
Committee Meeting

of

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

“Testimony concerning the management and operations of the Department of Law and Public Safety, Division of Consumer Affairs, Office of Weights and Measures; and testimony concerning State-issued emergency management directives”

ASSEMBLY BILL No. 3749

(Revises requirements for DEP checklist and technical manuals)

LOCATION: Committee Room 8
State House Annex
Trenton, New Jersey

DATE: June 9, 2003
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman William D. Payne, Chairman
Assemblyman Joseph Cryan, Vice-Chairman
Assemblywoman Nilsa Cruz-Perez
Assemblywoman Connie Myers
Assemblyman John E. Rooney



ALSO PRESENT:

James F. Vari

John M. Leyman

Jennifer J. Rasch

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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ASSEMBLYMAN WILLIAM D. PAYNE (Chairman): Good morning.

We're here today to continue the formal process of reviewing New Jersey's State departments' regulatory policies.

Before that, I'd like to take the roll call.

MR. VARI (Committee Aide): Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Here.

MR. VARI: Vice-Chairman Cryan.

ASSEMBLYMAN CRYAN: Here.

MR. VARI: Chairman Payne.

ASSEMBLYMAN PAYNE: Here.

Thank you.

We do expect the other members of our Committee. They're on their way.

As I say, this morning, we are going to continue the formal process that we've been conducting and reviewing -- New Jersey State departments' regulatory policies. During these several months, my staff met with many of our State's businesses, environmental and local government organizations to take inventory of their regulatory concerns and their recommendations on how best to effectuate changes to these regulations.

It is my hope that, by continuing this review, our Committee will be able to work with the departments to institute changes where necessary, clarify existing practices when appropriate, and provide an on-going forum for addressing future regulatory concerns.

Based on our review, we identified key regulatory issues and their related departments. To best address these issues, this Committee will continue to hear from the departments, one-by-one. Today, we have with us representatives from the Department of Law and Public Safety.

Now, let me start by thanking the department representatives, business leaders, and local government organizations for your appearance. We appreciate your interest in being here today.

First, we're going to call upon representatives from the Attorney General's Office, Division of Consumer Affairs.

Please come forward and identify yourself.

They will be talking about two issues, today. Initially, uniform enforcement and modification of commodity product listing regulations. And then they'll come back later for the third hearing.

DPT. ATT. GENERAL FRANK DOMINGUEZ: Good morning, Chairman.

My name is Frank Dominguez. I'm with the Attorney General's office. And I have with me here, today, Bob Campanelli, from the Division of Consumer Affairs, to address issues that the Committee asked us to take a look into: specifically, two issues on weights and measures. One, dealing with the direct oversight, or general oversight, of the county weights and measures office; and the other dealing with the commodity listing forms.

Bob, would you like to--

ROBERT J. CAMPANELLI: Okay.

Chairman Payne, members of the Committee, thank you for--

ASSEMBLYMAN PAYNE: You're now on the record.

MR. CAMPANELLI: I am -- now I am, yes.

Thank you for this opportunity.

The Division of Consumer Affairs, as you know, has regulatory -- has oversight over the Office of Weights and Measures. And we have always taken the position that we would like to ensure a uniformity of enforcement and procedures throughout the state.

To that effect, some time ago, in the '80s, an amendment was added to the weights and measure statute, which permits the State Superintendent to have, what we call, *general oversight*. And we have, periodically, used that authority in order to develop protocols, so that we have uniform enforcement throughout the 21 counties and those municipalities which have weights and measures offices.

ASSEMBLYMAN PAYNE: Do any members of the Committee have any questions for the representatives? (no response)

If not, I'd like to call, from the New Jersey Food Council, Jim Morford.

Please take a seat, here.

Stand by.

DEPUTY ATTORNEY GENERAL DOMINGUEZ: Would you like us to stay?

ASSEMBLYMAN PAYNE: Yes, stand by.

Let Jim come forward, and be here to answer any questions if we have--

JAMES C. MORFORD: Thank you.

Mr. Campanelli, you're welcome to stay. I didn't mean to--
(laughter)

Good morning. I'm Jim Morford. I'm President of the New Jersey Food Council.

I'd like to take this opportunity to introduce Rick Wright, who is about to become my successor. I'm retiring from the Food Council on the first of July. Our board has selected Rick Wright to be my replacement. So I'm delighted to introduce him to this Committee.

Thank you, Mr. Chairman. And congratulations to all of the survivors of last week's exciting elections.

I appreciate the opportunity to talk with you a little bit about some of our -- I think *concerns* may even be a stronger word than necessary -- some of our interests in what we would like to see develop in the Office of Weights and Measures. We've worked long -- many, many years -- with Mr. Campanelli, who's been a very, very effective representative of the Attorney General and the office of Consumer Affairs.

We've enjoyed a very cordial relationship, because the industry that I represent, the food retailers and their suppliers, feel very, very strongly that we need and want, in New Jersey, always, to have strong, effective weights and measures laws and regulations.

Keeping that playing field level is extremely important in our highly competitive industry. So do not make any mistake by thinking that we would like to see a weights and measures law weakened, or diminished, or anything like that. If anything, we want to see them strengthened.

The statute under which weights and measures governs us is a statute passed in 1911. It was, as moments ago was suggested, modified a little bit in the mid-1980s, and tinkered again, a little bit, in the 1990s. But this is a nearly century-old statute.

The Federal government has the National Institute of Standards and Testing, NIST, which governs a lot of the area that weights and measures addresses. They change their handbook and guidance books almost every year, sometimes even more frequently. Not by way of illustration -- just to suggest that we really need to consider mechanisms to take a very careful look and review of our State weights and measures law, and bring it into the 21st century.

Certainly, marketing methods, conditions in technologies have changed dramatically since 1911. The New Jersey Food Council has recommended to Director Erdos, of the Division of Consumer Affairs, that, perhaps under her auspices, a panel, if you will, of stakeholders could be called to the table to address this 1911 statute, with its periodic modifications, and come up with a recommendation to the Legislature for changes that would modify and bring the statute into this century.

We know that there is great concern among some of our counties. Some counties' offices, and they're independent offices, address weights and measures issues much more vigorously than others. I think our goal is to achieve a standardization. Whether you have county offices or not, if they are all applying the law with a degree of certainty and standardization-- My members, Pathmark, ShopRite, Acme, Stop & Shop -- they have stores in many, many counties. And it's, kind of, difficult for their management teams to have to feel that they are being held to varying standards and varying levels of

aggressive, or less, accountability for those standards. We want to be held to the same act of standards up and down the state.

So without trying to make any recommendations for how a structure should look, I think it is important that this Committee either endorses or recommends that we do seek to have some mechanism that would produce some recommendations for the Legislature to consider. Two examples I might point out -- in my earlier years with becoming a government affairs representative for business-- When I joined the State Chamber of Commerce staff, probably more than 20 years ago, now, they were in the midst of looking at the workers' compensation law. And that was done by business and labor coming together, working out their concerns, and taking a proposal to the Legislature, which then fine-tuned it and made it a law that has been the envy of the nation, modeled -- many states have modeled their workers' compensation laws after New Jersey's, and it has stood the test of time.

A similar thing happened with unemployment compensation, where significant reforms were made back in the Kean administration, when business and labor came together, studied the problems, and offered recommendations to the Legislature, which then, in its judgement, made whatever modifications necessary and enacted a reform that stands today.

So, simply, the suggestion of the New Jersey Food Council would be to encourage, whether it's done by the Legislature or whether it's done through Consumer Affairs-- I've also called this matter to the attention of Secretary Watley (phonetic spelling) -- that we need a process where all the stakeholders -- and I mean the government officials, the State Office of Weights and Measures, the county offices of weights and measures-- Because we have

found, when we sit down with those county offices, we come to areas of understanding and agreement.

I think it's important that we do this, that we have subgroups that work on fuel issues, and work on dump-truck gravel issues, and work on food issues, and work on general merchandise issues. It's a big job, and it won't be done quickly, but we ought to begin doing it real soon.

If there are no questions, I thank you for the opportunity.

ASSEMBLYMAN PAYNE: Thank you.

We do have-- Vice Chairman Cryan has a question.

ASSEMBLYMAN CRYAN: Jim, whether it's you or Mr. Campanelli, or Mr. Dominguez-- How about-- Can you give me an example of where non-standardization is, actually, an issue in the Food Council?

By the way, first and foremost, congratulations to you, and my sympathies to Mr. Wright. (laughter)

But, can you give me-- Do you have any idea? I mean, we talked about workmens' comp and all this.

MR. MORFORD: As far as weights and measures?

MR. CAMPANELLI: Weights and measures? Well, right now, we're looking at the issue of wet and dry tare.

ASSEMBLYMAN CRYAN: What is it?

MR. CAMPANELLI: Wet and dry tare.

ASSEMBLYMAN CRYAN: Oh, go ahead. Tell me. (laughter)
What is wet and dry tare?

MR. CAMPANELLI: Basically, when you go to a supermarket, the packaging that you get, let's say, chicken or meat-- The boat, and what we call

the *diaper*, is what we call the tare. And there are different ways of measuring the tare in consideration of the price. And there is a series of tolerances that are used. And there are different standards established by NIST. It's not that they're tremendously complicated, but they vary from place to place. And we're trying to institute uniformity consistent with the NIST standards. And we've been dealing with -- right now -- with the Food Council on this issue, now, for what, about six or seven months? And we think we're fairly close to a resolution.

ASSEMBLYMAN CRYAN: So when it varies from place to place, we're talking county to county?

MR. CAMPANELLI: Well, the procedure that is utilized-- For example, there's some misunderstanding as to whether or not you can use a standard which is called *used dry tare*. Wet tare would mean the napkin in the boat saturated with the liquid run-off. Anyway, these are the kinds of issues that we deal with.

ASSEMBLYMAN CRYAN: Can I ask one on the weight?

MR. CAMPANELLI: Sure.

ASSEMBLYMAN CRYAN: Are there any particular areas for the Food Council, or for you guys -- just because Jim is in front of us talking -- that we should be aware of, as a Committee, that are affecting consumers as a result of -- that need regulatory reform?

MR. MORFORD: If I could respond to that, Assemblyman, I don't think so much that that is the issue. I'll give you one example of -- that we felt was assertive enforcement, where stores that have locations in multiple counties -- stores in one county in particular were being cited by the weights and

measures office for selling baked goods that were slightly overweight. Now, you know, underweight is, usually, the concern -- that the customer is, somehow, being cheated because it's underweight. But slightly overweight -- because a strict technical reading of the law could suggest that it wasn't the exact weight, therefore you could extract a fine.

It seems absurd, but there was a -- I think it took the Attorney General to step in and, finally, call that back. I think that's the kind of thing we're looking for in relative stability of enforcement.

ASSEMBLYMAN CRYAN: Overweight is okay, right, or else I'm in trouble? (laughter)

MR. MORFORD: I mean, if I got fined for being overweight, I'd really be in trouble.

Again, these are very marginal, very slight differences.

Now, we have magnitudes of allowable variation, tare-- Some of these terms are deadening, almost, in their explanation. But we have, in the statute now, an interesting thing on tare.

The way the law was amended, about a year and a half ago, two years ago -- the Bennett bill -- on gravel in trucks. The law was amended in such a way that the only definition of tare in the statute today applies to gravel in trucks. Now, common sense has permitted the progress to go-- But that's the kind of thing that needs cleaning up. That's a minor thing, but it needs cleaning up. And we hope that we can find the mechanism to do that.

ASSEMBLYMAN CRYAN: Thanks.

ASSEMBLYMAN PAYNE: Thank you.

Do we have any--

Would Rick Wright like--

Santoro.

Do you have anything to add?

MR. MORFORD: I think he's declining.

ASSEMBLYMAN ROONEY: Before they go, I have one last question.

ASSEMBLYMAN PAYNE: Sure.

ASSEMBLYMAN ROONEY: Just looking at this -- and your duties-- Just, out of curiosity, what is the time that's allowed on a car wash (indiscernible)? (laughter)

MR. CAMPANELLI: There is no law governing--

ASSEMBLYMAN ROONEY: I'm just wondering, because I see that's one of the things you regulate. Somebody better check my car wash, because I can't very well get it on \$1.

MR. CAMPANELLI: Where it's stated, we would check.

ASSEMBLYMAN ROONEY: I don't think it's stated. It just says a buck -- four quarters only, and that's it.

ASSEMBLYMAN PAYNE: Thank you, Assemblyman.

I would like Mr. John Donnadio, the New Jersey Association of Counties, to please come forward.

And as soon as Rich Santoro finishes, I'd like to have you--

RICHARD SANTORO: Good morning, Mr. Chairman and members of the Committee.

My name is Richard Santoro, from the New Jersey Retail Merchants Association, and I certainly have the daunting task of following up to what Mr.

Morford has already put forth. And we certainly echo and agree with everything he says, as we always do.

But if I could just, maybe, give two more examples from a retailer's perspective of how having such an antiquated weights and measures regulation makes compliance extremely difficult for retailers. One of which is a law that stipulates the zip code of a manufacturer must appear on every product box. However, with the increasing use of global markets, and many U.S. companies utilizing manufacturers that are located overseas, in China, or wherever they may be -- areas that actually do not utilize zip codes-- And companies have actually been fined, because zip codes from these manufactures do not appear on the product boxes. But, in theory, these companies are being fined for a foreign procedure and for a situation where they -- they're in a catch-22.

Another example is a requirement, a regulation, that stipulates the number of items in a box must be printed on every product box. And, again, while in theory this regulation would seem to improve customer education, the regulation has been so strictly enforced that certain municipalities have fined computer companies for not writing the letter -- excuse me, the number one on a computer box. You get your computer-- And, in fact, CompUSA entered litigation to fight a fine for not complying with this regulation, and won. And CompUSA actually set a precedent going forward that exempted computer boxes from this law.

So, what I'm trying to prove by these examples is that, while companies can, certainly, set legal precedence in court to bring New Jersey's weights and measures laws and regulations in line with 21st century commerce, litigation is, certainly, expensive, time consuming, and not the best way to

change the laws and regs that are on the books. So, hopefully, that supports some additional reasons why we should, hopefully, change the law.

Also, just one last thing. I know something that we had worked with Bob Campanelli on is, until we have an opportunity -- because I know it's going to take some time to rewrite the weights and measures act -- is a change to the weights and measures form, and what happens when an inspector goes into a store. They have a certain form that they fill out if there's some type of violation. And most companies are using UPC labels, uniform product labels. And we were just asking that the sheet would change, or they would add the columns so that the UPC number would actually be on the form, because it's very difficult, currently, to try to find the violation, when they're just writing down a description of the product. And, you know, there are so many products out there, and if you have a very large store, it's difficult to find that. So that would, certainly, be helpful. And we would appreciate that.

ASSEMBLYMAN PAYNE: We're going to have a response. I see the Attorney General's -- is chafing at the bit to come up and have a comment to say about this.

DEPUTY ATTORNEY GENERAL DOMINGUEZ: Mr. Chairman, I just wanted to say that the Division of Consumer Affairs has discussed the issue with the Retail Merchants and have agreed to work on the form and make it so that the UPC is on the form.

ASSEMBLYMAN PAYNE: Very good. That resolves that, at least.

MR. SANTORO: If only it were always that easy.

ASSEMBLYMAN PAYNE: Thank you.

JOHN G. DONNADIO, ESQ.: Thank you, Mr. Chairman.

My name is John Donnadio. I'm with the New Jersey Association of Counties. I had hoped to have with me, today, a county superintendent of weights and measures, but unfortunately, that's not the case.

I did, however, spend a day weighing and learning about tare and the dry, with the Burlington County Superintendent, and they offered me a part-time summer job, so I think I'm qualified to testify today. (laughter)

Basically, what I'd like to say, Mr. Chairman, is that the Association-- First of all, the county superintendents of weights and measures do the majority of field inspections in this state, as far as going into the supermarkets and weighing the cakes, and weighing the scales, and calibrating the scales -- and with regard to the gas stations, as well. And it's not that our Association opposes, of course, the uniform regulations or guidelines. We just want to make sure that, because we do do the majority of the work, that we are involved and have input in any potential changes to the regulations.

It is true that there are more county superintendents -- some county superintendents of weights and measures are more aggressive than others. I think that's the case with any quasi-law enforcement or rule enforcement. It's just the nature of it.

But, again, we'd just like to be involved with the process and welcome the opportunity to work with the New Jersey Food Council, the Retail Merchants Association, and continue working with the Division of Consumer Affairs in the Attorney General's Office.

I thank you, and will be willing to answer any questions, if I can.

ASSEMBLYMAN PAYNE: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Thanks.

Do you-- Besides the tare issue, are there any other issues that your county superintendents have voiced to you that are of particular concern? They're looking for standardization.

MR. DONNADIO: Well, I think they just welcome the opportunity. I have to be honest, this is not-- One of the concerns that they did express to me, was they were concerned about how much supervision the State Superintendent of Weights and Measures would have over the counties. I think the current statute reads that the Superintendent -- and I think the Attorney General's office eluded to this -- that they have general supervision over the counties, and they think that that's sufficient for the time being, and they don't want to see more supervision, because although we welcome the opportunity to discuss general guidelines, I think the counties still like the autonomy that they have in regulating weights and measures.

Other than that, I'm not aware of any other concerns, with regard to the regulations, that we haven't already worked out with the Attorney General's office in the past two or three years.

ASSEMBLYMAN CRYAN: What's your view of the CompUSA example?

MR. DONNADIO: I don't have a view. I will bring it back, but I will say, Mr. Chairman -- Mr. Assemblyman, I will bring it back to our weights and measures people. And I don't think it's a big deal if it's just a change to the format. I don't see what would be the big deal. And if it would help, it's something that we would be willing to sit down--

ASSEMBLYMAN CRYAN: Well, I mean, just in the example I heard, the guy had to go to court. Is that right?

MR. SANTORO: Yes.

ASSEMBLYMAN CRYAN: To put a one on a box-- I mean, I would hope there would be some peer enforcement. It's one example, so let's not go overboard with it.

Still, the company got caught, it cost money. They went into court and did all-- And I just wonder how much selective -- not selective, but more aggressive enforcement there is, as opposed to less. I hope there's some uniformity. If you could pass that along, I'd appreciate it.

MR. DONNADIO: Thank you. Okay, I will. Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

MR. DONNADIO: Thank you, Mr. Chairman.

ASSEMBLYMAN PAYNE: I do have concerns. I wonder whether or not the representative from -- Campanelli or Dominguez would return to the table, because I do have a question or two.

Enforcement, I suppose-- One of the concerns I hear is that, number one, the law's archaic -- initially 1911 -- and had some minor adjustments over the years. But we're still not where we should be, perhaps. So, number one, I suggest -- and I'm not sure that you're the people to answer this-- But, it seems to me, a very sensible, kind of, suggestion: Establish a panel that would be able to have input from various stakeholders in this area. That's certainly something that should be looked at very seriously.

The question I have is enforcement. If we have, throughout the state, various counties, with varying degrees of monitoring, etc.-- It would make sense, it seems to me, that if we would have a State standard by which all of the

counties could adhere to-- What's your opinion of that? What seems to be the reason why we haven't moved in that direction? Is it part of the Legislature?

DEPUTY ATTORNEY GENERAL DOMINGUEZ: Well, I think, as we've mentioned, Mr. Chairman, the statute does provide that it's just general -- the State Superintendent of Weights and Measures has general oversight of the county weights and measures offices. So we have a limited capacity to oversee their enforcement of the regulations.

I know that the State Superintendent issues directives and orders to the counties, but then it really is -- it lays at the county level to enforce them and to implement those directives.

MR. CAMPANELLI: Essentially, they're independent operations that function under the same State law. To the extent that we have general supervision, we can provide that guidance on enforcement. But, again, they're individual government entities who are, really, responsible for the actions of that particular local weights and measures.

ASSEMBLYMAN PAYNE: It was earlier testified that some of the members of the Association have stores in every county, or various counties, etc. And then there's -- the same stores stay in business, same chain, etc. But there's varying degrees of enforcement, or what have you. And that's, obviously, something that should be taken up. It doesn't make an awful lot of sense to me to have that kind of irregularity or lack of uniformity in the enforcement of this. And I think it's something that we, certainly, need to look into strengthening -- that area.

The last thing, before we move on to the other ones-- Who enforces the date stamps, for instance: use before, sell by? Who has responsibility for seeing to it that those are on--

MR. CAMPANELLI: Mostly, those would be Federal.

ASSEMBLYMAN PAYNE: I'm sorry?

MR. CAMPANELLI: We don't have sell-by dates, per se, here in New Jersey. We do have some laws that govern some sell-by dates if you exceed them, but it's extremely limited. It really depends on what the Federal standards are.

ASSEMBLYMAN PAYNE: The dates that are stamped on--

MR. CAMPANELLI: Yes, for the most part, they are not-- It's very strange. It says sell by, but there's really no magic attached to that, as far as whether or not the product is any good or not. For example, if you'll notice, as far -- for milk, let's say, for example, New York state has a different date than New Jersey. And it's, sort of, like, not arbitrary, but it's fixed to some formula, which is not familiar to me. But if you'll notice, they do vary. And, again, we have limited -- very, very limited authority over products that exceed that, although we do have some.

ASSEMBLYMAN PAYNE: Mr. Morford would like to say something on that.

MR. CAMPANELLI: Yes, he--

MR. MORFORD: Mr. Chairman, I guess I need to be near a microphone.

MR. CAMPANELLI: You want to sit here?

MR. MORFORD: Very briefly, many of the so-called sell-by dates are put on by either manufacturers, processors, or even the stores themselves, as an internal guide, because they do not like to have their merchandise go beyond a certain time frame on the shelf. So they're not necessarily governed by, as Bob said, Federal law -- a few things are -- but they're mostly for internal control.

ASSEMBLYMAN PAYNE: That applies to eggs, produce, etc.?

MR. MORFORD: Yes.

ASSEMBLYMAN PAYNE: One thing I have noticed is that some of the -- they vary. For instance, from neighborhood to neighborhood, as a matter of fact. There are times when the sell-by date is almost totally ignored in certain areas. It seems as though they move the product out to other stores -- undesirable stores -- and bring in fresher products. I don't know whether that's--

MR. MORFORD: I don't know about that practice, but I do know that Assemblyman -- doctor--

ASSEMBLYMAN PAYNE: Munoz?

MR. MORFORD: No, from Burlington County.

ASSEMBLYMAN PAYNE: Oh, Conaway.

MR. MORFORD: Conaway, I'm sorry.

ASSEMBLYMAN PAYNE: Some days--

MR. MORFORD: Isn't it time to retire when you forget important names like that?

ASSEMBLYMAN PAYNE: Sometimes he goes as a lawyer, sometimes he goes as a doctor. So it's, kind of, hard to keep up with him.

MR. MORFORD: That's right.

He did have legislation on that, that we worked with him on last session, I believe. And it does address re-dating, and is important in that regard.

Thank you.

ASSEMBLYMAN PAYNE: Thank you.

We'd like to hear, now, from the Department, on the Office of Emergency Management -- the issuance of directives, and the relationship to counties and municipalities.

DEPUTY ATTORNEY GENERAL DOMINGUEZ: Mr. Chairman, I have Nick DiRocco, from the Attorney General's office, that will be able to speak to that issue.

ASSEMBLYMAN PAYNE: Just identify yourself again, please.

D P T Y . A T T . G E N E R A L D O M I N I C K D I R O C C O :
Good morning.

I'm Nick DiRocco. I'm with the Attorney General's office.

I didn't, really, have prepared testimony, but I did want to make one quick note to the Committee, sort of, for the benefit of you, while you go through these proceedings.

Currently, the Legislature is in the process of completely revamping and overhauling the Disaster Control Act, which is a law under which these OEM directives are promulgated. Right now, we're working closely with Assemblywoman Quigley on that legislation, and we hope to have a completed product soon. I just tell you that so that you know, during these proceedings, that's, sort of, an overarching issue that you may want to keep in mind -- that the entire law is going to be revamped at some point.

ASSEMBLYMAN PAYNE: Do we have any--

Let me-- Again, from the New Jersey Association of Counties, we have testimony regarding the emergency management--

LOREN WIZMAN: Good morning, Mr. Chairman.

I'm Loren Wizman, from the New Jersey Association of Counties. And with me, I have Vince Jones, who's the Legislative Chairman of the New Jersey County Emergency Management Coordinators' Association, who would like to address a couple issues.

VINCENT J. JONES: Good morning, Mr. Chairman. Thank you for the opportunity to come and speak to you on the emergency management directives.

As stated, the Emergency Management Act in New Jersey -- which governs the State, county, and municipal emergency management officials -- is currently being revamped, rewritten to update it, bring it more into tune with what's happening on the Federal and State level around the country.

One of the important things that we wanted to see happen was-- A lot of the State Office of Emergency Management-issued directives, which basically give us our, kind of, day-to-day duties, responsibilities at the county level, at the municipal level, in regards to our day-to-day functions -- our planning functions, local emergency planning committees, again, which are all outlined in these directives.

We're hoping that these directives are looked at, some of the more important ones -- they're all important -- but some of the ones that really need to be taken a look at, and also brought into play into that Emergency Management Act, to include a little bit more teeth, if you will, for these directives. These are State-issued directives. Sometimes, it lends some problems

where you would go out in an attempt to work with the municipality or a county office of emergency management. Some of these mandates, through these directives-- You want to try to get them to do their planning, and their response, and the coordination. You, kind of, run into a wall sometimes, where they're not really law, and you could-- It hasn't happened. We've worked through it. But, in essence, you could have a municipality or county say, "We don't have to follow these. We're not going to do this," because they're really not law. And we're hoping that these directives are included and, really, looked at, because they do give us our day-to-day guidance.

ASSEMBLYMAN PAYNE: Thank you.

Ms. Wizman, do you have anything?

MS. WIZMAN: No, thank you.

ASSEMBLYMAN PAYNE: Do we have any questions or comments from the Committee members relative to the Office of Emergency Management? (no response)

If not, we will ask the representatives from the Attorney General's office to please come up and give their perspective on this area.

DEPUTY ATTORNEY GENERAL DiROCCO: I guess our basic thoughts are this: once the Disaster Control Act is revamped, it is our plan to take a look at the OEM directives, and to reduce them to administrative rule and regulation to the extent that we need to do that. Some of these issues will be addressed through the statutory rewrite. If there's any other ambiguous issues still outstanding at that time, we'll use the administrative process to, sort of, tie those directives in.

We certainly feel that, right now, we do have the authority to issue directives in that. The directives do subject the counties and locals to the OEM director's authority. However, like I said, the entire law is being rewritten anyway, and we're going to address many of these issues through the administrative process.

ASSEMBLYMAN PAYNE: You say Assemblywoman Quigley has a piece of legislation to address this?

DEPUTY ATTORNEY GENERAL DiROCCO: Correct. I think it's Assembly Bill 3350 -- I believe is the number. And we're working with her office on the rewrite of that bill.

ASSEMBLYMAN PAYNE: Do we have any other comments? (no response)

If not, thank you for your presence here today.

DEPUTY ATTORNEY GENERAL DiROCCO: Thank you, Mr. Chairman.

ASSEMBLYMAN PAYNE: Thank you.

DEPUTY ATTORNEY GENERAL DOMINGUEZ: Thank you.

ASSEMBLYMAN PAYNE: I'd like to welcome Assemblywoman Cruz-Perez.

ASSEMBLYWOMAN CRUZ-PEREZ: My apologies.

ASSEMBLYMAN PAYNE: And also Assemblywoman Myers has joined us.

And I would like to recognize and welcome Assemblyman Joseph Doria, who will, in fact, testify -- present testimony and background information on A-3749, which is a legislation that requires a-- It's the EMAP

legislation, which requires -- revise the requirements of DEP, checklist on technical manuals -- the EMAP legislation, as it's called.

Mr. Doria, thank you very much, and welcome.

ASSEMBLYMAN JOSEPH V. DORIA JR.: Thank you, Mr. Chairman. It's a pleasure to be here and to have the opportunity to sponsor this piece of legislation with you.

A-3749 is an update of the Environmental Management and Accountability Program. This was a package of bills, which were passed in 1991-92, which dealt with the Department of Environmental Protection. It established guidelines for the Department, in working with the applicants, to make sure that the process was much more efficient; and that the process could be effectively followed by those who applied, as well as the Department, as well as interested outside parties.

The piece of legislation that we have here today, which you are prime sponsor of -- I'm co-prime -- basically allows for some changes. The first change is just a result of the fact that, with the advancements in the area of technology, we can use electronic transfers of information, and allow for electronic application forms and the provision of information over the computers, rather than necessarily by paper. And so what we're doing here is advancing the process by, actually, making it quicker, by using electronic transfers and the computers to not only make application, but also provide checklists for those items that might be missing -- that would be of concern to those applicants -- so that they can complete their application. Because unless an application is deemed completed, you don't begin the time line for the Department to take action. So that's the first part of the bill.

The second part of the bill deals with the Pesticides Control Act, and deletes some of the requirements of the registration program, again to try to expedite processes that had previously existed. It's been determined that there is no longer as great a need for the process that existed in registration as there had in the past.

So those are the two elements of this legislation that have been introduced, that, hopefully, will help to improve and expedite the Environmental Management and Accountability Program. These bills have been done on a bipartisan basis, when I was Speaker, and have been helpful to all parties concerned in meeting the requirements of the Department of Environmental Protection.

ASSEMBLYMAN PAYNE: Thank you very, very much, Assemblyman Doria.

We do have an expression of support from DEP, a letter from the Commissioner expressing support for this legislation. And we'll make sure that's in the record.

Also, I'd like to call, now, Michael Egenton, from the New Jersey State Chamber of Commerce.

MICHAEL EGENTON: Thank you, Chairman.

Just briefly, I wanted to acknowledge the work of the Committee; you, Chairman; and Assemblyman Doria on this piece of legislation.

As it stands now-- The Chamber had some concerns, but as amended -- with the current version of the bill, which I saw here this morning -- I can pretty much say that the Chamber's in support, and want to acknowledge

the history that Assemblyman Doria has behind this bill. And I'm glad to support it, here, today.

So, thank you, Chairman.

ASSEMBLYMAN PAYNE: Thank you very much.

Sara Bluhm, NJBIA.

S A R A B L U H M: Thank you, Mr. Chairman.

Also echoing what Michael had said--

ASSEMBLYMAN PAYNE: Why don't you identify yourself for the record?

MS. BLUHM: Sara Bluhm, New Jersey Business and Industry Association.

We've also appreciated the hard work that this Committee has taken up in recognizing some of the problems and hurdles that businesses have to face with the Department. And I know Assemblyman Doria was there for us with the initial drafting of this legislation.

