire without readoption.

3. CERTIFICATE OF NEED

The Commissioner of Health recently presented Certificate of Need regulation reform recommendations to the Governor's Office and to the Senate and Assembly Health committees. An open public forum on the reforms, which involve the restructuring of the Certificate of Need process and recommendations for the deregulation of some health care services, was held at Mercer County Community College on June 13, 1995.

4. ESSENTIAL HEALTH SERVICES COMMISSION

The elimination of the Essential Health Services Commission is a part of the Appropriations Bill. Should this portion of the bill pass, the Department will absorb some of the Commission's functions.

5. HMO RULES

The current HMO rules, which govern the issuance of HMO Certificates of Authority, are outdated. The Department has convened a HMO Advisory Task Force made up of industry representatives and consumers to review and comment on the HMO rules. The group is providing guidance to the Department in the revision of the rules, and will be preparing its report by August 1995.

6. ASSISTED LIVING

The Department has recently adopted the Assisted Living rules. These rules provide for low cost alternatives to institutional care. They are the most flexible and least prescriptive of all health care facility licensing rules.

7. ALTERNATE FAMILY CARE

The Department is in the process of developing Alternate Family Care rules. These rules will provide for licensure of agencies wanting to become involved in sponsoring foster care for the older adult. The rules will provide a vehicle whereby citizens will be able to reside in more comfortable, non-medical environments. The Department is holding public forums to solicit public input on the development of these rules and to disseminate information on compliance upon their adoption.

8. CARDIAC RULES

As previously reported, the Department has received the recommendations of the Cardiovascular Health Advisory Panel regarding cardiac catheterization procedures. The Department is proposing as part of its Certificate of Need reform initiative, significant changes to the regulation of low risk cardiac catheterization services that will give us an important insight into the role of market forces in the health care industry.

9. PEDIATRIC RULES

The Department convened a Pediatric Clinical Advisory Committee to provide input in the development of pediatric care in New Jersey. The final report of the Committee has been distributed for public comment. The recommendations of the group are to be implemented through the development of planning rules.

10. WORKER AND COMMUNITY RIGHT-TO-KNOW

The Department of Health and Environmental Protection are developing a framework for legislative amendments to streamline the New Jersey Worker and Community Right-to-Know Act (N.J.S.A. 34:5a-1 et seq). Under these amendments, the Department of Health will enforce the provisions of the Worker and Community Right-to-Know Act in the public sector, and the Department of Environmental Protection will enforce the provisions of the Act that are specific to the private sector. These changes will make the program more efficient and eliminate the duplicative inspections and enforcement activities.

11. PUBLIC EMPLOYERS OCCUPATIONAL SAFETY AND HEALTH

The Department of Health is working with the Departments of Labor and Community Affairs and the Legislature to evaluate and recommend amendments to the Public Employees Occupational Safety and Health (PEOSH) Act (P.L. 1983, c. 516). These efforts have been initiated to bring the PEOSH Act into compliance with the federal Occupational Safety and Health Act (OSHA) requirements to obtain approval from OSHA to make our PEOSH Program eligible to be an OSHA-approved State Plan.

12. PROFICIENCY TESTING

The Department has developed new survey standards which recognize the College of American Pathologists (CAP) Proficiency Testing in licensed clinical laboratories. These standards have been approved for initial publication and are expected to be adopted by the Summer of 1995. Through these revised rules, the Department expects to eliminate duplicative survey programs for clinical laboratories.

Department of Human Services (DHS):

Regulatory Reform Priorities

RULEMAKING BACKGROUND

The Department of Human Services serves New Jersey's most vulnerable citizens -- abused children, troubled youth and families, people with low-income, elderly men and women, persons who are mentally ill, developmentally disabled, blind, visually impaired and deaf or hard of hearing. The Department, in concert with New Jersey's human service non-profit community, provides for the efficient and coordinated delivery of social services; protects those who lack food, clothing, shelter and medical care; works to keep families together; strives to serve people in the communities where they reside; and provides services in the least-restrictive and most appropriate setting.

In carrying out its important work, the Department develops and promulgates necessary and appropriate rules and regulations. Additionally, the Department works on an ongoing basis to streamline and make more efficient its existing regulations. As a result, the Department has fostered a very good working relationship with the specific public which is impacted by its regulations.

All Department of Human Services rules and regulations are promulgated in consultation with the Office of the Attorney General and the Office of Administrative Law. The Department, of course, also works closely with the other Executive Branch Departments, as necessary and appropriate.

Department of Human Services regulatory activity may be necessary as a result of Federal and/or State legislation, court decisions, Executive Order or a change in agency policy. It should be noted that recent court decisions in New Jersey have necessitated an expansion of the regulatory responsibilities of Executive Branch agencies. As a result of Metromedia, Inc., v. Director, Division of Taxation, 97 N.J. 313 (1984) and the Woodland Private Study Group v. State of New Jersey, Department of Environmental Protection, 109 N.J. 62 (1987), it is required that extensive material must now be promulgated as regulations which had previously been located in Department/Division manuals, circulated letters, directives and guidelines.

All Department rulemaking is prepared and processed in compliance with the New Jersey Administrative Procedures Act (N.J.S.A. 52:14B-1 et. seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30) and Rulemaking Manual. These requirements, which promote input and comment, include: 30 days' notice of intended action; the holding of public hearings if requested by the Legislature or another State agency; summary statements and socio-economic impact statements; regulatory flexibility statements; public comment summaries; procedures for pre-proposals; and petitions for rulemaking.

The Department promulgates all of its rules and regulations in accord with Executive Order No. 66 which provides that all rules adopted after May 1978 shall include an expiration date which is no later than 5 years from the effective date of the rule. To maintain the effectiveness of a rule, the rule (unless exempt) must be properly proposed, adopted and filed with the Office of Administrative Law prior to its expiration date.

RULE MAKING INITIATIVES AND PRIORITIES

The Department has adopted a specific regulation, N.J.A.C. 10:1A, which "gives public notice of its ongoing regulatory review and invites public comments regarding all Department rules and regulations. Public comments are specifically sought regarding existing Department rules and regulations which may be perceived as being not necessary, adequate, reasonable, efficient, understandable or responsive to the purposes for which they were promulgated.". The rule also outlines procedures for interested parties to follow in submitting comments on Department rules and for interested parties to submit petitions for rulemaking.

The Department, of course, also provides public notice and solicits public comments prior to the adoption, amendment or repeal of any rule in accordance with the N.J. Administrative procedures Act (N.J.S.A. 52:14B-4(a)(1)). This is done by both (1) the official notice published in the New Jersey Register which is filed with the President of the Senate and the Speaker of the General Assembly by the Office of Administrative Law, and (2) the additional notice is utilized to inform those persons most likely to be affected or interested in the intended action by means such as publication of the notice in newspapers of general circulation or in trade, industry, governmental or professional publications, distribution of press releases to the news media and posting of notices in appropriate locations.

The Department generally shares copies of rule pre-proposals with the affected community and professional groups in advance of submitting official rule proposals to the Office of Administrative Law for publication in the New Jersey Register. This sharing with the community is exemplified by the Division of Youth and Family Services and the Division of Medical Assistance and Health Services, to wit:

- The Division of Youth and Family Services has established an advisory group consisting of over 60 representatives of public and private groups to participate in the open process of both (a) developing new Division Regulations as needed and (b) reviewing and incorporating existing Division policy contained in the Division's Field Operations Casework Policy and Procedures Manuals into the New Jersey Administrative Code as regulations. The latter project, known as the "Operations Policy to Rules" project (OPTR Project) was initiated by the Division in 1989 to subject those policies which have widespread coverage, continuing effect or a substantial impact on the rights or legitimate interests of the

regulated public to the rulemaking process required by the New Jersey Administrative Act, N.J.S.A. 52:14B-1 et. seq. and the recent case law. The Division's community-based process draws from many elements of the affected public, from private nonprofit representative groups and from government agencies and has resulted in an ongoing, thorough and full-scale study, reevaluation and revision of existing Division policies, procedures and practices.

- The Division of Medical Assistance and Health Services has established a State Medical Care Advisory Committee as required by Federal law and the Division acts to ensure a meaningful dialogue and to provide as much advance notice as reasonably possible by utilizing provider and non-provider distribution lists to distribute newsletters, alerts and other mailings regarding rulemaking activity.

The Department of Human Services is generally pleased with the present rulemaking setting in which the Department works closely with the public we serve, the human services non-profit community and all relevant government agencies including the Office of the Attorney General, the Office of Administrative Law, and other Executive Branch Departments, as necessary and appropriate.

The Department provides the public with the necessary and appropriate access to the rulemaking process by means of the Department's implementation of a community-based process (as exemplified by the Division of Youth and Family Services and the Division of Medical Assistance and Health Services above). This process draws from many elements of the affected public, from private nonprofit representative groups and from government agencies and results in an ongoing, thorough and full-scale study, reevaluation and revision of department policies, procedures and practices. This community based process is continually being developed and fostered within the Department by all of our operating divisions.

As a result of working closely with the specific public which is impacted by our regulations and due to our own internal review process, the Department has eliminated various regulations which are no longer necessary or appropriate. The Department has undertaken a continuing effort, consistent with the requirement of Executive Order No. 66, to conduct an ongoing reflective review of our regulations to eliminate all rules which are unnecessary, redundant, confusing, unreasonable or otherwise excessive.

Department of Insurance (DOI):

Regulatory Reform Priorities

1) Repeal unnecessary or obsolete administrative rules

(a) N.J.A.C. 11:3-31, Financial Experience Data Reports.

Repeal of this obsolete requirement to file comprehensive financial data was proposed January 3, 1995. An adoption notice was published in the March 20, 1995 edition of the New Jersey Register.

(b) N.J.A.C. 11:3-16.12

This proposal would repeal the rules creating special rate filings to recoup auto insurance payments to the MTF, as well as make other technical amendments to N.J.A.C. 11:3-16. The repeal proposal will be included among the changes reflected in the readoption of N.J.A.C. 11:3 to be proposed later this year.

(c) N.J.A.C. 11:1-2.5

Repeal of this rule will be included among the changes reflected in the readoption of N.J.A.C. 11:2, to be proposed later this year.

2) Simplify other regulatory requirements

(a) N.J.A.C. 11:3-16.6 et. seq., - Automobile Prior Approval Rate Filings

The Department's property/casualty actuaries are revising the requirements for auto insurance rate filings and standard rate-making methodology. When their work is completed, the resulting changes will be proposed as amendments to our existing rules.

(b) N.J.A.C. 11:3-8.7 and Appendix

Department technical staff is reviewing this rule, which provides for a summary report of auto insurance non-renewal activity. When the revisions are completed regarding the technical requirements, the rule amendments will be drafted and formally proposed.

(c) N.J.A.C. 11:3-18

These rules set forth the administrative processes for review of auto insurance rate filings. These will be included among the changes reflected in the readoption of N.J.A.C. 11:3, to be proposed later this year.

3) Promulgating rules to codify existing standards and practices.

(a) Admission Requirements for Life/Health Insurers

These rules were proposed November 21, 1994, and were adopted effective January 13, 1995, by publication in the New Jersey Register.

(b) Life/Health Policy Form Standards

This project involves the drafting, proposal and adoption of 14 separate administrative rules. Two have been formally proposed to date; the rest are in various stages of preparation for formal proposal. All will be proposed by October, 1995.

4) Expand efforts for public participation

(a) Health Insurance Fraud Prevention and Detection Plans

These rules were proposed in December and a significant number of comments were received. The Department is scheduling a meeting with some commentors to provide an opportunity to obtain additional industry input before adoption.

(b) Proposed Amendments to N.J.A.C. 11:15-2 (Municipal Joint Insurance Funds)

These rules were proposed in July, 1994, and resulted in substantial public comment. The Department has reviewed the many comments submitted, and is scheduling a meeting with interested parties to attempt to resolve some of the remaining issues. We believe that a consensus will result from discussions on most of the issues, which will be reflected in changes to the rule upon adoption and reproposal as necessary concerning other provisions.

Department of Labor (DOL):

Regulatory Reform Priorities: Proposed Rules

N.J.A.C. 12:19, Definitions for Division of Employment Security and Special Employment Relationships -- These rules set forth the definitions which are used to implement the Unemployment Compensation and Temporary Disability Laws. The rules also provide examples which illustrate the definitions and, in some instances, exceptions to the definitions. The rules are scheduled to expire on July 2, 1995. The readoption with amendments was published in the N.J. Register on April 17, 1995. The amendments reflect various changes in the N.J. Unemployment Compensation, Temporary Disability, Health Care Subsidy and Workforce Development Laws enacted since the last readoption. Amendments to the rules will also consist of technical and gender-neutral modifications. A public hearing on the proposal was held on May 10, 1995. The anticipated date for readoption is June 19, 1995.

N.J.A.C. 12:65-1.3, Wage Collection -- This rule is being amended to eliminate the provision which allows an employer or employee to appeal a wage collection determination rendered by the Wage and Hour Division to the Office of Administrative Law. The amendment is necessary to bring the regulation in conformance with the statutory authorization found at N.J.S.A. 34:11-58 as amended by P.L. 1991, c. 105. This statute provides for direct appeal of wage collection determinations to the Superior Court, Law Division, pursuant to N.J.S.A. 32:11-63 and Rule 4:74-8 of the New Jersey Rules of Court. The proposed amendment was published in the N.J. Register on April 17, 1995. A public hearing was held on May 12, 1995. The anticipated date for adoption is June 19, 1995.

N.J.A.C. 12:35, Workfare -- These rules govern the General Assistance Employability Program or Workfare and set forth the appropriateness of worksite assignments. They apply to each person eligible to receive public assistance from a municipality. The rules are scheduled to expire on July 16, 1995. The readoption with amendments was published in the N.J. Register on May 1, 1995. A public hearing on the proposal was held on May 24, 1995. The anticipated date for readoption is July 3, 1995.

