

EXECUTIVE ORDER NO. 2

WHEREAS, New Jersey enjoys enormously valuable assets that have historically been the source of growth, income and opportunity for the State's residents and businesses; and

WHEREAS, New Jersey's enviable location and access via roads, rail, air and ports, educational resources, talent base and legacy of business leadership and invention have been and continue to be the essential ingredients of prosperity; and

WHEREAS, New Jersey's ability to leverage these assets to produce growth and opportunity is being challenged by chronically high costs and regulatory burdens that have resulted in New Jersey's consistently low rankings nationally on regulatory burdens, costs-of-doing business and similar such economic measures making New Jersey the worst business climate in the nation; and

WHEREAS, although regulations for conducting business in New Jersey exist to promote the health, safety, and economic vitality of our citizens, these goals can only be achieved when the process by which those regulations are promulgated is transparent and accessible to persons outside of government, and when those regulations are crafted in such a manner so that they are understandable, consistent and predictable; and

WHEREAS, New Jersey is committed to fostering the health, safety and economic welfare of its citizens by creating an environment that is an attractive venue for entities doing, or seeking to do, business in the State, by immediately setting course to evaluate the policies, practices, organizational structures and resources that advance or impair the State's competitiveness, including immediate, intermediate and long-term actions that will ensure that its regulations create an atmosphere in which businesses and individuals affected by those

regulations are treated as partners in identifying and achieving regulatory goals; and

WHEREAS, I am now establishing "Common Sense Principles" for State rules and regulations that will give this State the opportunity to energize and encourage a competitive economy to benefit businesses and ordinary citizens;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes in this State, do hereby, ORDER AND DIRECT all agencies, boards, commissions, departments and authorities over which the Governor has the power to veto minutes (collectively "State agencies") to implement and adhere to the following Common Sense Principles:

1. For immediate relief from regulatory burdens, State agencies shall:

a. Engage in the "advance notice of rules" by soliciting the advice and views of knowledgeable persons from outside of New Jersey State government, including the private sector and academia, in advance of any rulemaking to provide valuable insights on the proposed rules, and to prevent unworkable, overly-proscriptive or ill-advised rules from being adopted.

b. Adopt the "time of decision" rule defined as the requirement that any permit or approval shall be governed by the administrative rules, regulations and standards in effect at the time an application is filed, so that all decisions relating to that project are subject to the regulations in effect at the time of application, except where otherwise specifically provided in State or federal law.

c. Adopt rules for "waivers" which recognize that rules can be conflicting or unduly burdensome and shall adopt regulations that allow for waivers from the strict compliance with agency regulations and such waivers shall not be inconsistent with the core missions of the agency. Each State agency shall prepare and publish on its website a policy describing the circumstances in which such waivers will be granted.

d. Employ the use of cost/benefit analyses, as well as scientific and economic research from other jurisdictions, including but not limited to the federal government when conducting an economic impact analysis on a proposed rule.

e. Detail and justify every instance where a proposed rule exceeds the requirements of federal law or regulation. State agencies shall, when promulgating proposed rules, not exceed the requirements of federal law except when required by State statute or in such circumstances where exceeding the requirements of federal law or regulation is necessary in order to achieve a New Jersey specific public policy goal.

f. Take action to cultivate an approach to regulations that values performance-based outcomes and compliance, over the punitive imposition of penalties for technical violations that do not result in negative impacts to the public health, safety or environment.

2. For intermediate relief from regulatory burdens, State agencies shall:

a. In the first 90 days of this administration and in coordination with the Red Tape Review Group's efforts, identify those regulations and processes that impede responsible

economic development as a result of: i) providing insufficient or contradictory guidance (inter and intra-agency) to applicants for permits, thus leading to delay or denial of the permit applications; or ii) exceed legislative intent or federal standards without well-documented cause, thus placing the state at a competitive disadvantage in attracting investment and jobs.

b. Within 180 days, redraft rules and processes identified in the subsection a. of this section to ensure that each rule and process is needed to implement the underlying statute and amend or rescind rules or processes that are unnecessary, ineffective, contradictory, redundant, inefficient, needlessly burdensome, that unnecessarily impede economic growth, or that have had unintended negative consequences.

c. Within 180 days, reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter.

d. In this intermediate period, select for earlier review those rules or processes that, in the agency's judgment, appear to be least consistent with developing and administering this Order.

3. For long-term relief from regulatory burdens, State agencies shall:

a. Draft all proposed rules and processes so that they promote transparency and predictability regarding regulatory activity, consistency of business regulation within the State, appropriate flexibility, and a reasonable balance between the underlying regulatory objectives and the burdens imposed by the regulatory activity.

b. Adopt federally promulgated rules as written, unless separate State rules are permitted and appropriate to achieve a New Jersey specific public policy goal.

c. Focus all proposed rules on achieving outcomes rather than on the process used to achieve compliance and be based on the best scientific and technical information that can be reasonably obtained and designed so that they can be applied consistently.

d. Draft all proposed rules so they impose the least burden and costs to business, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

e. When possible and appropriate, provide stakeholders with compliance education and the ability to make compliance inquiries without risk of enforcement. In cases of regulatory noncompliance, an agency's enforcement response should be proportional to the circumstances and should take into consideration whether the agency contributed to the noncompliance. Before undertaking enforcement activity, and absent exceptional circumstances, the agency shall discuss the regulatory violation with the noncompliant individual or business in order to explore the possibility of resolving the matter without enforcement proceedings.

f. Waive penalties, when appropriate, for first-time or isolated paperwork or procedural regulatory noncompliance.

g. Engage in continuous regulatory process improvement including, but not limited to, eliciting customer feedback regarding their administration of regulatory responsibilities. Further, agencies shall periodically evaluate

their regulatory performance using measurable standards, data, or other objective criteria.

4. In order to promote a common sense approach to the administration of regulations that impact business in New Jersey, State agencies shall ensure that regulations shall be efficient, consistent across State agencies, accessible and transparent to all interested parties. Accordingly, I also hereby order the following:

a. Agencies should treat those affected by their rules and regulatory processes as customers and treat them consistently across regions, offices, and departments.

b. Agencies should coordinate with each other to combine and minimize regulatory filings and to minimize worksite interruptions necessary to regulatory activity.

c. Agencies should strive to reduce the processing time for regulatory approvals, permits, licenses, and other actions requiring agency response. Additionally, agencies should work cooperatively with applicants to expedite processing, when possible, and keep in mind business deadlines and other commercial demands.

d. Agencies should require submission of the minimum amount of information necessary to administer their rules. Agencies should avoid requiring submission of intellectual property or other confidential business information and should protect it if it needs to be submitted.

e. Agencies shall, to the maximum extent feasible, leverage information systems and other technologies to improve efficiency and processes.

5. Although this Order is directed to and binding upon all personnel in the cabinet agencies and boards and

commissions, the director, administrator, or other head of each such entity shall be accountable for implementing this Executive Order to the extent applicable and practicable within that entity.

6. This Order is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of the governmental entity subject to it.

7. This Order shall take effect immediately.

GIVEN, under my hand and seal this  
20th day of January,  
Two Thousand and Ten, and  
of the Independence of the  
United States, the Two  
Hundred and Thirty-Fourth.

[seal]

/s/ Chris Christie

Governor

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor