

Inside Gov. Christie's DEP Transition Report

The following are among the Transition Report rollback recommendations, listed in the order they appeared:

Scale back or eliminate selected strategies that contribute the least to environmental improvement.

Reexamine regulations to ensure they are properly focused on specific, well defined goals, and minimize or eliminate peripheral requirements. An example of this is the waterfront Public Access rule adopted by DEP in 2007 without direction from the Legislature, which completely changed the existing waterfront public access framework and imposed onerous new fees without standards for how the fee would be applied or calculated.

Eliminate the Office of Policy, Planning and Science and allocate policy and planning responsibilities to the appropriate regulatory programs.

Establish an advisory panel of external experts to advise DEP on matters of scientific and technological innovation.

Reinstate the Alternative Dispute Resolution program under the Counselor to the Commissioner which had helped expedite settlements, thus reducing the number of disputes referred to the Office of Administrative Law (OAL) as contested cases.

Establish an Office of Economic Analysis at the Department of State or the Office of the Governor as a shared service for all State agencies and tasked to provide advice directly to commissioners regarding economic drivers including the projected economic effect of new regulations. This office should also assist in risk assessment analysis for when agencies are setting regulatory policy.

For every rule proposal, require a comprehensive discussion and **peer review of the science the DEP considered** in support of each element of the proposal, and for every rule adoption, the science relied upon by those commenting to support different policy choices, and any agreement, disagreement and uncertainty regarding the science.

Require the Office of Economic Analysis to evaluate the economic and financial impacts of proposed rules or other major regulatory decisions, including the potentially adverse impacts associated with taking no action

Require the Office of Economic Analysis to evaluate the analyses of economic impacts received from interested parties during the public comment period.

The DEP must **fundamentally overhaul** the way development projects are regulated and streamline the permitting process. The State must create an office that provides a single point of entry with an accountable person **to shepherd companies** pursuing complex projects through the regulatory process.

The DEP must **immediately suspend the implementation of requirements** that have not been properly adopted through rulemaking, and immediately reconsider existing regulations that impose requirements that are **not grounded in sound science, are impractical to satisfy**, and conflict with other State environmental and land use policies.

Create a business/project ombudsman in the Office of the Governor to create a single point of entry for complex projects.

Provide that jurisdictional determinations (determinations as to whether or not a permit is necessary) may be requested and provided on-line.

Delegate land use permitting to the Meadowlands, Highlands, and Pinelands Commissions for the areas within their jurisdiction.

Eliminate duplicative reviews by accepting the approvals conducted under the Municipal Land Use Law (MLUL) from other governmental jurisdictions when appropriate; for example, stormwater management plans need not be subject to multiple reviews.

Delegate land use permitting at brownfields sites to the Site Remediation Program

Immediately suspend the inappropriate use of the Landscape Project mapping of purported Threatened and Endangered species habitat.

Immediately rescind Administrative Orders requiring the application of 300-foot buffers from certain streams or rivers where existing rules require a 150-foot buffer.

Immediately suspend the practice of **conditioning permits on the imposition of conservation easements** on portions of property not subject to the pending application.

Revise existing rules to allow for the greater use of **waivers and exceptions** to specific requirements when project applicants demonstrate that alternatives will yield the equivalent or better environmental results.

Immediately direct, as a matter of policy, that hardship waivers allowed under existing rules be granted when justified.

Reexamine buffer requirements in urban/disturbed areas and Planning Areas 1 and 2 designated for growth under the State Development and Redevelopment Plan (hereinafter referred to as the State Plan) as applied to wetlands, C-1 waters and potential Threatened and Endangered species habitat under Flood Hazard, Stormwater, and Wetlands rules.

Revise the Water Quality Management Planning rules (WQMP); update and improve sewer service areas through regional planning and **coordinate with the State Plan.**

Utilize the previously recommended business ombudsman to **overcome existing regulatory hurdles** without undermining environmental protections.

With respect to the State's efforts to seek compensation for damages to natural resources (NRD), we recommend that NRD efforts fall under the jurisdiction of the Site Remediation Program, and that rules be adopted to provide transparency, certainty and consistency in the assessment of those damages.

Revise the Interim Rule to limit its scope to SRRA required elements. For example, the provisions of the interim rule applying **new requirements for vapor intrusion were not mandated by SRRA** and should be subject to fuller public review and comment **before adoption**. Vapor intrusion occurs when contaminants in groundwater or soil emit vapors that enter structures and could have a potential impact on human health.

Apply the DEP's efforts toward **compliance assistance** to all site remediation professionals and responsible parties.

Review and revise current requirements pertaining to vapor intrusion within building structures, including how and when to test, notification, and/or mitigate

Transfer all responsibility for NRD assessment restoration and recovery to Site Remediation.

Adopt regulations regarding NRD assessment, restoration and recovery that are transparent, stable and predictable.

There needs to be a recognition that agriculture, like every other business in New Jersey, has been **overregulated and burdened** by DEP rules. Farmers should be recognized as stewards to the land and treated as partners in land preservation not potential polluters.

Revenue generation should be maximized through the use of **concessions**, camping and park rentals and **forest management**.

There needs to be a full examination of DEP's existing **self-audit policy** utilized by the regulated community, to ensure it does not create disincentives for **voluntary disclosure** and provides adequate and appropriate time to correct violations

There needs to be a full examination of DEP's administrative penalty regulations to ensure they are fair and consistent

There needs to be a full examination of the implementation of the "Grace Period" regulations to ensure that they follow the legislative intent of the Grace Period statute. The Grace Period statute was aimed at making a distinction between minor and non-minor violations and providing an **appropriate time to correct those violations**. However, the DEP has inappropriately implemented the regulations by issuing automatic violations with limited time to respond.

Simplification of the permitting process: Title V Permits which are permits for certain large facilities, administered by the DEP as required under the federal Clean Air Act, have become extremely cumbersome and voluminous in New Jersey. **Steps should be taken to reduce the complexity of these permits.**

Chromium Standard: Re-evaluate the **current chromium standard**, taking into consideration **natural baseline levels** and peer reviewed scientific data.

Prevailing wage at brownfield sites: **In order for the State to attract investment and compete for economic development with bordering states, New Jersey must eliminate the prevailing wage requirement** under State reimbursement programs for brownfield sites.