N.J.A.C. 12:15, Scope -- These rules set forth the purpose and scope of the rules and regulations which implement the Unemployment Compensation and Temporary Disability Benefits Laws. They also establish the Maximum Weekly Benefit Rates, Taxable Wage Base, Contribution Rate of Governmental Entities and Instrumentalities, Base Week and Alternate Earnings Test. The rules are scheduled to expire on July 30, 1995. The proposed readoption with amendments was published in the N.J. Register on May 15, 1995. A public hearing on the proposal was held on June 5, 1995. The anticipated date for readoption is July 17, 1995.

N.J.A.C. 12:17-13, Temporary Help Service Firms -- These new rules would provide guidelines for unemployment insurance eligibility for claimants who work for temporary help service firms. They are being promulgated in response to the industry's concern that temporary workers often do not notify the firms that they are available for new assignments and seek unemployment benefits when work is available. The proposed

new rules were published in the N.J. Register on May 15, 1995. A public hearing will be held on the proposal on June 14, 1995. The anticipated date for adoption is August 7, 1995.

N.J.A.C. 12:196, Safe Dispensing of Retail Gasoline -- These rules provide reasonable standards for the prohibition of the self service of gasoline and other inflammable liquids at retail gasoline stations, the training and certification of attendants, the installation of safety signs and equipment and the establishment of procedures which enhance safety at retail gasoline stations. They apply to the operation of retail gasoline stations and to the training and certification of attendants at these stations. The rules are scheduled to expire on August 6, 1995. The readoption without amendments was published in the N.J. Register on May 15, 1995. A public hearing on the proposal will be held on June 9, 1995. The anticipated date for readoption is July 17, 1995.

N.J.A.C. 12:200, Liquefied Petroleum Gas -- These rules provide minimum standards for the storage and use of liquefied petroleum gases. They apply to the design, construction, location, installation and operation of liquefied petroleum gas installations and operation of liquefied petroleum gas installations for health and safety. They also apply to all liquefied petroleum gas systems at places of employment for the protection of the health and safety of the public at large, except the transportation of liquefied petroleum gases over the highways in intrastate or interstate commerce, the installation of liquefied petroleum gas facilities at one or two family residences, liquefied petroleum gas vapor piping inside buildings and employees subject to the federal Occupational Safety and Health Act. The rules are scheduled to expire on August 3, 1995. The readoption with amendments was published in the N.J. Register on May 15, 1995. A public hearing on the proposal will be held on June 12, 1995. The anticipated date for readoption is July 17, 1995.

Rules Subject to the Sunset Provisions of Executive Order No. 66 (1978)

N.J.A.C. 12:56, Wage and Hours -- These rules implement the N.J. State Wage and Hour Act, N.J.S.A. 34:11-56a et. seq., and provide sanctions for non-compliance and protect established wage rates. They apply to wages and hours subject to the Act and wages paid to an employee for services rendered. The rules are scheduled to expire on September 26, 1995. They are currently being reviewed to determine if they are reasonable and proper for the purposes for which they were originally promulgated or if amendments are necessary. It is anticipated that amendments will be made to the subsections governing overtime, gratuities and uniforms. The rules are scheduled to be proposed for readoption with any necessary amendments on July 17, 1995. A public hearing is planned for August 7, 1995. The anticipated date for readoption is September 18, 1995.

N.J.A.C. 12:57, Wage Orders for Minors -- These rules define and clarify certain sections of the N.J. State Wage and Hour Act, N.J.S.A. 34:11-56a et. seq. They apply to the wage rates for the employment of minors employed in mercantile occupations, beauty culture operations, and laundry, cleaning and dyeing occupations. The rules are scheduled to expire on September 26, 1995. They are currently being reviewed to

determine if they are reasonable and proper for the purposes for which they were originally promulgated or if amendments are necessary. The rules are scheduled to be proposed for re-adoption on July 17, 1995. A public hearing is planned for August 11, 1995. The anticipated date for re-adoption is September 18, 1995.

N.J.A.C. 12:58, Child Labor -- These rules define and clarify certain sections of the child labor statutes. They apply to the employment of minors subject to the child labor statutes. The rules are scheduled to expire on September 26, 1995. They are currently being reviewed to determine if they are reasonable and proper for the purposes for which they were originally promulgated or if amendments are necessary. It is anticipated that the School to Work Program will necessitate an amendment to extend the hours of work for children. Other amendments may include limitations on children working around blood (i.e., emergency vehicle attendants, hospital volunteers) and revisions to the definition of construction. The rules are scheduled to be proposed for re-adoption on July 17, 1995. A public hearing is planned for August 11, 1995. The anticipated date for re-adoption is September 18, 1995.

Rules Under Consideration

N.J.A.C. 12:15-1.7, Base Years -- These rules would be amended to address procedural problems related to the successive unemployment insurance benefits claims with overlapping base years. This amendment is currently being reviewed at the program area level. There is no schedule for adoption.

N.J.A.C. 12:16-23, Limited Liability Companies -- These new rules would be amended to provide procedures for ascertaining the tax treatment of Limited Liability Companies. This amendment is currently being drafted by the Division of Unemployment Insurance/Disability Insurance Financing Rules Committee. There is no schedule for adoption.

N.J.A.C. 12:16-24, Employee Leasing Companies -- These new rules would define the criteria which must be met for a leasing company to be considered a bona fide employee leasing company and set forth the requirements for the reporting of leased workers and to enable such companies to join their accounts for unemployment, disability, workforce and health care contributions. The Division of Unemployment Insurance/Disability Insurance Financing Rules Committee is currently working with representatives of the industry to finalize the draft proposal of this rule. There is no schedule for adoption.

N.J.A.C. 12:23-3.7, Workforce Development Partnership Program -- Based on advice received from the Attorney General's Office, minor technical amendments will be made to these rules to provide consistency with current procedures for requesting reconsideration of grant denials.

N.J.A.C. 12:45-1.18, Appointment of Vocational Rehabilitation Services Client Representative -- This new rule would establish criteria for appointment and conduct of an advocate or representative of a vocational rehabilitation client. The rule is currently being drafted by the Regulatory Officer. There is no schedule for adoption.

N.J.A.C. 12:60-7.1, Criteria for Determining Apprentice to Journeyman Ratio:

Definitions -- This rule is being amended to clarify the appropriate agency an employer may contact for evidence concerning apprenticeship programs in New Jersey. The rule is currently being reviewed at the program area level. There is no schedule for adoption.

N.J.A.C. 12:60-8.4, Debarment From Contracting -- This rule is being amended to codify new procedures for notification of debarment and debarment hearings for violations of the Prevailing Wage Act, N.J.S.A. 34:11-56.37 and 38. The amendment is currently being reviewed at the program area level. There is no schedule for adoption.

N.J.A.C. 12:60-10, Fringe Benefits -- These new rules allow for bona fide fringe benefits to be included as part of the prevailing wage and clarify the method used for determining the hourly rate of fringe benefits. The draft of these rules is currently being reviewed by the Regulatory Officer. There is no schedule for adoption.

N.J.A.C. 12:100-4.2, General Industry Safety and Health Standards -- This rule would be amended to adopt the federal Occupational Health and Safety Administration's standards on Personal Protection Equipment for General Industry and Electric Power Generation, Transmission and Distribution; and Electrical Protective Equipment. The amendment is necessary to provide State standards that are at least as effective as Federal standards. Such standards are necessary to ensure approval of the State's Public Employee Occupational Safety and Health (PEOSH) Plan. The draft of this rule will be submitted to the PEOSH Advisory Board for approval at its June 1995 meeting. There is no definite schedule for adoption.

N.J.A.C. 12:210-1.9, Apparel Industry Registration -- These rules would be amended to provide procedures for the confiscation of apparel or equipment used in the assembly of apparel from manufacturers or contractors violating any provision of the Apparel Registration Act. This amendment is being drafted by the Regulatory Officer.

Department of Law and Public Safety (L&PS):

Division of Alcoholic Beverage Control (ABC)

On June 5, 1995 the Division announced the proposal of rules streamlining the regulation of the alcoholic beverage industry.

This proposal will ease the regulatory burden on the industry while continuing to ensure the lawful distribution of alcoholic beverages in the state. Many of the current regulations have been in place since prohibition and serve no purpose today. The proposed rules will allow practice that have been prohibited in New Jersey but are permitted in other states.

The proposed regulations:

- Provide a clear and concise regulatory scheme for brew pubs which were recently authorized by legislation. Brew pubs offer consumers malt alcoholic beverages that are brewed on the premises.
- Permit wineries the ability to have five rather than two retail sales outlets and allows as few as two wineries to join together to establish jointly controlled sales outlets.
- Allow retailers to now offer consumers price discounts when purchasing combinations of alcoholic beverages in the same transaction.

In addition, the new rules offer more options to consumers of alcohol. For example, restaurants and similar licenses will now be permitted to conduct alcoholic beverage tastings and tasting dinners for instructional or educational purposes. These events have been permitted in neighboring states for some time.

The proposed regulations will allow for the sale and distribution of alcoholic beverage products, packaged in a bottle or can marked for deposit in another state, to consumers in New Jersey. This will offer New Jersey consumers a greater variety of brands from which to choose.

The regulations will continue to allow the issuance of special permits to individuals for the home manufacture of wine and beer for personal use and consumption. New rules will allow a holder of the special permit to manufacture wine and beer for personal use or consumption at specially licensed facilities. This will allow persons to manufacture these beverages without having to purchase the necessary manufacturing equipment.

Division of Consumer Affairs

The Division has achieved the following regulatory reforms:

- (1) Deregulated advertising regulations for temporary help;
- (2) Deregulated advertising regulations for auto leasing advertising;
- (3) Deregulated raffle permits to allow charities to retain name of their proceedings; and
- (4) Began consolidation of Cemetery and Mortuary Science Boards.

In the coming year the Division will:

- (1) Complete consolidation of Cemetery and Mortuary Science Boards;
- (2) Consolidate related professional boards into more efficient larger boards;
- (3) Eliminate unnecessary boards i.e., Professional Planners;
- (4) Draft legislation to streamline licensing of counselling professions;
- (5) Pursue private sector technologies to enhance speed of licensing while reducing costs; and
- (6) Consolidate consumer protection programs spread throughout government into Consumer Affairs as per statutory requirements.

Division of Gaming Enforcement (DGE)

In cooperation with the Casino Control Commission in the Department of Treasury, the Division of Gaming Enforcement participated in the development and passage of legislation which made extensive modifications to the regulatory burden upon the casino industry while maintaining the essential protection and enhancement of the integrity of that important industry.

These improvements include:

- Elimination of business ability and experiential requirements for casino employees.
- Elimination of the registration requirement for casino hotel employees.
- Elimination of duplication of duties between the Division of Gaming Enforcement and the Casino Control Commission.

- Removal of the Division of Gaming Enforcement and Casino Control Commission from matters which already fall under the jurisdiction of some other state or local agency.
- Minimization of the involvement of the regulatory agencies in purely business decisions of the casinos.
- Requirement that the Division of Gaming Enforcement be "principally located" in Atlantic City to ensure that the regulators are aware on a daily basis of the realities available to carry industry, that they are immediately available to carry out their regulatory function and that they are readily accessible to those they regulate.
- Liberalization of temporary rule-making procedures.
- Elimination of the prohibition against one person holding more than three casino licenses in favor of a rule barring only "undue economic concentration".
- Extension of the permissible casino license renewal periods from two to four years.
- Provision for the temporary licensure of all casino employees, not just those in positions not directly related to gaming activity.

These and other measures are also discussed in further detail in the Casino Control Commission section of this report.

Department of Military and Veterans' Affairs (M&VA):

1. **STATE TORT CLAIMS:**

a. State employees need to be covered under the State Tort Claims while driving "federal" vehicles assigned to the New Jersey National Guard in performance of their duties or NJ Department of Military and Veterans' Affairs requirements.

b. Federal employees and National Guardspersons need to be covered under the State Tort Claims while driving "state" vehicles in performance of their duties or NJ Department of Military and Veterans' Affairs requirements.

c. Volunteers (non-state, non-federal employees or non-National Guardspersons) need to be covered under the State Tort Claims while driving state or federal vehicles in performance of NJ Department of Military and Veterans' Affairs requirements at the Veterans' Memorial Homes, or in support of natural disaster, emergencies or civil disorders.

2. **STATE ACTIVE DUTY** (Title 38A:2-4) should be broadened to include the veteran mission now assigned to the Department, e.g., participation in Stand Down, Veterans Dinners, Armory Open House, Inaugurals, etc.

3. **STATE PURCHASE RULES** should provide for the increase in dollar limits for non-contract purchases in order to provide quality products at cheaper volume buy prices.

4. Title 38A - State Active Duty needed to be broadened to provide for support other than emergencies/natural disasters and civil disturbances.

5. Raise delegated purchase authority to:

a. No price competition limit to \$300.

b. Telephone quotations to \$500.

c. Sealed written quotation to \$15,000.

By increasing these amounts, responsible persons charged with securing items could act more effectively and efficiently. Given today's prices and market value, these amounts are not unreasonable. All the safeguards would remain and the integrity of the financial system would still exist.

6. One state agency should not pay the fees of another state agency. What the state is presently doing is taking funds already obligated for certain projects and paying fees that were not programmed for. Basically, the state takes money out of one pocket and puts it in another.

Department of Personnel

The Department of Personnel has recently implemented a number of measures to increase public participation in the rulemaking process:

- First, we require that a public hearing be held on every rule proposal (See N.J.A.C. 4A:1-3.3(a)3). We usually hold these hearings after the working day, so that State and local employees can attend without taking time off from work. Sometimes, when there is strong interest in a rule proposal, we hold more than one hearing in different parts of the State.
- Second, we provide opportunities prior to formal proposal for interested members of the public to comment on regulatory issues, through the mechanism of providing drafts of rule proposals at meetings of our advisory boards prior to presentation to the Merit System Board.
- Third, in addition to providing notice of formal proposals in the New Jersey Register, we send copies of the proposals to members of our advisory boards.

This effort to increase public participation was demonstrated by our recent readoption of the rules on layoffs. Well before the scheduled expiration of the rules contained in Chapter 8 of Title 4A, N.J.A.C., we began an intense review of the current rules with the involvement of advisory boards representing our key constituencies. The proposed readoption of the layoff rules, with several important amendments, was published on September 6, 1994. Public hearings were held in three regions of the State on September 22, 29 and October 4th. Seventy-one individuals testified at these hearings, and an additional 136 persons submitted written comments. After the close of the comment period, the Merit System Board readopted the current rules without the controversial amendments, but with a five-month sunset provision, noting that additional time was needed to review these issues with interested parties and formulate revised amendments. Therefore, a series of meetings took place with various constituencies, including State employee unions, to review these rules. A revised proposal was published on February 21, 1995. Ten persons testified at a public hearing on March 14, 1995, while 83 persons presented written comments. After making some additional changes in response to these comments, new rules on layoffs were approved by the Merit System Board on April 18, 1995.

Other recent initiatives in the area of rulemaking include:

- We have adopted rules to implement a voluntary furlough program in State service. This program, which operated as a pilot program the past two years, now becomes permanent and enables employees to take up to 30 working days off without pay, but without loss of health benefits or seniority. The rule also allows county and municipal governments to establish similar programs.

- We have adopted a series of rule amendments to implement the recommendations of a task force on sexual harassment. The first amendment makes discrimination and, in particular, sexual harassment, a specific cause for disciplinary action. The second amendment clarifies the definition of sexual harassment in conformance with the recent landmark New Jersey Supreme Court decision, Lehmann v. Toys R Us. Finally, the third amendment changes the deadline for filing a discrimination complaint, including sexual harassment complaint, from 20 to 30 days.

- We have also adopted a new rule concerning the Federal Family and Medical Leave Act. Although the United States Department of Labor is the regulatory and enforcement agency for this new law, our rule provides information and guidance to State and local agencies, particularly in the complex area of interaction with our State's Family Leave Act and our law and rules on leaves of absence. We do this through an innovative format: providing ten examples of situations where employees may be affected by these laws.

Department of State (DOS):

The largest operating entity of the Department of State is the Division of Commercial Recording (DCR), which is responsible for handling the more than 400,000 active corporations and limited partnerships in the state. In total, they handle more 1.2 million transactions every year.

DCR has instituted both fax filing of incorporation forms and the ability to download onto a personal or office-based computer necessary forms. These changes were instituted in March of this year. We are working toward the electronic filing of such paperwork as well.

Previously, the Divisions of Taxation and Commercial Recording treated their respective functions as distinct and separate, even though a tax registration certificate and incorporation certificate are two critical ingredients to opening a business. The two agencies, although headquartered in different cabinet departments, now share inquiries and coordinate efforts. If one agency is used as the first point of entry, it directs the inquiring business to the other agency as well. The Department of State has scheduled a series of ongoing seminars to educate the public to these new procedures.

The Division of Elections is at work implementing the Motor Voter program, increasing the participation of individuals in the electoral process, even though New Jersey has been a leader in accessibility for voter registration for many years. The Division is even exploring such ideas as making New Jersey's voter registration form available through the local phone directory.

The Division of Archives and Record Management (DARM) has in the past year developed plans for relocating the Archives to expanded and improved quarters in the State Capital Campus to make New Jersey's heritage more accessible than ever to the public. DARM is continually improving its procedures for managing and protecting the integrity of state, county and local government records in a comprehensive and efficient fashion.

The Office of the Business Ombudsman is the newest part of the Department of State. In addition to their responsibility for compiling this report, the OBO is charged with directing a comprehensive effort to assist businesses in dealing more efficiently with state regulations and toward this end has assisted more than 800 businesses.

The OBO is also coordinating a task force that will begin the task of synergizing computerization efforts as they relate to the state's permitting process. In many cases, multiple permits are necessary for major projects to move forward. It is crucial that each agency involved in the permitting of a project be able to share the necessary information so that the project may move forward as expeditiously as possible.

OBO is also coordinating the concurrent permitting of projects that involve cooperation between the state, county and municipal levels. This effort will begin as a pilot project within four municipalities identified by Governor Whitman's Urban Coordinating Council.

Department of Transportation (DOT):

- 1) The DOT is committed to using a partnership approach in respect to its regulatory activities. Parties impacted by DOT regulations are being asked to sit on advisory committees to assist the DOT in the development and improvement of DOT programs involving regulations. It is critical to involve regulated parties in an open dialogue early in the process to help identify and resolve issues in a nonconfrontational and expeditious manner.
- 2) The DOT is required to use the standard rulemaking process when adopting or changing traffic control rules (speed limits, passing/turning restrictions, etc.) on the State Highway System. Most traffic control rule changes are requested by local officials. Under the standard rule process, it takes MORE than 6 months to change a traffic rule. The DOT is working on the development of an alternative procedure for adopting traffic control rules that would save up to 5 months. This alternative procedure would require the enactment of legislation.
- 3) The Department has initiated a comprehensive effort to review, eliminate where possible, and to simplify all of its rules and regulations. This review will be implemented for each rule no later than on the date which each rule is scheduled for Executive Order No. 66 readoption. A major commitment will be made to simplify rule language and make them more "user friendly".
- 4) The Department is proactively seeking implementation alternatives to programs which would ordinarily be implemented via a "regulatory" framework. Most recently, the Department has proposed the outright repeal of DOT regulations regarding the placement of "LOGO" business directional signs on highways. The Department is now "privatizing" implementation of this program. This approach will eliminate the need for many regulations and will allow direct and highly efficient implementation of the program via contractual standards under private vendor management.
- 5) The Department is simplifying and making more flexible Employer Trip Reduction Program regulations (N.J.A.C. 16:50), while at the same time maintaining conformance with Federal requirements. The changes emphasize cooperative measures and allow employers greater flexibility in achieving program goals.
- 6) The Department is implementing "one stop shopping" for Disadvantaged Business Enterprise (DBE) businesses who wish to qualify for DOT and NJ Transit contracts. The effort will be expanded to also include various independent authorities. This eliminates the necessity for a firm to fill out largely similar paperwork at different public agencies.

Department of Treasury:

The Office of State Planning is undertaking the following initiatives to reduce regulatory burdens:

The Office has three rule-based administrative procedures which it is currently streamlining.

- a. **Voluntary Consistency Review.**
Communities may choose to submit their master plans for consistency review by the Office of State Planning under rules contained within N.J.A.C. 17:32 Subchapter 7. While these rules are not particularly onerous to comply with, the Office is encouraging municipalities to submit their master plans informally, which would eliminate the need to publish legal notices, eliminate time deadlines and provide greater flexibility to all participants.
- b. **The Centers Designation Process.**
This process, N.J.A.C. 17:32-8, is at the heart of the Office's work with local communities. The Office has shifted its focus somewhat to encourage center designation for municipalities after they have completed their master plan updates or new master plans. This will lead to a much shorter and simpler center designation petition process.
- c. **Cross-Acceptance.**
The State Plan was developed through a cross acceptance process, a detailed and comprehensive negotiation with counties and municipalities concerning planning policies as outlined in the State Planning Act, N.J.A.C. 52:18A-196 et seq. and the State Planning Rules N.J.A.C. 17:32. The State Planning commission is required to go through cross acceptance process each three years to revise the State Plan, with the next revision commencing in 1995. Currently the Office is preparing revisions to the cross acceptance rules to simplify and shorten the process. The first process took some 42 months to complete. We hope to reduce the 42 month period to as little as 22 to 24 months this time.

In addition to its internal rules, the State Plan strongly recommends expedited project permitting in areas where growth is encouraged, primarily in centers. To that end, the State Plan is undertaking two major efforts to pursue this policy with other State departments.

- a. The Office is working with the Department of Environmental Protection to recommend changes in the application procedures and decision making process for coastal permits in the coastal area. We hope to have a specific proposal by the end of the year which is expected to substantially reduce the amount of the time, expense and detail required in CAFRA applications in designated centers in the coastal area.

- b. The Office has received a \$290,000 grant through the Department of Transportation to examine the land use decision making process with regard to transportation and clean air at the local, county and state level. Recommendations will be developed to strengthen the decision making process to enhance its predictability, its reliance on sound methodology and data and to reduce wherever possible overlapping or unneeded regulatory mechanisms. This work will commence late this fall and conclude in the fall of 1995.

DIVISION OF TAXATION

With respect to the subject of regulatory reform, before the end of calendar year 1994, Treasury intends to review all regulations promulgated by the Division of Taxation with a view towards consolidation and elimination wherever possible. However, it should also be noted that under the heading of "taxes" the lack of regulations to clarify gray areas of the law can be just as damaging for taxpayers and for the state as no regulation at all. Therefore, the need for additional regulations in specific areas, if warranted, will also be explored during this examination.

The division of Taxation will also continue its normal procedures concerning the promulgation of new regulations to respond to new legislation, to replace expired or outdated regulations, and to respond to concerns brought to light as a result of normal business activities.

DIVISION OF PENSIONS AND BENEFITS

The division of Pensions and Benefits administers the state pension systems, health benefits programs and various other employee benefit programs that affect public employers and employees in accordance with the following:

- Federal Laws
- New jersey State Laws

Based on federal and state laws, the Division promulgates rules which are published in the New Jersey Administrative Code. In order to further clarify the rules, procedures are published in the Pensions and Benefits Administration Manual.

As laws change, the rules and procedures are reviewed and when necessary, changes are made. For example: Workers' Compensation/Retirement benefit offset was recently completed.

Currently in progress are changes that will be recommended in the Alternate Benefit Program (Defined Contribution Plan) as a result of the elimination of the Department of Higher Education.

On an on-going basis, the Division reviews its procedures in order to adjust to changes in laws and code regulations.

Pensions is currently reviewing the "Report of Contributions" in order to assist the many local employers that are members of the state pension plans.

STATE LOTTERY

The State Lottery has reviewed the rules and regulations governing the operation of the NJ Lottery.

Attached, is a copy of the State Lottery Law, N.J.S.A. 5:9-1 et seq. The Act contains essentially all of the articles that regulate the Lottery operation as well as the Lottery's retail agents. The specific rules concerning the games, drawings, agent locations, etc. have been set by the Commission over the years.

The rules governing the retail agents and the awarding of prizes appear on pages 7 through 13.

The rules and regulations imposed on the retail agents and the prize winners are intended to effectuate the sale of lottery products according to the State Lottery Law consistent with the public interest which is to raise revenues while providing entertainment to responsible adults.

The Lottery does not feel that these regulations are overly restrictive or in need of reform.

GENERAL SERVICES ADMINISTRATION

DIVISION OF BUILDING AND CONSTRUCTION

These two regulatory changes would benefit the construction contractors and professional service consultants which compete for State design and construction projects.

- Propose revision to contractor classification statute to increase contractor classification expiration from seven months to 15 months.
- Revise contractor classification and consultant pre-qualification regulations to clarify regulations which may have been considered vague or confusing to contractors and consultants. These revised regulations will more clearly state the classification requirements and result in contracting and consulting firms developing a better understanding of these requirements and encourage additional firms to compete for work on State construction projects.

DBC is also planning to propose legislation to allow the Division to award single prime contracts. However, we do not believe this would be interpreted as making GSA more business friendly to many construction subcontractors.

PURCHASE AND PROPERTY

The regulatory and legislative initiatives the Purchase and Property is currently involved in pertain to the following:

- Readoption of the current administrative rules governing the day-to-day operations of the Purchase and Property N.J.A.C. 17:12.
- The new rules for Small, Minority and Women Owned business set aside have been pulled from the New Jersey Register. This will further delay the implementation of these rules.

BUREAU OF RISK MANAGEMENT

Present project is to pull together a proposal for reform of the New Jersey Tort Act (Title 59). The purpose is to lessen public entity exposure to civil law suits. With a reduction of these exposures, taxpayers dollars can be saved at all levels of government.

With the abrogation of sovereign immunity and the subsequent enactment of the Tort Claims Act, governmental entities in the State of New Jersey have been required to absorb a variety of costs associated with the imposition of liability. Increasingly, attorney's have directed more attention to the generation and processing of litigation against public entities and public officials for acts within the scope of their duties. As litigation has increased, the cost of that litigation has increased. The local government insurance crisis has become a matter of intense public interest, as premiums have dramatically increased. Self or non-insured public entities must not only provide resources to establish investigative, adjustment and litigation capabilities, but must maintain sufficient appropriations to meet the costs of settlements and judgements. In addition, with respect to both insured and self or non-insured public entities, resources may be diverted to forestall the imposition of future liability.

CASINO CONTROL COMMISSION

Listed below is a description of the current regulatory review program utilized by the Casino Control Commission (Commission). Based on its efforts over the past four years the Commission is understandably proud of its record in the review and revision of its numerous regulations which, while having a purpose when the Casino Control Act (Act) was first passed, have certainly outlived their usefulness.

In the future, although the Commission will be adhering to its existing regulatory review process, the Commission, in conjunction with the Legislature, the Governor's Office and the casino industry, will attempt to rewrite major portions of the Act, to remove the Commission and the Division of Gaming Enforcement from business decisions that do not impact upon the integrity of casino operations while at the same time maintaining the strict standards of licensing integrity, financial stability, and the requirements that all applicants possess good character, honesty and integrity in order to take part in the New Jersey gaming experience.

REGULATORY REVIEW PROGRAM
OF THE CASINO CONTROL COMMISSION

The regulatory review process at the Casino Control Commission is an on-going responsibility as a result of the extensive regulatory obligations imposed by the Casino Control Act and the inherently dynamic nature of the casino gaming industry. Accordingly, during each of the last two fiscal years, the Commission has adopted approximately 70 regulatory proposals. The vast majority of these proposals were adopted in order to: 1) implement statutory amendments enacted from 1991 through 1993; 2) introduce new games or gaming technology into the Atlantic City casino industry, or 3) revise current regulatory obligations to afford greater flexibility to casino licensees in conducting casino gaming operations.