And we appreciate updating and modernizing this as we go. As many of the permits are going on-line, we'd like those checklists, as well, to be there and make it more efficient, because it's quickly become an expensive and drawn-out process for businesses.

So thank you for putting in this bill and for, hopefully, releasing this today. We support this, as well.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

I can't believe that you were there when Mr. Doria first introduced this. (laughter)

Hal Bozarth, Chemistry Council of New Jersey.

H A L B O Z A R T H: I'm happy to say I was there, Mr. Chairman.
(laughter)

I just wanted to take a few seconds and remind everybody why it's so important for Assemblyman Doria to have started this process, again.

In '91, the EMAP process was the first and, to my recollection, only time the Legislature has used its powers to try to reformulate a process that has been broke for the 20 years that I have been around, and I testified to that point before.

Just to bring you up-to-date, it's our understanding that, right now, in the Department, there are over 1,000 permits backlogged in the air program, 1,000 permits backlogged in the water program, and over 4,000 companies waiting for the finalization of their site remediation process. In other words, backlogged. Clearly, a situation that knows no partisanship -- it's a systemic problem. That's why the EMAP process was originally put in place, to try to solve those problems.

What the Assemblyman is doing here, in the updating format, is most welcome, and I commend him, once again.

I must tell you, when it comes to the technical manuals that the bill talks about, I'm looking forward to working with Speaker Doria to develop another bill, which will help even more in that area.

One of the problems that happens with people in the permit process is they start; they get down the line six months, eight months; all their paperwork is in; they've looked at the regulations; they've figured out how to do it; and the Department will say, "Well, now we want you to do something

different.” And when questioned, they say, “Well, it’s a policy. It’s a departmental directive. It’s not in the regulations, but we want you to do it anyway, because that’s what we want you to do.”

In many cases, that just prolongs the process, makes the permittee start, in effect, over. In some cases, within our membership, we’ve found people who have already spent hundreds of thousands of dollars for upgraded equipment, got halfway through the permitting process, and had been told that they need new things on the equipment that they’ve already bought, that’s already on their site.

The theory behind Assemblyman Doria’s original technical manuals bill was so that every piece of information would be in the hands of the permittee before he started the process. What the Department has done is continue to ignore that.

We’ll strongly suggest to the Assemblyman that his next attempt of legislation be, to say that if information is not in the technical manual, or not in the regulations, then the Department can’t deny your permit when they’ve changed the rules in the game, halfway through the process.

But for this moment, Assemblyman, thank you very much for your continued help in this area.

I would like to point out that many of the manuals that were supposed to have been completed by the Department still are not done after all these years. Some of them are willfully out of date, and many of them need additional work. What we’re saying is, we don’t want to give people more work to do. We’re just saying do this work so that all of us can get through the

process quicker, and we don't have the thousands of permits that are backlogged.

Thank you, Mr. Chairman.

Thank you, Mr. Doria.

ASSEMBLYMAN PAYNE: Thank you.

The areas of concern -- issues that you have discussed, obviously, will be taken care -- are being taken care of in additional bills, etc. So we're sure that this will be satisfactory in the final analysis.

Thank you.

David Pringle. David Pringle, once; David Pringle, twice. David Pringle does not seem to be here.

All right, we will give him a moment or two. He doesn't show up.

We will now have comments from the members on this legislation that we're considering this morning. (no response)

Do we have a motion?

ASSEMBLYMAN CRYAN: Make a motion to move it.

ASSEMBLYWOMAN CRUZ-PEREZ: Second.

MR. VARI: On the motion to -- on Assembly Bill 3749, Assemblyman Rooney?

ASSEMBLYMAN ROONEY: Yes.

MR. VARI: Assemblywoman Myers.

ASSEMBLYWOMAN MYERS: Yes.

MR. VARI: Assemblywoman Cruz-Perez.

ASSEMBLYWOMAN CRUZ-PEREZ: Yes.

MR. VARI: Vice-Chairman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. VARI: And Chairman Payne.

ASSEMBLYMAN PAYNE: Yes.

MR. VARI: Mr. Chairman, the motion carries. The bill is released.

ASSEMBLYMAN PAYNE: Thank you.

ASSEMBLYMAN DORIA: Thank you, Mr. Chairman. Thank you for being the prime sponsor.

Thank you.

ASSEMBLYMAN PAYNE: Thank you, Mr. Doria, for all the contributions you've made in this area.

Thank you very, very much.

This meeting is adjourned.

(MEETING CONCLUDED)