More specifically, the commission has recently adopted new rules or amendments that:

- Implemented the new casino simulcasting provisions of the Casino Control Act;
- Implemented the statutory authorization of 24 hours gaming operations;
- Implemented a new statutory limitation on the issuance of cash complimentary while still permitting casino licensees to maintain existing complimentary programs;
- Introduced the new games of poker, red dog, sic bo, pai gow and pai gow poker;
- Authorized numerous optional variations in the manner in which the game of blackjack may be played;
- Permitted the use of automated card readers in the game of blackjack;
- Permitted the use of automated coupon redemption machines as part of complimentary distribution programs;
- Authorized the use of automated shuffling devices in the game of pai gow poker;
- Authorized casino licensees to issue coupons that may be used in table game wagering;
- Revised the formula that governs the permissible density of slot machines in a casino so as to permit additional slot machines to be utilized.
- Revised the rules governing the retention and destruction of books and records by casino licensees to reduce the retention periods for certain documents;
- Modified the requirements that govern the counting of coins and slot tokens so as to permit more flexibility and efficiently by casino licensees in completing the count; and

- Authorized a new procedure that permits casino licensees to offer patrons the opportunity to repurchase, prior to deposit, cash equivalents that have been exchanged for gaming purposes.

In addition to these adoptions, the Commission has, as noted above, adopted approximately 125 other regulatory proposals in the past two fiscal years. These adoptions have ranged in complexity from simple technical corrections to major policy revisions. As an example of the latter category, the commission recently adopted an entirely new chapter of rules revising the manner in which casino licensees are required to comply with the equal employment and business opportunity obligations imposed by the Casino Control Act.

The Commission currently utilizes a regulatory review committee comprised of senior staff and the Chairman of the Commission to determine regulatory reform priorities for the agency. This committee, which meets on a monthly basis, identifies new rules that are needed or existing rules that should be amended or repealed and then establishes a schedule for the processing of these projects. Under the current system, informal input on these issues is sought from the casino industry and the Division of Gaming Enforcement by the individual members of the committee. The Commission is planning to start a new committee in the near future that would include representatives of the industry and the Division on a standing basis. This new committee should enable the Commission to obtain more regular input on the priorities that should be assigned to regulatory reform from those persons who are most affected by the rules of the Commission.

The Commission has several major regulatory reform projects that are either underway or in the planning stage. These projects include:

- The clarification and codification of the procedures governing the submission and processing of applications for licensure by persons employed by casino licensees;
- The introduction of the games of keno and double down stud poker;
- The implementation of cashless slot machines, pursuant to which gaming would be conducted with electronic "credits" purchased at the cashiers cage; and
- The reorganization and revision of the rules that govern the accounting and internal control procedures utilized by casino licensees with the goal being to increase the amount of flexibility afforded individual operators in meeting these requirements.
- It is and has been the policy of the Casino Control Commission to encourage all interested persons, and in particular the casino industry, to suggest new rules or modifications to existing rules that will make the casino gaming industry in New Jersey more efficient and successful. Of course, all regulatory

actions undertaken by the Commission are guided by its fundamental statutory obligation to assure the "credibility and integrity of the regulatory process and of casino operations". N.J.S.A. 5:12-1b(6). The Commission recognizes that, only by achieving the proper balance of these two objectives, will the regulation of casino gaming in New Jersey remain the model for other regulatory jurisdictions throughout the world.



THE STARR REPORT

III. OUTPUT OF PUBLIC
HEARINGS & COMMENT
PROCESS:
RECOMMENDATIONS
FOR REGULATORY REFORM

III. Output of Public Hearings and Comment Process - Recommendations for Regulatory Reform

Following is a compilation of the comments and recommendations presented during the Office of the Business Ombudsman (OBO) Regulatory Reform public hearing and comment process. In a effort to show the relationship between the 11 Regulatory Reform Principles referenced in Part I of this report, and the comments/recommendations, they are grouped here with those principles to which they appear most closely related.

The majority of comments/recommendations focus on the New Jersey Department of Environmental Protection (DEP). Other Department/Agency references include: Agriculture (NJDA), Public Utilities (BPU), Community Affairs (DCA), Education (DOE), Health (DOH), Human Services (DHS), Insurance (DOI), Labor (DOL), Law & Public Safety (L&PS), State (DOS), Transportation (DOT), and Treasury (Treasury). Some comments did not reference any particular agency or department.

1. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "establish a rationale for fee and penalty schedules that reflects the work performed or the demonstrated impact that results to ensure fair, equitable and rational costs to the regulated community."

- DEP should be brought on line in the budgeting process and transfer fines, fees and penalties into the General Treasury. The absence of a reliance on fees by DEP will help to eliminate unnecessary enforcement issues. (re: DEP)
- Caps should be put on the punitive costs of site clean-up allow for a good faith compliance system versus a punishment type of system. (re: DEP)
- NJPDES penalties should be effective only after a 2nd or 3rd violation. (re: DEP)
- Freshwater wetlands letters of interpretation fees should be based on the acreage of wetlands on the property and not the size of the property. (re: DEP)
- Caps should be placed on the amount of permit fees that the Department can charge for certain project applications (e.g., CAFRA residential) where it can be demonstrated that the amount of such fees exceeds the actual amount of staff work performed. (re: DEP)
- Gross receipts and franchises tax must be both energy purveyor neutral and competitive with other states. (re: BPU)
- DCA like DEP must review its reliance on fines and fees and the impact that this has on business. (re: DCA)

- DCA should support establishment of a representative panel for the establishment of on-site inspection agency fees based on on-site inspection agency costs. DCA should not be both the regulator of an industry and its major competitor, as is the case with private On-site Inspection Agencies. This makes the playing field quite unfair to private business. (re: DCA)
- Delete Department of Education review fees charged to local Boards of Education. The State of New Jersey should fund this department and should not depend on fees. Municipal code enforcing agencies generally waive their review fee for their services. (re: DOE)
- Clarify what is considered "cost of hire" for those customers that have commercial auto coverage through the State's Commercial Auto Insurance Program (CAIP). (re: DOI)
- Eliminate the Plan Premium Adjustment Program (PPAP) for workers' compensation policies that are in the Assigned Risk Plan. (re: DOI)
- Eliminate requirement to pay state a management fee for oversight of Private Disability Plan Programs. (re: DOI)
- The Department of Treasury should establish a "credit" system of accounts for fees charged to one state agency by another. (re: Treasury)

2. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "provide to the lowest appropriate managers clearly defined responsibilities and authorities, together with relevant training and guidance, to foster timely decision making."

- DEP should focus its energies on management of the department (e.g., operations, process, communication inside dept.) as well as outside of department. Policies must be communicated regularly from the Commissioner down to the project review staff level. (re: DEP)
- DEP should adopt a philosophy of collaboration and compliance versus command and control. (re: DEP)
- DEP management should take steps to assure that staff reviewers have a solid understanding of the general principles of law, administration and fundamental fairness. (re: DEP)
- Restore the staff position in the DEP Division of Fish, Game and Wildlife responsible for processing endangered species reports. (re: DEP)
- Each agency should establish internal guidelines that hold bureaucrats accountable to business as well.

3. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "establish upfront in the project review process the necessary focus, objectives, information needs and time constraints to provide for better understanding and certainty and to promote a mutually agreed upon, less adversarial, process."

- DEP must seek to establish a more business friendly relationship with the regulated community. One of the most consistent complaints that came up in the hearing process was that the attitude of the regulators was vindictive and hostile versus helpful and solution seeking. Staff should be personable and congenial. The relationship between DEP and the public does not have to be adversarial. (re: DEP)
- All state permits should be coordinated through a single application with the project being reviewed as a whole (one stop shopping). All required permits should flow from the project development approval. Each state agency should have a director of the development application review function to maintain overall control of application processing, timeliness of decisions, communications with applicants, coordination with other jurisdictions and agency costs. The Director should be assisted by application managers who would each have responsibility for the coordination of a caseload of applications through the agency process. (re: DEP)
- The Department should develop a comprehensive plan for studying the watershed management approach and testing it before launching full scale programs which embrace this philosophy. (re: DEP)
- Regulatory agencies should give priority to applications in designated centers in municipalities that are consistent with the State Plan. (re: DEP)

4. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "promote consideration and selection of innovative technology or performance options for compliance, consistent with recognized levels of risk, so that choices can be made from available, effective, cost-efficient alternatives."

- New Jersey should seriously look at the Netherlands model for use and implementation at the state level.
- There should be a cap on how many tests DEP can conduct at a site once there has been a positive testing (e.g., violation) in the first instance. (re: DEP)
- DEP should adopt revised permit writing procedures to allow some margin in meeting permit limits. Give consideration to setting permit limits based on consideration of mass (pounds) or dilution factors. (re: DEP)

- DEP should consider providing for de minimis thresholds that would trigger the need for application in these programs where none now exist. (re: DEP)
- DEP should devise ways to measure successes of compliance vs. simply counting enforcement actions. (re: DEP)
- DEP should utilize private engineers for permit review wherever possible. Implementation of privatization or competitive contracting should be accelerated on a pilot project basis. (re: DEP)
- DEP should encourage companies to conduct voluntary environmental audits by creating a waiver or reduction of civil and administrative penalties for violations discovered during the course of a voluntary environmental audit. (re: DEP)
- DEP should create "safe harbors" for entities that voluntarily identify and correct compliance problems. Where an entity reports its own violation, DEP could only order a remedial action; it could not fine the entity. (re: DEP)
- DEP should give the regulated community an opportunity to become a partner in preventative measures & creative solutions. (re: DEP)
- Revise the Industrial Pollution Prevention manual it is too complex, extensive for compliance with business. (re: DEP)
- DEP must revise its policy requiring use of "state of the art" technology for pollution (e.g., air, etc.) control. DEP should adopt clear standards and not be allowed to change their requirements once a complete application is submitted. (re: DEP)
- DEP should establish a clear and concise criteria for the regulated community, so that businesses do not have to install redundant equipment just to be safe. (re: DEP)
- Incorporate into the Freshwater Wetlands program a de minimis (threshold) level in acres of wetlands disturbance, below which the regulations would not apply. Also, provide for more general permits and broaden exemptions for agricultural (farm ponds, irrigation use) man-made wetlands and other purposes. (re: DEP)
- NJPDES wastewater discharge limits should be a mass loading standard vs. a concentration. (re: DEP)
- Eliminate the need for a permit application or provide for an abbreviated review process in instances where the DEP recognizes that there will be a decrease in emissions, where a similar project has already demonstrated this benefit. (re: DEP)

- Modify New Jersey competitive bidding laws to allow energy savings performance contracting an opportunity to work since the most expensive contract can be the best deal because it represents the most comprehensive solution and highest savings after the contract is paid off; legislation is pending; Assembly Bill 2274, Arnone. (re: BPU)
- DCA should certify private elevator inspections, and thereby, eliminate its own inspection program. (re: DCA)
- DCA should determine the benefits of implementing the environmental subcode official proposal as it might streamline the permit review process. (re: DCA)
- Delete the requirement that the Department of Education review any building change or alteration for the purpose of making the site and school barrier-free and accessible to handicapped persons. (re: DOE)
- A Formula should be devised to allow local Boards of Education the ability to do minor modifications to instructional spaces without State review for Educational purposes. (re: DOE)
- Utilize and strengthen the role of the County Human Services Advisory Councils as a resource to State government and not just to a small segment of the Department of Human Services. (re: DHS)
- Continue privatization of direct services that are presently delivered by State agencies, including Division of Developmental Disabilities adult training centers and clinics. Utilize the competence and resources of the Department of Human Services to provide assistance with planning and to monitor the quality of service. (re: DHS)
- The Department of Labor should undertake a more substantive program to "screen applicants", or contract out to the private sector. (re: DOL)
- The Department of Labor should review its Carnival-Ride Inspection N.J.S.A. 5:3.39. There is an opportunity to privatize. (re: DOL)
- Eliminate needless bureaucracy such as Dept. of Labor's "Free Job" program (screening and placement program which has had poor success rate) and divert money to helping industry to develop successful training programs. (re: L&PS)
- The whole process of regulatory reform needs to be a cooperative endeavor between business, the environmental community, and government. (re: DOS)

- The Office of Business Ombudsman should take a creative look at what some of the "more environmentally friendly" states (per MIT Study and study by Institute for Southern Studies in Durham, N.C.) are doing. (re: DOS)
- The Office of Business Ombudsman should seek comments from local officials as to how to improve the regulatory process. (re: DOS)
- Encourage public transportation in Cumberland and rural counties. (re: DOT)
- Rules should be eliminated to license dog/vet groomers. Re: applying flea shampoo, etc. Also, pet shop owners, this should be under the purview of the Department of Agriculture.

5. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "reduce paperwork burdens by establishing information management systems and practices that simplify and reduce information common to the needs of more than one department or agency."

- The Department should establish a mechanism for the various divisions reviewing a permit application to coordinate their efforts to reduce needless duplication in the processing of permits; this could include a determination of common/standard information that is necessary. (re: DEP)
- Permit electronic filing of permit applications and associated documents. (re: DEP)
- Simplify application and review of wastewater management permits by eliminating need to submit separately for NJPDES, Treatment Works Approval (TWA) and Wastewater Management Plans. There should only be one submittal, one round of endorsements, one public comment period, one technical review and issuance of one permit. (re: DEP)
- Restructure permit programs so that whenever possible, general permits or permits by rule are allowed in lieu of individual permits. (re: DEP)
- Provide the DEP with an up-to-date centralized computer system to allow for an integrated permit tracking system to assist applicants and agency staff in ascertaining the permit status and evaluating the review process performance. There should be a single computer access code for all permit and enforcement information for each company. (re: DEP)
- DCA should restructure its fire code compliance for hotels. One hotel averages a need for seven (7) permits. (re: DCA)

- Assign an agency representative to each unemployment/disability claimant to eliminate paper, reduce the response time, increase customer service and cut costs. This would also allow the employer to contact the representative directly rather than going through multiple channels to have issues resolved. (re: DOI)
- The Department of Labor should develop electronic filing for unemployment records and reports. (re: DOL)
- Establish a hot line to report people taking cash off the books. (re: DOL)

6. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "eliminate redundant requirements and promote consistency within and among the actions of agencies and departments (i.e., local, county, regional, state and federal) to eliminate unnecessary confusion and costs."

- DEP should bring regulations in line with federal statutes pursuant to Executive Order No. 27 (1994) . Analyses pursuant to Executive Order No. 27 should be done with respect to existing rules for the Freshwater Wetlands Protection Act, ISRA, Spill Act. EXAMPLE: N.J. uses the 1989 Federal Wetlands Delineation Manual, which is more stringent than the 1987 Manual currently used by the U.S. Army Corps of Engineers (ACOE). Further, DEP should expand the varieties of general permits available to be consistent with those offered by ACOE. (re: DEP)
- DEP should justify the state's policy when dismissing comments made by interested parties on proposed regulations. (re: DEP)
- DEP should downsize as the Commissioner has already indicated a willingness to do, by eliminating duplicative programs. For example, a Stream Encroachment permit should be able to incorporate a state open water fill permit where a water body is directly affected. (re: DEP)
- Eliminate Treatment Works Approval, Sewer Extension, and Water Quality Management Planning programs since they duplicate reviews that already occur at the local and regional levels (e.g., local service agency, regional sewerage authority). The DEP can be kept in the loop by requiring that treatment plant owners simply notify DEP that a sewer system is being expanded with the specific amount of flow that is being allocated. (re: DEP)
- For projects seeking funding from Municipal Wastewater Assistance Program, allow funding staff to serve as the "one-stop shop" so that applicant does not have to also apply to other permitting sections; this change may encourage more persons to take advantage of this funding source. (re: DEP)

- DEP should retain effective Assistant Commissioners/Division Directors through the different administrations. This helps to keep the department intact and uniform over significant periods of time. The goal must be to reduce the "high rate" of turnover. (re: DEP)
- DEP should require better internal coordination between divisions and programs to eliminate conflicting decisions (e.g., cases where applicant receives approval for open burning permit, but is considered to be in violation from the Land Use element for clearing area for agricultural purposes, etc.). (re: DEP)
- DEP should require equal treatment for similar permit holders, case managers should coordinate to apply consistent interpretations of regulations and policies. (re: DEP)
- DEP should ensure through explicit policies that decisions are consistent within a particular program. This will increase predictability. For example, determinations regarding the existence of regulated features under the Freshwater Wetlands program should not depend on the predisposition of the individual case manager. (re: DEP)
- There needs to be enacted into law a comprehensive environmental reporting statute (e.g., underground storage tanks, approval of wastewater treatment and disposal), so as to minimize the amount of paperwork. (re: DEP)
- The DEP and Soil Conservation Districts (SCDs) must decide and agree to one set of stormwater standards that are to be applied consistently throughout the state. Currently, the Stream Encroachment, Freshwater Wetlands, CAFRA and Stormwater Planning groups all impose different requirements and the SCDs are not always in agreement. Toward this end, steps should be taken to eliminate the costly application requirement altogether for the Stormwater Construction General Permit that is currently implemented by the SCDs since this duplicates the review pursuant to the Soil Erosion and Sediment Control Certification program. (re: DEP)
- Eliminate uncertainty caused by Executive Order No. 114 which ordered all state agencies to incorporate and implement the state plan as part of their program mission through rescission of Executive Order No. 114 and/or new laws or regulations that detail the status of the plan. (re: DEP)
- County Environmental Health Act (CEHA) and appropriate DEP regulations should be modified so that lower levels of government, (county, etc.) do not pre-empt duplicate rules and standards, fees and fines, of any higher level of government. (re: DEP)

- Amend the New Jersey Right to Know Law so that it requires the same labeling and reporting standards that OSHA and the U.S. Department of Transportation (DOT) require to avoid wasteful state duplication of effort (e.g., establish threshold such as 2 kg, 0.5 gal. before labeling is required). (re: DEP)
- Revise New Jersey's current air emissions trading policy to allow interstate trading as contemplated by federal rules. Also, rules need to be modified to address the method of certification of enforceable credits (i.e., formally sanctioned in writing by a state official). (re: DEP)
- Eliminate current duplicative reporting requirements that are found under the Underground Storage of Hazardous Substances Act, Hazardous Substance, Discharge Notices and Reports Act and Spill Act and consolidate into one program. (re: DEP)
- Eliminate requirements for stormwater construction general permit since it duplicates the existing soil erosion and sediment control program administered by the soil conservation districts. (re: NJDA)
- The Department of Community Affairs should review and revise Park Model Trailer regulations and adopt HUD review policies as guidelines. (re: DCA)
- DCA should consolidate all construction code permits. (re: DCA)
- DCA should enact uniform site standards. (re: DCA)
- Implement the recommendations of the Contract Task Force, where the multiple Divisions of the Department of Human Services and significant non-profit providers proposed reforms designed to permit more efficient utilization of contract dollars and more effective management which include: eliminating separate contract management units within each Division, using national accrediting agencies, such as JCAHO, CARF, ACDD, and existing State and municipal oversight of facilities through Department of Community Affairs to streamline monitoring, reduce redundancy, and focus licensing requirements to program issues unique to the Department of Human Services. (re: DHS)
- Consolidate those services which are mandated to other Departments to reduce duplication of administration including: Commission for the Blind and Visually Impaired should be within the Department of Education; the Division of Deaf and Hard of Hearing must be integrated into every aspect of Human Services and Education; and the Office of Education delivers services which are already charged to the Department of Education and to the local school districts. (re: DHS)

- The Office of The Business Ombudsman should serve as the coordinator of messages between the Governor's Office and the regulatory agency at issue; the goal is to make the regulatory officials accessible at each agency. (re: DOS)
- The Office of Business Ombudsman should work within the system and treat all parties equitably. It should also work cooperatively with the DEP's Office of Permit Information and Assistance to help companies identify all permits they need and understand how to meet the requirements for those permits. (re: DOS)
- The Department of Treasury should merge all revenue collection programs in the Division of Taxation. (re: Treasury)
- There should be a coordination of the state's Environmental, Energy and Economic Master Plans.
- Real estate operated by the State of New Jersey appears to proliferate in a time of reduction of force. State-occupied office buildings in Trenton, on Princeton Pike, Quakerbridge Road, Forrestal Center, all appear to be less than fully occupied. Consolidate offices and more effectively utilize idle desks, computers, etc.
- Conduct educational seminars at city and county levels to illustrate the harmful consequences of time consuming and costly local permits. .

7. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "establish project and permit review processes, with established milestones and time intervals, to ensure certainty and predictability of outcome to all parties."

- Expand the 90 Day Construction Permit Law N.J.S.A. 13:1D 29 et seq. to include the Freshwater Wetlands , NJPDES and other programs . This gives DEP a set time frame once an application is determined to be complete to take action on permit or else the permit is deemed to be approved. DEP should also be limited to requesting additional information to one time only, based on the use of a checklist. The Governor announced her intention to enforce the existing law in the budget presentation. (re: DEP)
- DEP should abbreviate the process for NJPDES permit modifications and use "deemer" clause granting relief requested by permittee if DEP does not adhere to set time frames. Also, requests for stays would be considered granted unless denied with reasons within set time frame. (re: DEP)

- DEP needs to get up to speed and in compliance with the permit deadlines that have been established by the Department's enabling Act and other legislative mandates regarding the permit process. (re: DEP)
- DEP should accelerate facility - wide permitting. This has already been done in one instance to date. (re: DEP)
- New Jersey regulatory agencies must develop a method to prioritize the review and issuance of permits for certain major projects that are in the public interest, such as major investments of infrastructure (i.e., roads, water, etc.), major generators of jobs or major generators of revenue and taxes for the state. A check list should be developed to further clarify how "major" is to be defined. (re: DEP)
- Minor permits in land use, water and air should be issued within 30 days when accompanied by a professional engineer's certification that certain criteria are met. (re: DEP)
- The regulatory agencies should take steps to keep New Jersey competitive with other states as to the retention attraction of businesses. This should include the establishment of goals that require them to move permits, at least as fast as other surrounding states. These out-of-state time frames should serve as the bench mark against which New Jersey's performance will be compared. (re: DEP)
- Provide for a more timely procedure for review of/action on tariff filings by making the New Jersey BPU's procedure consistent with that of the Federal Communications Commission (FCC) rules. These rules give the FCC 45 days to act on a filing or else the filing automatically becomes effective on the 46th day. (re: BPU)

8. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "establish appropriate review processes that promote the timely establishment of research and development activities within mutually agreed upon parameters/constraints."

- DEP should eliminate fees/charges associated with hazardous waste program that charge fees in excess of \$35,000 for a company to be issued a permit for research, development and demonstration. (re: DEP)
- Create a Research and Development Review Board to comment on proposed regulations prior to their promulgation. (re: DEP)

9. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "establish criteria that modify and simplify requirements needed for activity review to assist in lowering the operating costs of designated 'small businesses and manufacturers.'"

- Review Hazardous Waste regulations-make them more practical by imposing a de minimis threshold (e.g., consistent with federal standards) below which small generators would be exempt. Too broad as of now-the economic effect of compliance on small generators is devastating. (re: DEP)
- Eliminate requirements for small landscape contractors to: pay major catastrophic fees to DEP and complete forms and notice to several agencies regarding the use of pesticides; this burden appropriately belongs more with the suppliers of the pesticides. (re: DEP)

10. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "establish systems by which both legislative and regulatory bodies periodically review and, as appropriate, revise enabling legislation and any relevant regulations and policies to identify, modify and/or eliminate provisions that are outdated or ineffective."

- The Legislature needs to strike a balance in its efforts to protect the environment-N.J. standards are the most rigid in the nation. They should revisit critical legislation like the Clean Water Enforcement Act, Freshwater Wetlands Act, etc., to provide more flexibility, predictability and protection of resources. (re: DEP)
- ISRA Reform is a must. Too many technical requirements for adequate compliance. Further, DEP must accelerate the development and adoption of clean up standards through advisory groups. (re: DEP)
- Legislature should put all regulatory entities on a "regulatory budget". This caps the amount of regulation that can be promulgated in a given time period, unless it is of a corrective nature. (re: DEP)
- The Legislature should review and revamp N.J. Spill Act (institute Tort Reform) to: eliminate joint, strict and retroactive liability; provide for a de minimis threshold below which a substance if released, would not be considered hazardous; eliminate financial assurance requirements for small businesses since they are rarely used and just drain away available capital; and allow for simple compliance with prescriptive standards. (re: DEP)
- Eliminate the ability of the Commissioner to overrule an Administrative Law Judge initial decision or allow applicant to appeal certain DEP decisions directly to Appellate Division of N.J. Superior Court since it will save money. (re: DEP)

- Affirmative defense regulations must be redrawn to follow legislative intent. Companies must not be punished for "acts of God" or other "unforeseeable" events for which DEP would normally impose a fine. (re: DEP)
- The Legislature should pass Senate Bill 232/Housing Bill 1521, the "Grace Period" Bill to allow time for permittee to come into compliance. (re: DEP)
- The Legislature should enact legislation to create a self-evaluative evidentiary privilege for environmental audit reports (e.g., Bateman/MacInnes). (re: DEP)
- DEP should revisit its policy of abrogating legal contracts between DEP and companies so as to force them to enter into memoranda of agreement (MOA) which allows DEP to escalate their fees. (re: DEP)
- DEP regulations should have a time limit by which they expire- departments are in the best position to determine when a regulation has outlived its usefulness, if this determination occurs prior to the normal sunset process. (re: DEP)
- DEP needs better long range regulatory planning. (re: DEP)
- DEP should review and reform the Joint and Several Liability standards-make individual fault an issue. (re: DEP)
- Revise Clean Water Enforcement Act (CWEA) to eliminate mandatory, non-flexible requirements, high cost of compliance, multiple violations for a single excursion and (especially for exceedances of permit limits that are technically unachievable or scientifically unsupportable or that were properly relaxed by subsequent permit action), mandatory minimum penalties and mandatory inspection frequency. Revisions should also be made to remove "flow" from definition of serious violation and to establish by statute an anti-degradation policy. (re: DEP)
- Follow the examples of Florida and Illinois in ECRA compliance/ISRA compliance. (re: DEP)
- DEP should have site specific evidence that threatened or endangered species inhabit an area before a wetlands can be designated as an exceptional resource value wetlands. (re: DEP)
- Revise appropriate statutes to assure that public safety takes priority over less critical subjective concerns such as "historic ambience" during the course of cultural and historic resource surveys and expand membership on Historic Sites Council to include a traffic engineer. (re: DEP)

- Increase flexibility of decision-making under the Freshwater Wetlands Protection Act to authorize review staff to limit alternative analyses to a level which is commensurate with the impacts involved. Either the legislation should be revised or field guidance should be issued to this effect. The USEPA and the U.S. Army Corps. of Engineers accomplished this change through field guidance issued on August 23, 1994. (re: DEP)
- DEP should revise the freshwater wetlands regulations to eliminate the two-to-one mitigation requirement with an 85% survival rate to make it consistent with the federal one-to-one mitigation policy and to reflect the intent of the legislature that not all wetlands are of equal ecological value. (re: DEP)
- Exceptional resource value classification of wetlands should be triggered not just by breeding locations of listed species but also by their resting or feeding locations. (re: DEP)
- Reform the method in which administrative law trials are conducted since ALJs have no jurisdiction over purely policy issues. In order to allow the ALJ to develop a fuller record, the DEP should be required to use procedural and evidentiary arguments that apply in trial courts. Consideration should also be given to forming a five member cabinet level environmental review board to consider these matters. (re: DEP)
- Provide for a mechanism whereby a flawed rule or permit requirement can be rescinded or modified immediately. Further, permit modifications below certain de minimis criteria should be approved on a fast track (e.g., 20 days) upon certification of a licensed professional engineer. (re: DEP)
- Continue to meet with members of the Department-sponsored industrial working group to find points of compromise for changes to the N.J. Air Pollution Control Act and to resolve other issues regarding New Jersey's Air Program compliance. (re: DEP)
- Address problems resulting from Odor Regulations pursuant to the Air Pollution Control Act (APCA) through changes to the regulations to require that more than one complainant is needed to verify that a violation has occurred and to include a procedure verification of the problem with neighbors of the complaint. Also, in instances of confirmed violation, a source should be able to offset any penalty assessment with the cost-of-compliance. On a more long term basis, revise the enabling statute to provide for objective standards for the issuance of odor violations (i.e., based on order detecting equipment, odor panels, etc.). (re: DEP)
- The Board of Public Utilities (BPU) should adopt a policy which will allow the utility industry to move to a more flexible rate based system. (re: BPU)

- Enact Small Water and Sewer Company Regulatory Reform Act of 1994 (Assemblyman Bagger) to reduce regulatory burden found by small companies that purchase water and sewerage treatment service from public entities. This would allow them to automatically implement rate increases that are passed down and would relieve companies from applying to BPU for approval for issuance of stock and incurrence of debt. (re: BPU)
- Eliminate the requirement that all filings with the BPU be done by a New Jersey attorney since this requirement can be onerous for those companies that are located along the state's borders due to the extra time involved in coordinating the transfer of documents. (re: BPU)
- DCA private on-site inspections are very costly to both the agency and the business owner. This process should be seriously restructured. (re: DCA)
- Delete the requirements that the Department of Education review alterations to locker, weight or game rooms and field houses with locker rooms. (re: DOE)
- The Department of Health should review N.J.A.C. 13:35-8.3 rules covering the regulation of audiologists. (re: DOH)
- The Department of Health should review its regulations on the hearing and speech industry; recognize professional accreditation. (re: DOH)
- Expedite the re-organization of the Department of Human Services and clearly delineate the responsibility of a specific "lead" Division to coordinate case management for individuals and families in need. (re: DHS)
- Eliminate the State Board of Physical Therapy Licensure by transferring its licensing functions to an office of State government to improve efficiency and reduce administrative costs. (re: DHS)
- Re-examine New Jersey Health Care Reform laws which mandate certain coverage for small businesses - which is not as complete as many companies wanted - makes NJ less desirable than other states. (re: DOI)
- Increase employees' contributions to unemployment fund, pay out only 50% of gross based on last 52 weeks employment and make unemployment benefits chargeable to last employer and not to present one. (re: DOL)
- Accelerate de-regulation of temporary placement and consulting firms. (re: L&PS)
- The Office of Business Ombudsman should assist applicants in preparing applications and provide comments at appropriate times during the public review process. (re: DOS)

- The Office of Business Ombudsman should participate during the development of new or changed regulations. (re: DOS)
- Enforce New Jersey Petroleum gross receipts tax or repeal it (since New Jersey is losing tax money, fines and interest). (re: Treasury)
- The alternative dispute resolution process should be made a part of the agencies' APA.
- The agencies should make clear distinctions as to the concept of joint and several liability.
- All Departments should develop a model and move forward with long term Regulatory planning.

11. Upon evaluation, the following comments/recommendations appeared to most strongly support an initiative to "establish a system by which department/agency rulemaking or internal guidance is appropriately subject to regulatory impact analysis, (e.g., rule clarity, scientific/economic bases, risk assessment, jobs impact, paperwork burden, etc.), prior to implementation so that only rules that are necessary and well thought out can be adopted. This step should minimize the cost of regulatory compliance to allow more funds for job creation, research, training, wages and employee benefits."

- Legislature should codify standards by which the agency must adhere to when seeking to propose and adopt a rule. This would also direct the agency to produce an economic impact statement for each new regulation. Additionally, this would allow review of whether or not the agency has exceeded or undone the original legislative intent of a particular statute (Executive Order No. 27). (re: DEP)
- Regulations should specify that applications that have been submitted in advance of the adoption of new or revised regulations will be grandfathered under existing rule. (re: DEP)
- Legislation that directs the agency to publish a rule-making calendar of anticipated regulatory activity for each 6 month block of time, with a concurrent commitment from the Office of Administrative Law (OAL) to streamline the process. (re: DEP)
- DEP should seek to make the Discharge Monitoring Report (DMR) Manual more clear so that compliance is easier. (re: DEP)
- Require DEP to articulate State's policy when dismissing comments by interested parties. (re: DEP)
- Require that federally mandated programs do not become permit conditions for

three years to allow for an implementation period. (re: DEP)

- Legislature should mandate that economic impact analysis - which includes estimate of costs to both regulated parties for compliance and to the agency for implementation and enforcement of the regulations accompany all regulations proposed. This analysis should also include an estimate of the impact on jobs, overall state economy, local real estate taxes and the diversion of monies from schools, police and fire departments and other social good. (re: DEP)
- DEP must make regulations clear and concise so that the regulated community is put on notice as to what is required for compliance. (re: DEP)
- DEP should cease the practice of adopting regulations, the need for which can not be scientifically supported and documented and which do not pass an economic impact analysis. (re: DEP)
- Incorporate Risk Assessment requirements into environmental laws promulgated by DEP. (re: DEP)
- There should be an evaluation of the costs versus the benefits derived from the rule to include how those benefits outweigh the cost. (re: DEP)
- There should be a statement of factual, scientific or technical basis for the agency's determination that the regulation will accomplish its intended purpose. (re: DEP)
- A statement that any person may submit comments on the Regulatory Impact Analysis to the Administrator of the Office of Information and Regulatory Affairs. (re: DEP)
- A statement that describes and, to the extent practicable, quantifies the risks to human health or the environment to be addressed by the rule. (re: DEP)
- An explanation of the necessity, appropriateness, and reasonableness of the rule. (re: DEP)
- Require regulatory agencies to include a jobs impact statement in notices of proposed administrative rules (A-647, Geist). (re: DEP)
- A policy regarding sludge/organic waste utilization must be developed that provides for less rigid clean-up levels for sludge that is not to be used for agricultural purposes; must be based on a sound cost-benefit. (re: NJDA)
- Provide Office of Administrative Law with authority to decline to publish a rule for procedural non-compliance. (re: DOS)
- Enhance petition for rule-making process through clear time frames for agency action with reasons. (re: DOS)

- New rules should have shorter sunset periods at the conclusion of which, heightened disclosure as to the rule's impact based on agency's track record may be provided for public comment. (re: DOS)
- Each agency should have applied to its enabling act, strict accountability standards.
- Each agency should establish a review panel of business and community leaders as well as legislative representatives to assist with the development or review of newly proposed regulations (peer advisory groups).
- A Regulatory Impact Analysis as well as a Risk Assessment statement should accompany all regulations under consideration in all departments.
- A "Jobs Impact" bill deserves serious consideration and will be a help in this regulatory reform process.
- Speaker Haytaian's bill A-861 should be passed. It will revise the Administrative rule making process.
- A process should be identified to provide for the resources to review all rule notices in the N.J. Register-the review would verify and challenge if necessary any regulation that did not have an impact analysis, regulatory flexibility or social impact statement attached to it.

APPENDIX III A

LIST OF PUBLIC WITNESSES

TRENTON (October 17, 1994)

JOINT PUBLIC HEARING WITH:

SENATE NATURAL RESOURCES, TRADE AND
ECONOMIC DEVELOPMENT COMMITTEE, and

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

MEMBERS OF SENATE COMMITTEE PRESENT:

Senator Joseph M. Kyrillos, Jr., Chairman	13th Legislative District
Senator Andrew R. Ciesla, Vice-Chairman	10th Legislative District
Senator Robert J. Martin	26th Legislative District
Senator Gordon A. MacInnes	25th Legislative District
Senator James E. McGreevey	19th Legislative District

MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblyman Alan M. Augustine, Acting Chairman	22nd Legislative District
Assemblywoman Marion Crecco	34th Legislative District
Assemblyman Sean F. Dalton	4th Legislative District

NEW JERSEY FUTURE

Lawrence, Barbara
New Jersey Future

NEW JERSEY FARM BUREAU

George, Steven

Furey, Peter

CHEMICAL INDUSTRY COUNCIL OF NJ

Bozarth, Hal

NEW JERSEY BUSINESS AND INDUSTRY ASSOCIATION

Sinclair, James

NEW JERSEY CHAMBER OF COMMERCE

Egenton, Michael

VanHandle, Hank

Bayway Refining Company

Shissias, James
PSE&G

Kace, Jack, Dr.
Hoffmann-LaRoche

Holtz, John F.
New Jersey Petroleum Council

THE STOCKTON ALLIANCE
Abbate, Fred J., Ph.D..
Atlantic Electric

Dillingham, Timothy
Sierra Club of New Jersey

Fauerbach, Donald
New Jersey Conference of Mayors

Kelleher, Daniel
New Jersey American Water Company

Moore, David
New Jersey Conservation Foundation

KENILWORTH (October 19, 1994)

Braem, Lee
Schering-Plough Corp.

Brooks, William
NJ Association Staffing Professionals

Daver, Edul
Alcan Powders & Pigments

DiFrancesco, Honorable Donald
New Jersey Senate President (22nd Legislative District)

Denman, Richard
Pleasant Acres Farm Campground

Fickett, Joy
NJ Association Staffing Professionals

Franks, Honorable Robert
U.S. House of Representatives (7-NJ)

Reick, Franklin
Fluoramics, Inc.

Shiriak, Ben
Maxium Sewerage Corp.

Siminoff, Bruce
1742 Associates

Victor, Warren
Action Business Consultants, Inc.

VINELAND (October 21, 1994)

Agostini, Joseph
City of Vineland

Baehrle, Richard
Greater Mainland Chamber of Commerce

Blew, Denny
Centerton Nursery

Chapman, Philo
New Jersey Manufactured Housing Association

DeSoi, Harry
Pioneer Metal Finish. Inc.

Gallina, Donna F.
Family Pet Center

Kornbluh-Lods, Marianne
Vineland Chamber of Commerce

LeFevre, Kenneth
Atlantic Electric

Lippi, Andrea, Dr.
Jersey Cape Journal

Luchese, Joseph C.

Shapiro, Paul C.
Consolidated Motor Oils, Inc.

Sister Joseph Marie
Villa Rossello

Wagenheim, Louis
City of Brigantine

CAMDEN (October 26, 1994)

Bucci, Armand
Slapin, Lieb, & Co.

Davis, Kathleen
New Jersey - American Water Co.

DeMusz, Carl
NJ Association of Realtors

DiLorenzo, Debra P.
Chamber of Southern NJ

Farias, Vincent, R.
Burlington County Freeholder Director

Geist, Honorable George
NJ General Assembly (4th Legislative District)

Goldin, Steven, E.
Woodbridge Econ. Development Corp.

Grant, Lee
Mid Atlantic Association of Personnel Consultants

Hannold, Robert D., Sr.
Bona Packaging, Inc.

Hluchan, Richard M., Esq.
Levin & Hluchan

Kammerer, Allan
Allan Kammerer, Inc.

Lippi, Andrea, Dr.

Rohr, Joseph
Camdett Corporation

Schroeder, John
Sybron Chemicals, Inc.

Strizki, Michael
Engineer

HAWORTH (November 1, 1994)

Alworth, Norman D.
Materials Processing Technology, Inc.

Bedrock, Neale R., Esq.
Copley Bus. & Acct. Serv.

D'Agostino, James
J.D. Construction Corp.

Facchini, Dom
Quality New Jersey

Fairfield, Kent
Quality New Jersey

Garrick, Jared R.
Copley Bus. & Acct. Serv.

Gripenburg, Henry
The Desk Set

Haedrich, Joseph
Assoc. of Graphic Arts

Lederman, Dr. Peter
Environmental Eng. & Science

Morresi, Angelo, Esq.

Sonoka, Cynthia

Wiley, Joseph, B., III
Sadat Associates, Inc.

OCEANPORT (November 3, 1994)

Adelman, Norman
Coalition for Fair Competition

Beachem, Philip
New Jersey Alliance for Action

Brewer, Rosemary
Little Silver Environmental Commission

Calcote, H.F., Dr.
AeroChem Research Laboratories, Inc.

Carmeli, Margaret, B., Esq.
Giordano, Halleran & Ciesla

DiLodovico, Anthony
Schoor, DePalma & Canger

Enis, Jerome,
Coalition for Fair Competition

Greene, Lucy
Ocean County Chamber of Commerce

Hebeler, Fred
NJ Manufacturing Housing Assoc.

Jones, William
NJ Speech Language Hearing Association

Kneeley, Anita M.
Cerebral Palsy, Inc.

Knight, Donald
New Brunswick Plating, Inc.

Natelson, Bernard
Red Bank River Center

Levy, E. Robert
New Jersey Mortgage Bankers Association

Olsen, Niels R.
NJ Hotel / Motel Association

Person, Marta
Red Bank River Center

Pitts, Eugenia
Monmouth Ocean Development Council

Usechatz, Louise
Shrewsbury Environmental Commission

MOUNT OLIVE (November 7, 1994)

Ashmun, Candace M.
Association of New Jersey Environmental Commissions

Agnew, Peter, T.
Post & Kurtz, Inc.

Bernard, Hedy
Paralegal

Caldwell, Wesley, S., III
LeBoeuf, Lamb, Greene, & MacRae

Eames, William
NJ Tooling and Manufacturing Assoc.

Elliott, George
Madison Printing

Grasso, Ed.
EAG Consulting Services

Heller, Thomas, L.
Republic Tool & Manufacturing Company

Herr, Mark S., Assistant Attorney General
NJ Division of Consumer Affairs

Hogan, Edward, Esq.
Porzio, Bromberg & Newman

Klucsik, David
New Jersey Natural Gas Co.

Marra, Christopher
Morris County Area Development

Miller, Vincent, J.
Associated General Contractors

Nerger, H., Peter
Marisol, Inc.

Risdon, Edwin F.
NJ Campground Owners Assoc.

Schwartz, Robert
Land Equity Real Estate

Shoremount, Robert
Securities Industry, Inc.

Smith, Ed
SRF, Inc.

Solomons, Charles
SPS Medical Equipment Corp.

Steiger, Glenn
JCP&L

Weisfeld, Neil
The Medical Society of NJ

Zemo, Frank
Metal Finishing Assoc.

Zdepski, Mark
JMZ Geology

APPENDIX III B

INDIVIDUALS THAT SUBMITTED COMMENTS FOR RECORD (POST HEARINGS)

NAME & ORGANIZATION

- * **Beachem, Philip**
N.J. Alliance for Action
- * **Bedrock, Neale, Esq.**
New Jersey State Bar Association
- * **Bogard, Alan, N.**
Exxon Chemical Company
- * **Braccio, John W.**
Marlton, N.J.
- * **Brossoie, Nicole, Director, State Government Relations**
New Jersey Hospital Association
- * **Buckman, Charles A., Chairman**
On-Site Agency Association of N.J.
- * **Calcote, H.F., President and Director of Research**
Aero Chem Research Laboratories, Inc.
- * **Caruso, Joseph P.E., County Engineer**
Board of Chosen Freeholders of the County of Burlington
- * **Dalton, William G.**
International Flavors & Fragrances, Inc.
- * **Daub, Patricia M., Manager, NJ**
Middle Department Inspection Agency, Inc.
- * **Daver, Edul, President**
Alcan Powders and Pigments
- * **Demarest, Philip S., Vice President, Secretary and Treasurer**
Warwick Valley Telephone Company
- * **DeMusz, Carl R. GRI, - President**
New Jersey Association of Realtors

- * **Donovan, Dennis J., Senior Marketing Director**
The Wadley-Donovan Group, Ltd.
- * **Dooley, Marlen, Assistant Commissioner for Enforcement**
NJDEP
- * **Douglass, Joseph R., Director of Regulatory Affairs**
Ames Rubber Corporation
- * **Dudley, Sally, Executive Director**
Association of New Jersey Environmental Commissions
- * **Faiello, Samuel**
Research & Development, Council of New Jersey
- * **Fair, Abigail H., Project Director**
Association of New Jersey Environmental Commissions
- * **Filippone, Ella F., Executive Administrator**
Passaic River Coalition
- * **Gaglione, David J., Project Manager**
Clean Air Action Corporation
- * **Giannechini, Theodore A. , P.E., L.S., P.P., County Engineer**
The Board of Chosen Freeholders of the County of Monmouth
- * **Gulbinsky, Ellen**
The Association of Environmental Authorities
- * **Hampson, Richard J., Health, Safety & Environmental Manager**
Garden State Paper Company, Inc.
- * **Hargett, Charles B., Vice President**
BASF Corporation
- * **Horn, Jeffrey A., Executive Director**
National Association of Industrial & Office Properties (NAIOP)
- * **Kane, Richard P. , Director of Conservation**
New Jersey Audubon Society
- * **La Vecchia, Jaynee, Former Director**
New Jersey Office of Administrative Law
- * **Morresi, Angelo C., Esq.**
Attorney at Law

- * **O'Keefe, Patrick J., Exec. Vice President, Chief Executive Officer**
New Jersey Builders Association
- * **Ringer, Evan, Human Resources Administrator**
MediFit of America
- * **Rohr, Joseph F., Plant Manager**
Camdett Corporation
- * **Ross, Henry, Executive Director**
The Union County Alliance
- * **Scavetto, Alva Rose**
- * **Sister Joseph Marie, D.M. Provincial Treasurer, Maintenance Dir.**
Daughters of Our Lady of Mercy
- * **Smalley, Jacqueline K.**
Smalley and Smalley
- * **Taylor, James H., President**
Taylor Made Landscaping
- * **Tyler, George, Esq.**
Giordano, Halleran & Ciesla
- * **Victor, Warren H., President**
Action Business Consultants
- * **Wallwork, James, Commissioner on Regulation Reform**
- * **Walsh, Helen W., County Administrator**
Atlantic County Administration
- * **Wiessmann, Larry J., President**
New Jersey Association of Fire Equipment Distributors, Inc.
- * **Zimmer, Dick, Congressman**



THE STARR REPORT

IV. APPENDICES

IV. ATTACHMENTS

- A Reform Issues that Require Federal Action
- B Executive Order No. 15 (1994) Office of the Business Ombudsman
- C Executive Order No. 27 (1994) - Requirement for Statement Concerning Federal Standards in State Agency Rule Making
- D Executive Order No. 1 (1994) - Creation of the Economic Master Plan Commission
- E H.R. 4949 Congressman (Franks) - Administrative Procedure Reform Act of 1994
- F Executive Order No. 22 (1994) - Department of Education Review of Regulations

ATTACHMENT A

REFORM ISSUES THAT REQUIRE FEDERAL ACTION

- 1) **Regulatory Impact Analysis** - The Administrative Procedure Reform Act of 1994 (H.R. 4949, Franks) was introduced in the last Congress and would have reduced onerous regulations and promoted accountability by regulatory agencies. Similar language is included in the Contract with America, H.R. 9 Title VII. The bill would:
 1. Require agencies to publish in the Federal Register a notice of their intent to propose a rule at least 90 days prior to the formal rule proposal;
 2. Require agencies to hold hearings and provide a 30-day extension of the comment period in cases where more than 100 persons acting individually make these requests;
 3. Require that a 23 step checklist called a regulatory impact analysis be performed for each major rule to assure that the proposed rule meets certain tests for necessity, reasonableness, consistency, non-duplication, legal authority, its impact on addressing measurable risks to human health or the environment, cost efficiency, economic impact, and paper work burden.

Requested Action: Support passage of the bill.
- 2) **National Historic Preservation Act** - Modification of this federal legislation and implementing regulations. (Section 106) may be needed to allow states more discretion as to when and what type of reviews are needed regarding impacts of proposed development on historic sites. This program is administered by the Advisory Council on Historic Preservation whose rules appear in the U.S. Code of Federal Regulations at 36 CFR Part 800. Specifically, changes are needed so that the Federal Highway Administration would allow for a categorical exclusion from the requirements of doing a "mini-environmental impact statement" when the DEP makes a finding of "NO ADVERSE IMPACT".
- 3) **Wage Rates** - Abolish Davis Bacon Act in favor of prevailing rate schedules so as to save millions of dollars per year in-state and city contracts.

(a)

**OFFICE OF THE GOVERNOR
Governor Christine Todd Whitman
Executive Order No. 15(1994)
Office of the Business Ombudsman**

Issued: April 5, 1994.

Effective: April 5, 1994.

Expiration: Indefinite.

WHEREAS, there has been a marked increase in the number and complexity of permits, licenses, certificates and other approvals that businesses and all other sectors of the economy must obtain from an increasing variety of State agencies to undertake various commercial, industrial, and residential projects or activities in the State; and

WHEREAS, this expanding maze of regulation has made the cost of doing business in the State higher than in other states in many instances; and

WHEREAS, the inefficiencies resulting from the excessive cost of regulation have impeded the overall development of the economy and the growth of the State's individual businesses; and

WHEREAS, such inefficiencies have also discouraged the location of new businesses and the expansion of existing ones in the State; and

WHEREAS, the combined effects of the inefficiencies have adversely affected the business climate in the State; and

WHEREAS, it is possible to uphold existing standards for the public health, safety, and welfare while at the same time expediting compliance with regulations; and

WHEREAS, State government must provide leadership in transforming the State business climate into one that is supportive of and open towards business; and

WHEREAS, there is a need for a single office to coordinate exclusively an efficient and timely process for submission, evaluation, and resolution of applications for business permits, licenses, certificates and other approvals;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and laws of the State of New Jersey, do hereby ORDER and DIRECT:

1. There is hereby created the Office of the Business Ombudsman (hereinafter "Office") to be located in the Department of State.

2. The Secretary of State shall serve as the Business Ombudsman or appoint her designee to this position.

3. The Business Ombudsman shall be empowered to lead the Office in its primary responsibility of directing a comprehensive effort to assist businesses in dealing efficiently with State regulations.

4. Specifically, the Office shall function to provide guidance to persons who inquire about business permits, licenses, certificates and other business-related approvals. Any such similar functions of the Office of Business Advocacy in the Department of Commerce and Economic Development shall be transferred to the Office. The files, books and records of the Office of Business Advocacy that are relevant to its function of providing guidance to persons who inquire about business permits, licenses, certificates and other approvals shall be transferred from the Office of Business Advocacy to the Office.

5. Consistent with the consolidation of the aforementioned functions of the Office of Business Advocacy into the Office, the Secretary of State, or her designee, shall replace the Chief of the Office of Business Advocacy on the Cabinet Committee on Permit Coordination (hereinafter "Cabinet Committee"), which Cabinet Committee was reconstituted pursuant to Executive Order No. 100 of Governor Thomas H. Kean. Moreover, the Secretary of State, or her designee, shall replace the Commissioner of Commerce and Economic Development as Chairperson of the Cabinet Committee, and the Office shall assume the roles performed by the Office of Business Advocacy for the Cabinet Committee. The Secretary of State shall appoint an Executive Director of the Cabinet Committee.

6. All functions currently performed by the Office of Business Advocacy that do not relate to providing guidance to persons who inquire

about business permits, licenses, certificates and other business-related approvals shall remain in said Office of Business Advocacy in the Department of Commerce and Economic Development.

7. The Office is hereby directed to provide guidance to persons who inquire about business permits, licenses, certificates and other approvals that are required to do business in this State.

8. The Business Ombudsman is hereby authorized to appoint and remove such staff as may be required to fulfill the mandates of this Order, subject to the provisions of Title 11A (Civil Service Act) of the Revised Statutes, when relevant, other applicable statutes, and the appropriations limit for the Office. Any persons appointed by the Business Ombudsman under this Order shall be designated employees of the Department of State.

9. The Business Ombudsman shall maintain the Office and such other quarters as deemed necessary to the proper functioning of the Office.

10. The Office is authorized to call upon any department, office, division or agency of this State to supply it with data and other information or assistance as deemed necessary to discharge the duties of the Office under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Business Ombudsman and provide such information and assistance as is necessary to accomplish the purpose of this Order. Notwithstanding anything in this Order to the contrary, the Office shall not supplant the function of any department, office, division or agency of the State to review and approve any governmental permit, license, certificate or other approvals.

11. This Order shall take effect immediately.

EXECUTIVE ORDER

(a)

OFFICE OF THE GOVERNOR
Governor Christine Todd Whitman
Executive Order No. 27(1994)

Requirement for Statement Concerning Federal Standards in State Agency Rulemaking

Issued: November 2, 1994.

Effective: January 1, 1995.

Expiration: Indefinite.

WHEREAS, the federal government frequently regulates areas that are also subject to State regulation; and

WHEREAS, differing State and federal policy goals and unique State prerogatives frequently result in different levels of regulation, different standards and different requirements being imposed by federal and State programs covering the same subject matter; and

WHEREAS, New Jersey must simultaneously move toward reducing redundant and unnecessary regulation that dulls the State's competitive advantage while being ever vigilant in the protection of the public's health, safety and welfare; and

WHEREAS, New Jersey's administrative agencies should consider applicable federal standards when adopting, readopting or amending regulations with analogous federal counterparts; and

WHEREAS, New Jersey's administrative agencies should analyze whether analogous federal standards sufficiently protect the health, safety and welfare of New Jersey citizens; and

WHEREAS, as part of the formal rule-making process, the public should be advised of the agencies' conclusions about whether analogous federal standards sufficiently protect the health, safety and welfare of New Jersey citizens.

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. On or after the effective date of this Order, each administrative agency that adopts, readopts or amends any rule or regulation described in section 2 of this Order shall, in addition to all requirements imposed by existing law and regulation, include as part of the initial publication and all subsequent publications of such rule or regulation, a statement as to whether the rule or regulation in question contains any standards or requirements which exceed the standards or requirements imposed by federal law. Such statement shall include a discussion of the policy reasons and a cost-benefit analysis that supports the agency's decision to impose the standards or requirements and also supports the fact that the State standard or requirement to be imposed is achievable under current technology, notwithstanding the federal government's determination that lesser standards or requirements are appropriate.

2. This Order shall apply to any rule or regulation that is adopted, readopted or amended under the authority of or in order to implement, comply with or participate in any program established under federal law or under a State statute that incorporates or refers to federal law, federal standards or federal requirements.

3. The head of a State agency, upon submission by the agency of the required explanation or analysis of the rule or regulation subject to the provisions of this Order, shall certify in writing that the submission of the State agency permits the public to understand accurately and plainly the purposes and expected consequences of the adoption, reoption or amendment of the rule or regulation.

4. This Order shall take effect sixty (60) days from the date hereof.

(a)

**OFFICE OF THE GOVERNOR
Governor Christine Todd Whitman
Executive Order No. 1(1994)
New Jersey Economic Master Plan Commission**

Issued: January 18, 1994.
Effective: January 18, 1994.
Expiration: Indefinite.

WHEREAS, a strong, sound economy is essential to the well being and prosperity of the State of New Jersey; and

WHEREAS, State Government has a responsibility to improve and maintain the State's economy; and

WHEREAS, a strategic and comprehensive economic master plan will assist State government in removing unnecessary barriers to economic growth and in efficiently allocating its finite resources toward projects with the most economic benefit for the State; and

WHEREAS, an Economic Master Plan Commission should be formed to create a Strategic Economic Master Plan for the State of New Jersey;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the New Jersey Economic Master Plan Commission, hereinafter referred to as the Commission.

2. The Commission shall consist of a chairperson and twelve (12) members appointed by the Governor, including the Secretary of State, and the Commissioners of the Departments of Commerce and Labor. The Commission shall also include representatives of the various sectors of the economy and geographic areas of New Jersey.

3. The Commission shall study economic conditions, together with existing statutes and regulations, which impact on the State's economic growth and prosperity. The Commission shall develop long- and short-range strategic recommendations for improving economic growth and prosperity in the form of a Strategic Economic Master Plan.

4. The Commission shall periodically report to the Governor and shall issue the Strategic Economic Master Plan by October 1, 1994.

5. The Commission is authorized to call upon any department, office, division or agency of this State to supply it with data and other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, officer, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Commission and to furnish it with such information, personnel and assistance as is necessary to accomplish the purpose of this Order. The Attorney General, or her designee, shall act as legal counsel to the Commission.

6. This Order shall take effect immediately.

APPENDIX E

103^D CONGRESS
2D SESSION

H. R. 4949

To amend title 5, United States Code, to reform Federal administrative procedures and improve the regulatory process.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 12, 1994

Mr. FRANKS of New Jersey (for himself, Mr. MEEHAN, Mr. GALLO, and Mr. DELAY) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 5, United States Code, to reform Federal administrative procedures and improve the regulatory process.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Administrative Proce-
5 dure Reform Act of 1994".

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds the following:

8 (1) The cost and burden of regulations have
9 risen to historic highs.

1 (2) The number of people writing Federal regu-
2 lations has grown dramatically from 106,000 in
3 1989 to 122,440 in 1992—a 15 percent increase in
4 just 3 years.

5 (3) The Federal Government currently has
6 125,000 bureaucrats working on 5,000 regulations
7 promulgated by 59 different Federal agencies.

8 (4) The 1993 regulatory output of the Federal
9 Government numbered 69,688 pages of regulations,
10 with the Code of Federal Regulations taking up 21
11 feet of shelf space.

12 (5) The Office of the Federal Register, the pub-
13 lisher of the journal of Federal agency rule making,
14 now teaches classes to assist manufacturers in read-
15 ing new regulations and proposals.

16 (6) The total cost of administering the Federal
17 regulatory apparatus in fiscal year 1993 was
18 \$11,300,000,000.

19 (7) It is estimated that the total cost of regula-
20 tion of manufacturing approximated, and in some
21 studies exceeded, aggregate after-tax manufacturing
22 profits.

23 (8) The cost of regulatory compliance drains
24 funds for research, job creation, training, wages, and
25 employment benefits.

1 (9) In a February 1993 survey of leading man-
2 ufacturing chief executive officers, government man-
3 dates, including regulations, were identified as the
4 government policies which have done the most to
5 harm United States manufacturing employment in
6 the past 5 years.

7 (10) The vast scope, rigid construction, and
8 costly impact of State and Federal regulatory
9 schemes has created the perception of a hostile cli-
10 mate for manufacturing.

11 **SEC. 3. RULE MAKING NOTICES FOR MAJOR RULES.**

12 Section 553 of title 5, United States Code, is amend-
13 ed by adding at the end the following:

14 “(f)(1)(A) The head of an agency shall publish in the
15 Federal Register, at least 90 days before the date of publi-
16 cation of general notice under subsection (b) for a pro-
17 posed major rule, a notice of intent to engage in rule mak-
18 ing.

19 “(B) A notice under subparagraph (A) for a proposed
20 major rule shall include, to the extent possible, the infor-
21 mation required to be included in a Regulatory Impact
22 Analysis for the rule under section 5(c) (1), (2), and (8)
23 of the Administrative Procedure Reform Act of 1994.

1 “(2) The head of an agency shall include in a general
2 notice under subsection (b) for a major rule proposed by
3 the agency—

4 “(A) a final Regulatory Impact Analysis for the
5 rule prepared in accordance with section 5 of the
6 Administrative Procedure Reform Act of 1994; and

7 “(B) clear delineation of all changes in the in-
8 formation included in the final Regulatory Impact
9 Analysis under section 5(c)(1) and (2) of the Admin-
10 istrative Procedure Reform Act of 1994 from any
11 such information that was included in the notice for
12 the rule under paragraph (1)(B) of this subsection.

13 “(3) In this subsection, the term ‘major rule’ has the
14 meaning given that term in section 5(b) of the Administra-
15 tive Procedure Reform Act of 1994.”.

16 **SEC. 4. HEARING REQUIREMENT FOR PROPOSED RULES;**

17 **EXTENSION OF COMMENT PERIOD.**

18 (a) **HEARING REQUIREMENT.**—Section 553 of title 5,
19 United States Code, is further amended—

20 (1) in subsection (b), in the matter following
21 paragraph (3), by inserting “(except subsection
22 (g))” after “this subsection”; and

23 (2) by adding after subsection (f) (as added by
24 section 3 of this Act) the following:

1 “(g) If more than 100 interested persons acting indi-
2 vidually submit comments to an agency regarding any rule
3 proposed by the agency, the agency shall hold a public
4 hearing on the proposed rule.”.

5 (b) EXTENSION OF COMMENT PERIOD.—Section 553
6 of title 5, United States Code, is further amended by add-
7 ing after subsection (g) (as added by subsection (a)(2) of
8 this section) the following:

9 “(h) If during the 30-day period beginning on the
10 date of publication of notice under subsection (f)(1)(A) for
11 a proposed major rule, or if during the 30-day period be-
12 ginning on the date of publication or service of notice re-
13 quired by subsection (b) for a proposed rule, more than
14 100 persons individually contact the agency to request an
15 extension of the period for making submissions under sub-
16 section (e) pursuant to the notice, the agency—

17 “(1) shall provide an additional 30-day period
18 for making those submissions; and

19 “(2) may not adopt the rule until after that ad-
20 ditional period.”.

21 (c) RESPONSE TO COMMENTS.—Section 553(c) of
22 title 5, United States Code, is amended—

23 (1) by inserting “(1)” after “(c)”; and

24 (2) by adding at the end the following:

1 “(2) The head of an agency shall publish in the Fed-
2 eral Register with each rule published under section
3 552(a)(1)(D) of this title, responses to the substance of
4 all comments received by the agency regarding the rule.”.

5 **SEC. 5. REGULATORY IMPACT ANALYSIS.**

6 (a) **APPLICATION OF EXECUTIVE ORDER AS STATU-**
7 **TORY REQUIREMENT.**—Except as otherwise provided in
8 this section, Executive Order 12866 (relating to Federal
9 regulation requirements and regulatory impact analysis),
10 as in effect on September 30, 1993, shall apply to each
11 agency in accordance with the provisions of the Order.

12 (b) **DEFINITION OF MAJOR RULE IN ORDER.**—Not-
13 withstanding section 1(b) of the Order, for purposes of
14 subsection (a) of this section, the term “major rule”
15 means any proposed regulatory action—

16 (1) which affects more than 100 persons; or

17 (2) compliance with which will require the ex-
18 penditure of more than \$1,000,000 by any person
19 which is not a Federal agency.

20 (c) **CONTENTS OF REGULATORY IMPACT ANALY-**
21 **SES.**—In lieu of the information specified in section 3(d)
22 of the Order, each preliminary and final Regulatory Im-
23 pact Analysis required under section 3 of the Order for
24 a rule shall contain the following:

1 (1) An explanation of the necessity, appro-
2 priateness and reasonableness of the rule.

3 (2) A description of the current condition that
4 the rule will address and how that condition will be
5 affected by the rule.

6 (3) A statement that the rule does not conflict
7 with nor duplicate any other rule, or an explanation
8 of why the conflict or duplication exists.

9 (4) A statement of whether the rule is in accord
10 with or in conflict with any legal precedent.

11 (5) A statement of the factual, scientific, or
12 technical basis for the agency's determination that
13 the rule will accomplish its intended purpose.

14 (6) A statement that describes and, to the ex-
15 tent practicable, quantifies the risks to human
16 health or the environment to be addressed by the
17 rule.

18 (7) A demonstration that the rule provides the
19 least costly or least intrusive approach for meeting
20 its intended purpose.

21 (8) A description of any alternative approaches
22 considered by the agency or suggested by interested
23 persons and the reasons for their rejection.

24 (9) An estimate of the nature and number of
25 persons to be regulated or affected by the rule.

1 (10) An estimate of the costs that will be in-
2 curred by persons in complying with the rule.

3 (11) An evaluation of the costs versus the bene-
4 fits derived from the rule, including evaluation of
5 how those benefits outweigh the cost.

6 (12) Whether the rule will require onsite inspec-
7 tions.

8 (13) An estimate of the paperwork burden on
9 persons regulated or affected by the rule, such as
10 the number of forms, impact statements, surveys,
11 and other documents required to be completed by
12 the person under the rule.

13 (14) Whether persons will be required by the
14 rule to maintain any records which will be subject to
15 inspection.

16 (15) Whether persons will be required by the
17 rule to obtain licenses, permits, or other certifi-
18 cations, and the fees and fines associated therewith.

19 (16) Whether persons will be required by the
20 rule to appear before the agency.

21 (17) Whether persons will be required by the
22 rule to disclose information on materials or proc-
23 esses, including trade secrets.

24 (18) Whether persons will be required by the
25 rule to report any particular type of incidents.

1 (19) Whether persons will be required by the
2 rule to adhere to design or performance standards.

3 (20) Whether persons may need to retain or
4 utilize any lawyer, accountant, engineer, or other
5 professional consultant in order to comply with the
6 regulations.

7 (21) An estimate of the costs to the agency for
8 implementation and enforcement of the regulations.

9 (22) Whether the agency can be reasonably ex-
10 pected to implement the rule with the current level
11 of appropriations.

12 (23) A statement that any person may submit
13 comments on the Regulatory Impact Analysis to the
14 Administrator of the Office of Information and Reg-
15 ulatory Affairs.

16 (d) DEFINITIONS.—In this section—

17 (1) the term "Order" means Executive Order
18 12866, as in effect on September 30, 1993; and

19 (2) each of the terms "agency", "regulation",
20 and "rule" has the meaning given that term in sec-
21 tion 1 of the Order.

22 **SEC. 6. ADDITIONAL RESPONSIBILITIES OF DIRECTOR OF**
23 **THE OFFICE OF MANAGEMENT AND BUDGET.**

24 An agency may not adopt a major rule unless the
25 final Regulatory Impact Analysis for the rule is approved

1 in writing by the Director of the Office of Management
2 and Budget or by an individual designated by the Director
3 for that purpose.

4 **SEC. 7. STANDARD OF CLARITY.**

5 The head of an agency may not publish in the Fed-
6 eral Register any proposed major rule, summary of a pro-
7 posed major rule, or Regulatory Impact Analysis unless
8 the Director of the Office of Management and Budget cer-
9 tifies that the proposed major rule, summary, or Analy-
10 sis—

11 (1) is written in a reasonably simple and under-
12 standable manner and is easily readable;

13 (2) is written to provide adequate notice of the
14 content of the rule, summary, or Analysis to affected
15 persons and interested persons that have some sub-
16 ject matter expertise;

17 (3) conforms to commonly accepted principles
18 of grammar;

19 (4) contains only sentences that are as short as
20 practical and organized in a sensible manner; and

21 (5) does not contain any double negatives, con-
22 fusing cross references, convoluted phrasing, unrea-
23 sonably complex language, or term of art or word
24 with multiple meanings that may be misinterpreted

1 and is not defined in the rule, summary, or analysis,
2 respectively.

3 **SEC. 8. REPORT BY OIRA.**

4 The Administrator of the Office of Information and
5 Regulatory Affairs shall submit a report to the Congress
6 no later than 12 months after the date of the enactment
7 of this Act containing an analysis of rule making proce-
8 dures of Federal agencies and an analysis of the impact
9 of those rule making procedures on the regulated public
10 and regulatory process.

11 **SEC. 9. DEFINITIONS.**

12 For purposes of this Act—

13 (1) except as provided in section 5(d)(2), each
14 of the terms “agency”, “rule”, and “rule making”
15 has the meaning given that term in section 551 of
16 title 5, United States Code; and

17 (2) the term “major rule” has the meaning
18 given that term in section 5(b).

○

EXECUTIVE ORDER

(a)

OFFICE OF THE GOVERNOR
Governor Christine Todd Whitman
Executive Order No. 22(1994)

Department of Education Review of Regulations

Issued: August 25, 1994.

Effective: August 25, 1994.

Expiration: Indefinite.

WHEREAS, excessive and unnecessary State mandates force school districts to incur considerable costs which are not necessary to ensure educational opportunity, to safeguard the health and safety of pupils or to guarantee accountability; and

WHEREAS, overly prescriptive rules and regulations may also inhibit the initiative of teachers and administrators and dilute accountability for local decision making; and

WHEREAS, the State Board of Education has demonstrated its leadership role in this area by initiating a comprehensive study of unnecessary and overly prescriptive regulations pertaining to education; and

WHEREAS, these efforts of the State Board of Education should be encouraged and facilitated;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Department of Education (the Department) shall complete a comprehensive and thorough review of all current administrative regulations by December 31, 1995. All regulations which are not necessary or which promote inefficiency or are overly prescriptive shall be identified and referred to the State Board of Education for review, and, if warranted, further action.

2. In order to facilitate the Department's review of its regulatory code, the sunset provisions now in effect in each of the regulations of the Department are hereby extended, respectively, by eighteen (18) months from the date of this Order. During the period of review, all such regulations shall remain in full force and effect and may be modified or repealed at any time by the State Board of Education pursuant to the "Administrative Procedure Act."

3. The Department shall invite the input of the public and shall hold at least two public hearings in order to receive testimony concerning regulations of the Department.

4. This Order shall take effect immediately.